



Legislation Text

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Clerk 09/05/2002

AN ORDINANCE augmenting and revising the projects that are authorized to be financed, on a long-term basis, by one or more series of limited tax general obligation bonds of the county in an outstanding aggregate principal amount not to exceed \$125,000,000, and pending the sale of such bonds, on an interim basis, by one or more series of limited tax general obligation bond anticipation notes of the county in an outstanding aggregate principal amount not to exceed \$125,000,000, as previously authorized by Ordinance 14167; and amending Ordinance 14167, Sections 1, 2, 3, 4, 5, 7 and 12.

PREAMBLE:

Pursuant to Ordinance 14167, the county authorized the issuance of one or more series of its limited tax general obligation bonds in an outstanding aggregate principal amount not to exceed \$125,000,000 to provide long-term financing for the Courthouse Seismic Project, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project, each defined and described in Ordinance 14167, and further authorized the issuance and public sale of one or more series of its limited tax general obligation bond anticipation notes in an outstanding aggregate principal amount not to exceed \$125,000,000 to provide interim financing for such projects pending the issuance of the bonds

The county council has heretofore received and reviewed plans for the Courthouse Earthquake Repairs, as well as revised plans for the North Rehabilitation Facility.

It is deemed necessary and advisable that the county now add the Courthouse Earthquake Repairs to the list of projects that are authorized to be financed, on a long-term basis, by such bonds, and pending the sale of such bonds, on an interim basis, by such bond anticipation notes, and that the county now revise the scope of the North Rehabilitation Facility Project.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 14167, Section 1, is hereby amended to read as follows:

The following words and terms as used in this ordinance shall have the following meanings for all purposes of this ordinance, unless some other meaning is plainly intended.

“Arbitrage and Tax Certification” means the certificate executed by the Finance Director pertaining to the county’s expectations with respect to the use, investment and rebate, if any, of Bond proceeds for purposes of Sections 141 and 148 of the Code.

“Bond Sale Motion” means a motion of the council adopted at the time of sale of each series of the Bonds that establishes, with respect thereto, the following, among other things: the year and series designation, dates, principal amounts and maturity dates, the interest rates and interest payment dates, and the redemption provisions therefor.

“Bonds” means the limited tax general obligation bonds of the county in an outstanding aggregate principal amount not to exceed \$125,000,000, authorized to be issued by this ordinance to provide long-term financing for the Courthouse Seismic Project, the Courthouse Earthquake Repairs, the North Rehabilitation Project and the Regional Communications and Emergency Control Center Project.

“Code” means the federal Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the United States Treasury Department or the Internal Revenue Service.

“Courthouse Earthquake Repairs” means the planning and construction to facilitate repairs in the King County Courthouse as a result of the Nisqually earthquake of February 28, 2001.

“Courthouse Seismic Project” means the seismic retrofit of the King County Courthouse building through the installation of a seismic braceframe system inside the building behind the elevators and “core” improvements for HVAC, fire and life/safety systems.

“DTC” means The Depository Trust Company, New York, New York.

“Finance Director” means the finance director of the county or any other county officer who succeeds to the duties now delegated to that office or the designee of the finance director.

“Government Obligations” means “government obligations,” as defined in Chapter 39.53 RCW, as now in existence or hereafter amended.

“MSRB” means the Municipal Securities Rulemaking Board or any successor to its functions.

“North Rehabilitation Facility Project” means the planning and ~~((construction of the replacement))~~ demolition of the ((current structures used by)) 1940’s era buildings housing the county’s North Rehabilitation Facility ((with a new facility on the Firerest campus)) located in the City of Shoreline on the State of Washington campus.

“Note Fund” means the note redemption account established for the Notes pursuant to Section 14 hereof.

“Note Register” means the registration books maintained by the Note Registrar for purposes of identifying ownership of the Notes.

“Note Registrar” means the fiscal agency of the State of Washington in either Seattle, Washington, or New York, New York, for the purposes of registering and authenticating the Notes, maintaining the Note Register, effecting the transfer of ownership of the Notes, and paying interest on and principal of the Notes.

“Note Sale Motion” means the motion of the council ratifying and confirming the year and series designation, date, principal amounts and maturity dates, interest rates and interest payment dates, and redemption provisions of the Notes, and accepting a bid for the purchase thereof.

“Notes” means the limited tax general obligation bond anticipation notes of the county in an outstanding

aggregate principal amount not to exceed \$125,000,000, authorized to be issued by this ordinance to provide interim financing for the Courthouse Seismic Project, the Courthouse Earthquake Repairs, the North Rehabilitation Project and the Regional Communications and Emergency Control Center Project.

