## ORDINANCE NO. 2167

AN ORDINANCE RELATING TO THE INCURRENCE OF INDEBTEDNESS: PROVIDING FOR THE SALE AND ISSUANCE OF A LIMITED TAX GENERAL OBLIGATION BOND, 2003A IN THE PRINCIPAL AMOUNT OF \$1,650,000 TO PAY THE COSTS OF THE DEVELOPMENT AND RELATED CONSTRUCTION COSTS OF PERRIGO COMMUNITY PARK; PROVIDING FOR THE DATE, DENOMINATION. FORM, TERMS, REGISTRATION MATURITY, INTEREST PRIVILEGES, RATE AND COVENANTS OF THE BOND; PROVIDING FOR THE ANNUAL LEVY OF TAXES TO PAY THE PRINCIPAL THEREOF THE INTEREST AND THEREON; ESTABLISHING A DEBT SERVICE ACCOUNT FOR THE BOND; AND PROVIDING FOR THE SALE AND DELIVERY OF SUCH BOND TO BANK OF AMERICA, N.A.

WHEREAS, the City of Redmond (the "City") has approved the carrying out of certain needed capital improvements in City parks, including Perrigo Community Park, which shall increase the benefit and use of such parks to City residents, and

WHEREAS, the City deems it necessary and advisable that that the City incur indebtedness and issue its limited tax general obligation bond in a principal amount of \$1,650,000 to pay the costs of the development of and related construction costs of Perrigo Community Park; and

WHEREAS, the incurrence of indebtedness by the City will not cause the total indebtedness of the City to be incurred without the assent of the voters of the City to exceed the limitations set forth in Chapter 39.36 RCW; and

WHEREAS, Bank of America, N.A. (the "Purchaser") has proposed, by way of the non-binding proposal letter dated May 9, 2003 (the "Proposal"), to purchase such limited tax general obligation bond upon the terms and conditions hereinafter set forth; and

WHEREAS, the City Council deems it in the best interests of the City to accept such offer and to deliver the bond to the Purchaser; NOW, THEREFORE,

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

Section 1. Finding, Purpose and Description of Bond. The City authorizes the sale and issuance of its "Limited Tax General Obligation Bond, 2003A" (the "Bond") for the purpose of providing the funds necessary to pay part of the costs of the development and related construction costs of Perrigo Community Park and to pay incidental costs thereof and costs related to the sale and issuance of the Bond (the "Project").

The Bond shall be issued as a single Bond in the principal amount of \$1,650,000; shall be dated the date of issue; shall mature on June 1, 2008; shall bear interest (computed on the basis of a 30/360-day year) at the rate of 3.45% per annum. Interest on the Bond shall be payable semi-annually on each June 1 and December 1 to the maturity or earlier prepayment of the Bond, beginning on June 1, 2004. Principal of the Bond shall be payable in annual installments on each June 1, commencing on June 1, 2004, to the maturity or earlier prepayment of the Bond, in accordance with the amortization schedule attached hereto as Exhibit A and incorporated herein by this reference. The Bond shall be issued in fully registered form as to both principal and interest; shall be numbered in such manner and with any additional designation as the City, in its capacity as registrar and paying agent for the Bond (the "Registrar"), deems necessary for purposes of identification.

If the Bond is not paid upon proper presentment at its maturity or prepayment date, the City shall have the obligation to pay interest at the same rate from and after such maturity or earlier prepayment date until such Bond, both principal and interest, is paid in full.

Section 2. Place, Manner and Medium of Payment. Both principal of and interest on the Bond shall be payable in lawful money of the United States of America. Interest on the Bond and annual principal installments and any prepaid principal thereof shall be paid by check or draft mailed on or before the applicable payment date to the person who is named as the registered owner thereof (the "Owner") on the registration books for the Bond maintained by the Registrar (the "Bond Register") on the day such payment is made. Upon such final payment, the Owner shall present and surrender the Note at the office of the Registrar for cancellation.