“Official Notice of Bond Sale” means, with respect to each series of Bonds, the official notice of sale therefor prepared pursuant to Section 4.C hereof.

“Official Notice of Note Sale” means, with respect to each series of Notes, the official notice of sale therefor prepared pursuant to Section 18 hereof.

“Rebate Amount” means the amount, if any, determined to be payable with respect to the Notes by the county to the United States of America in accordance with Section 148(f) of the Code.

“Regional Communications and Emergency Control Center Project” means the planning and construction of a multi-function building that will provide 24 hour emergency call taking and dispatch for police response/assistance, as well as serve as the planning/coordination and communications hub for emergency operations during disaster response.

“Rule” means Securities and Exchange Commission Rule 15c2-12 under the Securities and Exchange Act of 1934, as the same may be amended from time to time.

SECTION 2. Ordinance 14167, Section 2, is hereby amended to read as follows:

The county council hereby makes the following findings:

A. The Courthouse Seismic Project, the Courthouse Earthquake Repairs, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project will contribute to the health, safety and welfare of the citizens of the county.

B. The issuance of limited tax general obligation bonds of the county to provide long-term financing for such projects, payable from regular property taxes, and the issuance and sale of limited tax general obligation bond anticipation notes of the county to provide interim financing therefor, payable from the proceeds of the sale of such bonds or other revenues, taxes and money of the county legally available for such

purposes, will reduce the overall costs of borrowing such funds and is in the best interests of the county and its citizens.

SECTION 3. Ordinance 14167, Section 3, is hereby amended to read as follows:

The county is hereby authorized to undertake the Courthouse Seismic Project, the Courthouse Earthquake Repairs, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project. The costs of such projects shall also include capitalized interest, interest on the Notes or other interim financing for such projects pending receipt of Bond proceeds, and costs and expenses incurred in issuing the Bonds.

The projects authorized herein shall include the costs of sales tax, acquisition and contingency allowances, financing, and any and all surveys, explorations, engineering and architectural studies, drawings, designs and specifications incidental, necessary or convenient to the improvements herein specified. Such projects shall also include the purchase of all materials, supplies, appliances, equipment and facilities, and the permits, franchises, property and property rights and administrative costs, necessary, incidental or convenient to effect the improvements.

The projects authorized herein may be modified where deemed advisable or necessary in the judgment of the county council, and implementation or completion of any authorized project shall not be required if the county council determines that it has become inadvisable or impractical. If all of the projects either have been completed, or their completion duly provided for, or their completion found to be inadvisable or impractical, the county may apply any remaining proceeds of the Bonds or Notes, or any portion thereof, to the acquisition or improvement of other county facilities as the county council in its discretion may determine. In the event that the proceeds of the sale of the Bonds and Notes, plus any other money of the county legally available therefor, are insufficient to accomplish all of the projects authorized in this section, the county shall use the available funds for paying the cost of those projects for which the Bonds and Notes were authorized deemed by the county council most necessary and in the best interest of the county.

SECTION 4. Ordinance 14167, Section 4, is hereby amended to read as follows:

A. Purpose and Authorization of Bonds. The county authorizes the issuance of the Bonds to provide long-term financing the Courthouse Seismic Project, the Courthouse Earthquake Repairs, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project, including capitalized interest, interest on the Notes or other interim financing for such projects pending receipt of Bond proceeds, and costs and expenses incurred in issuing the Bonds.

B. Description of Bonds. The Bonds may be issued in one or more series in an outstanding aggregate principal amount not to exceed \$125,000,000. Each series of the Bonds shall be designated “King County, Washington, Limited Tax General Obligation Bonds” with an applicable year and series designation established by a Bond Sale Motion. Each series of Bonds shall be dated as of such date, shall mature on the date or dates in each of the years and in the principal amounts, shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) from their date or the most recent interest payment date to which interest has been paid or duly provided for, whichever is later, at the rates and payable on such dates, and shall be subject to redemption prior to maturity in the amounts, in the manner and at the prices, and shall be subject to such other terms and provisions as the county shall establish by a Bond Sale Motion.

C. Sale of Bonds. The county hereby authorizes the public sale of the Bonds by competitive bid. The Bonds shall be sold in one or more series, at the option of the Finance Director. Bids for the purchase of each series of the Bonds shall be received at the treasury division of the county’s finance department, Room 610, King County Administration Building, 500 Fourth Avenue, Seattle, Washington, at 9:00 a.m., or at such other time as the Finance Director shall direct, on such date as the Finance Director shall direct; provided, that at the option of the Finance Director, such bids may be received by facsimile transmission and/or by internet or other electronic bidding process, at such time and on such date as the Finance Director shall direct.