Section 3. Prepayment. The Bond shall be subject to optional prepayment prior to maturity, in whole or in part on any date, together with a prepayment fee, plus accrued interest to the date fixed for prepayment, upon three days notice to the Owner. The prepayment fee shall be in an amount sufficient to compensate the Owner for any loss, cost or expense incurred by it as a result of the prepayment, including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain the credit facility or from fees payable to terminate the deposits from which such funds were obtained. The City shall also pay any customary administrative fees charged by Owner in connection with the foregoing. For purposes of calculating the prepayment fee, the Owner shall be deemed to have funded the Bond by a matching deposit or other borrowing in the applicable interbank market, whether or not the Bond was in fact so funded.

Section 4. Debt Limit Not Exceeded. The City finds and covenants that the Bond is issued within all constitutional and statutory debt limitations presently applicable to the City.

Section 5. Pledge of Full Faith, Credit and Resources. The Bond is a limited tax general obligation of the City. Unless the principal of and interest on the Bond are paid from other sources, so long as the Bond is outstanding, the City hereby irrevocably covenants to include in its budgets and to make annual levies of taxes upon all property within the City subject to taxation without a vote in amounts which, together with any other money legally available therefor, shall be sufficient to pay such principal and interest as the same shall become due. The City hereby irrevocably pledges its full faith, credit and resources to the annual levy and collection of such taxes and for the prompt payment of such principal and interest. All of such taxes shall be paid into the Bond Fund hereinafter created.

The City hereby irrevocably covenants that the annual tax provided for herein to be levied for the payment of the principal of and interest on the Bond shall be within and as a part of the tax levy permitted the City without a vote of the people and that a sufficient portion of each such annual tax levy to be made so long as the Bond is outstanding, together with any other money legally available therefor, shall be and is hereby set aside, pledged and appropriated for the payment of the principal of and interest on the Bond as the same shall become due.

Section 6. Form of Bond. The Bond shall be typewritten, printed, lithographed or multicopied on good bond paper in a form consistent with this Ordinance and Washington law.

Section 7. Execution of Bond. The Bond shall be signed on behalf of the City with the facsimile or manual signatures of the Mayor and the City Clerk, and shall have the seal of the City impressed or a facsimile thereof imprinted thereon.

In case either or both of the officers who shall have executed the Bond shall cease to be such officer or officers of the City before the Bond shall have been authenticated or delivered by the Registrar or issued by the City, the Bond nevertheless may be authenticated,

delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Bond also may be signed and attested on behalf of the City by such persons as at the actual date of execution of the Bond shall be the proper officers of the City although at the original date of the Bond such persons were not such officers of the City.

Section 8. Registration. The Registrar shall keep, or cause to be kept, the Bond Register at the office of the Registrar.

The City may deem and treat the Owner of the Bond as the absolute owner thereof for all purposes, and the City shall not be affected by any notice to the contrary. Payment of the Bond shall be made only as described in Section 2 hereof. All such payments made as provided in Section 2 hereof shall be valid and shall satisfy and discharge the liability of the City upon the Bond to the extent of the amount or amounts so paid.

The registered ownership of the Bond shall not be transferable, except for transfer to a successor in interest to the Owner as a result of a merger or consolidation.

The City covenants that, until the Bond shall have been surrendered and cancelled, it will maintain a system of recording the ownership of the Bond that complies with the provisions of the Internal Revenue Code of 1986, as amended (the "Code").

Section 9. Mutilated, Lost, Stolen or Destroyed Bond. If the Bond becomes mutilated; lost, stolen or destroyed, the City may issue and deliver a new Bond of the same number and interest rate, for the same principal amount, and of like tenor and effect in substitution therefor, all in accordance with law. If such mutilated, lost, stolen or destroyed Bond has matured, the City, at its option, may pay the same without the surrender thereof. However, no such substitution or payment shall be made unless and until the applicant shall

furnish (a) evidence satisfactory to the City of the destruction or loss of the original Bond and of the ownership thereof, and (b) such additional security, indemnity or evidence as may be required by or on behalf of the City. No substitute Bond shall be furnished unless the applicant shall reimburse the City for its expenses in the furnishing thereof.

Section 10. Defeasance. If money and/or "Government Obligations" (as such obligations are defined in Chapter 39.53 RCW, as now in existence or hereafter amended) maturing at such times(s) and bearing such interest to be earned thereon (without any reinvestment thereof) as will provide a series of payments which shall be sufficient, together with any money initially deposited, to provide for the payment of the principal of and interest on all or a portion of the Bond, when due in accordance with its terms and in accordance with a refunding plan adopted by the City, are set aside in a special fund (hereinafter called the "trust account") to effect such payment and are pledged irrevocably for the purpose of effecting such payment, then no further payments need be made into the Bond Fund for the payment of the principal of and the interest on the Bond, the Owner thereof shall cease to be entitled to any lien, benefit or security of this Ordinance except for the right to receive the money and the principal and interest proceeds on the obligations set aside in the trust account, and the Bond shall no longer be deemed to be outstanding hereunder.

Section 11. Sale of the Bond. The Purchaser has presented the Proposal to the City pursuant to which the Purchaser has proposed to purchase the Bond, under the terms and conditions provided in the Proposal, subject to credit approval, which has since been obtained, which written Proposal is on file with the City Clerk and is incorporated herein by this reference. The City Council finds that selling the Bond according to the terms of the Proposal is in the City's best interest and therefore accepts the offer of the Purchaser to purchase the Bond in

accordance with the terms contained in the Proposal and authorizes the execution by City officials of any written offer to purchase in accordance with the terms of the Proposal.

The Bond will be printed or multicopied at City expense and will be delivered to the Purchaser in accordance with the terms of the Proposal with the approving legal opinion of Gottlieb, Fisher & Andrews, PLLC, bond counsel of Seattle, Washington, relative to the issuance of the Bond, printed on or attached to the Bond. Bond counsel has not been engaged to participate in the preparation or review of, or express any opinion concerning the completeness or accuracy of any official statement or other disclosure documentation used in connection with the offer or sale of the Bond by any person, and bond counsel's opinion shall so state. Bond counsel has not been retained to monitor, and shall not be responsible for monitoring, the City's compliance with any federal law or regulations to maintain the tax-exempt status of the interest on the Bond.

Section 12. Delivery of Bond; Temporary Bond. The proper City officials, including, but not limited to, the City Finance Director or her designee, are authorized and directed to execute and/or approve, as appropriate, all documents, and to do everything necessary for the preparation and delivery of a transcript of proceedings pertaining to the Bond, and the printing, execution and prompt delivery of the Bond to the Purchaser and for the proper application and use of the proceeds of the sale thereof.

If the definitive Bond is not ready for delivery by the date established for closing (the "Closing"), the City Finance Director, upon the approval of the Purchaser, may cause to be issued and delivered to the Purchaser a temporary Bond with appropriate omissions, changes and additions. Any temporary Bond shall be entitled and subject to the same benefits and provisions of this ordinance with respect to the payment, security and obligation thereof as the definitive

Bond authorized hereby. Such temporary Bond shall be exchangeable without cost to the Owner thereof for the definitive Bond when the latter is ready for delivery.

Section 13. Establishment of Bond Fund; Application of Bond Proceeds. There has been previously created and established in the office of the City Finance Director a special fund to be designated as the "Regular Levy Fund." There is hereby created a new account in such fund to be designated as the "LTGO 2003A Account" (the "Bond Fund").

The accrued interest on the Bond, if any, received by the City upon the sale of the Bond shall be deposited into the Bond Fund and shall be applied to the payment of interest coming due on the Bond. Net principal proceeds of the sale of the Bond shall be deposited, upon receipt, in the Parks Capital Investment Program Fund and used to pay the costs of the Project.

Section 14. Tax-Exemption Covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exclusion of the interest on the Bond from gross income for purposes of federal income taxation, and will take or require to be taken such acts as may be permitted by Washington law and as may from time to time be required under applicable law to continue the exclusion of the interest on the Bond from gross income for purposes of federal income taxation. Without limiting the generality of the foregoing, the City will not invest or make or permit any use of the proceeds of the Bond or of its other money at any time during the term of the Bond which would cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code.

The City covenants that, if the City issues more than \$5,000,000 in tax-exempt bonds in the calendar year 2003, it will calculate or cause to be calculated, and shall rebate to the United States, all earnings from the investment of Bond proceeds that are in excess of the amount that would have been earned had the yield on such investments been equal to the yield

Ordinance No. 2167 f:\redmond\ltgo03A

on the Bond, plus income derived from such excess earnings, to the extent and in the manner required by Section 148 of the Code.

The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the City is a bond issuer the arbitrage certifications of which may not be relied upon.

The City will take no actions and will make no use of the proceeds of the Bond or any other funds held under this Ordinance which would cause the Bond to be treated as a "private activity bond" (as defined in Section 141(b) of the Code) subject to treatment under said Section 141(b) as an obligation not described in Section 103(a) of the Code, unless the tax exemption thereof is not affected.

Section 15. Additional Covenants. The City covenants to the Owner that it will provide to the Owner the City's audited annual financial statement and annual budget as soon as each such document is available.

Section 16. Contract; Severability. The covenants contained in this Ordinance shall constitute a contract between the City and the Owner of the Bond. The City unconditionally covenants that it will keep and perform all of the covenants of the Bond and this Ordinance. If any one or more of the provisions of this Ordinance shall be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining provisions of this Ordinance or the Bond, and this Ordinance and the Bond shall be construed and enforced as if such unconstitutional or invalid provision had not been contained herein.

Section 17. Effective Date. This Ordinance shall take effect and be in full force five days after passage and publication of an approved summary, consisting of the title.

Ordinance No. 2167 f:\redmond\ltgo03A

CITY OF REDMOND

MAYOR, ROSEMARIE IVES

ATTEST/AUTHENTICATED:

Bonnie Matter

CITY CLERK, BONNIE MATTSON APPROVED AS TO FORM:

OFFICE ØF THE CITY ATTORNEY

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL: SIGNED BY THE MAYOR:

PUBLISHED:

**EFFECTIVE DATE:** 

ORDINANCE NO. 2167

June 11, 2003

June 17, 2003

June 17, 2003

June 20, 2003

June 25, 2003



Kerrin M. Gibbons Senior Vice President Public Sector Banking

Bank of America WA1-501-34-03 800 5th Avenue, Floor 34 Seattle, WA 98104 kerrin.m.gibbons@bankofamerica.com Tel 206.358.8175 Fax 206.358-8818

**EXHIBIT A** 

## **Debt Service Schedule**

## **AMORTIZATION SCHEDULE**

Bank of America, N.A. CCS-Commercial Banking (Non-RE) WA1-501-13-03 800 Fifth Avenue Seattle, WA 98104-3122 Borrower: City of Redmond Lander:

Dishursement Date: June 26, 2003 Interest Rate: 3.450 Repayment Schedule: Irregular Calculation Method: 30 /360 U.S. Rule

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Payment Number	Payment Date	Payment Amount	interest Paid	Principal Peld	Remaining Balance
1	06-01-2004	352,343.16	52,971,88	299,371,28	1,350,628,72
2	12-01-2004	23,298.35	23,298,35	0.00	1,350,628,72
3	06-01-2005	352,343.16	23,298,35	329,044.81	1,021,583,91
4 ,	12-01-2005	17,622,32	17,622,32	0.00	1,021,583.91
5	06-01-2006	352,343.16	17,622,32	334.720.84	686,863,07
6	12-01-2006	11,848.39	11,848,39	0.00	686.863.07
7	06-01-2007	352,343,16	11,848,39	340.494.77	346,368,30
8	12-01-2007	5,974.85	5,974.85	0.00	346,368,30
9	06-01-2008	352,343.15	5,974.85	346,368.30	0.00
TOTALS:		1,820,459.70	170,459.70	1,650,000,00	<del></del>

NOTICE: This is an estimated loan amortization schedule. Actual amounts may vary if payments are made on different dates or in different amounts.