Upon the date and time established for the receipt of bids for each series of the Bonds, the Finance Director or his designee shall open the bids for the Bonds, shall cause the bids to be mathematically verified

and shall report to the county council regarding the bids received. Such bids shall then be considered and acted upon by the county council in an open public meeting. The county council reserves the right to reject any and all bids for any series of the Bonds. Bids for each series of the Bonds must be on an all or none basis or on a maturity by maturity basis as specified within the Official Notice of Bond Sale therefor. The county council shall, by Bond Sale Motion, ratify and confirm the year and series designation, date, principal amounts and maturity dates, interest rates and interest payment dates, and redemption provisions of each series of the Bonds, and accept the bid for the purchase of such series of the Bonds.

The Finance Director is hereby authorized and directed to prepare an Official Notice of Bond Sale for each series of the Bonds, which notice shall be filed with the clerk of the council and shall be ratified and confirmed by the Bond Sale Motion therefor. The Finance Director is hereby authorized to establish the year and series designation, date, principal amounts and maturity dates, interest payment dates and redemption provisions for the Bonds in such Official Notice of Bond Sale so long as the aggregate principal amount of the Bonds to be outstanding following the issuance of such series of Bonds does not exceed the remainder of \$125,000,000 less the aggregate principal amount of any Notes to be outstanding following the issuance of such series of Bonds. The Official Notice of Bond Sale or an abridged form thereof shall be published once prior to such sale date in The Bond Buyer and may be published in such other papers or financial journals as may be deemed desirable or appropriate by the financial advisors to the county.

SECTION 5. Ordinance 14167, Section 5, is hereby amended to read as follows:

A. Purpose and Authorization of Notes. The county authorizes the issuance of the Notes to provide interim financing for the Courthouse Seismic Project, the Courthouse Earthquake Repairs, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project, including capitalized interest and costs and expenses incurred in issuing the Notes.

B. Description of Notes. The Notes may be issued in one or more series in an outstanding aggregate principal amount not to exceed \$125,000,000. Each series of Notes shall be designated "King County,

Washington, Limited Tax General Obligation Bond Anticipation Notes” with an applicable year and series designation established as provided in Section 18 hereof. Each series of Notes shall be dated as of such date, shall mature on the date or dates in each of the years and in the principal amounts, shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) from their date or the most recent interest payment date to which interest has been paid or duly provided for, whichever is later, at the rates and payable on such dates, and shall be subject to redemption prior to maturity in the amounts, in the manner and at the prices, and shall be subject to such other terms and provisions, all to be established as provided in Section 18 hereof. The Notes shall be fully registered as to both principal and interest, shall be in the denomination of \$5,000 each or any integral multiple thereof (but no Note shall represent more than one maturity), shall be numbered separately in such manner and with any additional designation as the Note Registrar deems necessary for purposes of identification.

C. Initial Immobilization of Notes; Depository Provisions. The Notes initially shall be held in fully immobilized form by DTC acting as depository pursuant to the terms and conditions set forth in the Blanket Issuer Letter of Representations heretofore executed on behalf of the county. Neither the county nor the Note Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Notes with respect to the accuracy of any records maintained by DTC or any DTC participant, the payment by DTC or any DTC participant of any amount in respect of principal or redemption price or interest on the Notes, any notice that is permitted or required to be given to Registered Owners under this ordinance (except such notice as is required to be given by the county to the Note Registrar or to DTC), the selection by DTC or any DTC participant of any person to receive payment in the event of a partial redemption of the Notes or any consent given or other action taken by DTC as owner of the Notes.

The Notes initially shall be issued in denominations equal to the aggregate principal amount of each maturity and initially shall be registered in the name of CEDE & Co., as the nominee of DTC. The Notes so registered shall be held in fully immobilized form by DTC as depository. For so long as any Notes are held in

fully immobilized form, DTC, its successor or any substitute depository appointed by the county, as applicable, shall be deemed to be the Registered Owner for all purposes hereunder and all references to Registered Owners, Noteowners, Noteholders, owners or the like shall mean DTC or its nominees and shall not mean the owners of any beneficial interests in the Notes. Registered ownership of such Notes, or any portions thereof, may not thereafter be transferred except:

1. To any successor of DTC or its nominee, if that successor shall be qualified under any applicable laws to provide the services proposed to be provided by it;
2. To any substitute depository appointed by the county pursuant to this subsection or such substitute depository's successor; or
3. To any person as herein provided if the Notes are no longer held in immobilized form.

Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or a determination by the county that it is no longer in the best interests of beneficial owners of the Notes to continue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the county may appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

In the case of any transfer pursuant to clause (1) or (2) of the second paragraph of this subsection, the Note Registrar, upon receipt of all outstanding Notes together with a written request on behalf of the county, shall issue a single new Note for each maturity of Notes then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the county.

In the event that DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained; or the county determines that it is in the best interests of the beneficial owners of the Notes that they be able to obtain Note certificates, the ownership of Notes may be transferred to any person as herein provided, and the Notes shall no longer be held in fully

immobilized form. The county shall deliver a written request to the Note Registrar, together with a supply of definitive Notes, to issue Notes as herein provided in any authorized denomination. Upon receipt of all then outstanding Notes by the Note Registrar, together with a written request on behalf of the county to the Note Registrar, new Notes shall be issued in such denominations and registered in the names of such persons as are requested in such a written request.

D. Place, Manner and Medium of Payment. Both principal of and interest on the Notes shall be payable in lawful money of the United States of America. For so long as outstanding Notes are registered in the name of CEDE & Co., or its registered assigns, as nominee of DTC, payments of principal of and interest on the Notes shall be made in next day funds on the date such payment is due and payable at the place and in the manner provided in the Letter of Representations.

In the event that Notes are no longer held in fully immobilized form by DTC or its successor (or substitute depository or its successor); interest on the Notes shall be paid by checks or drafts mailed, or by wire transfer, to owners of Notes at the addresses for such owners appearing on the Note Register on the 15th day of the calendar month preceding the interest payment date. Wire transfer will be made only if so requested in writing and if the owner owns at least one million dollars (\$1,000,000) par value of the Notes. Principal of the Notes shall be payable at maturity or on such dates as may be fixed for prior redemption upon presentation and surrender of the Notes by the owners at either principal office of the Note Registrar in Seattle, Washington, or New York, New York, at the option of such owners.

SECTION 6. Ordinance 14167, Section 7, is hereby amended to read as follows:

The Notes shall be in substantially the following form:

NO. \$ _____

UNITED STATES OF AMERICA

STATE OF WASHINGTON

KING COUNTY

LIMITED TAX GENERAL OBLIGATION

BOND ANTICIPATION NOTE, [Year, Series]

INTEREST RATE:

MATURITY DATE:

CUSIP NO. :

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KING COUNTY, WASHINGTON (the “County”), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date specified above, the Principal Amount specified above and to pay interest thereon (computed on the basis of a 360-day year of twelve 30-day months) from [_____], at the Interest Rate set forth above, payable on _____.

Both principal of and interest on this Note are payable in lawful money of the United States of America. While Notes are held on immobilized “book entry” system of registration, the principal of this Note is payable to the order of the Registered Owner in same day funds received by the Registered Owner on the maturity date of this Note, and the interest on this Note is payable to the order of the Registered Owner in same day funds received by the Registered Owner on each interest payment date. When Notes are no longer held in an immobilized “book entry” registration system, the principal shall be paid to the Registered Owner or nominee of such owner upon presentation and surrender of this Note at either of the principal offices of the fiscal agency of the State of Washington in either Seattle, Washington or New York, New York (collectively the “Note Registrar”), and the interest shall be paid by mailing a check or draft (on the date such interest is due) to the Registered Owner or nominee of such owner at the address shown on the registration books maintained by the Note Registrar (the “Note Register”) as of the 15th day of the month prior to the interest payment date; provided, however that if so requested in writing by the Registered Owner of at least \$1,000,000 par value of the Notes, interest will be paid by wire transfer.

This Note is one of an authorized issue of Notes of like date and tenor, except as to number and amount, in the aggregate principal amount of \$_____, and is issued to provide interim financing for the Courthouse Seismic Project, the Courthouse Earthquake Repairs, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project, including capitalized interest and costs and expenses incurred in issuing the Notes.

The Notes of this issue are issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington, the County Charter and applicable ordinances duly adopted by the County.

[The Notes are subject to redemption prior to their maturity as follows: (information to come related Official Notice of Note Sale)].

The County has irrevocably covenanted in King County Ordinance No. _____ (the “Note Ordinance”) that it will annually include in its budget and levy an *ad valorem* tax within the constitutional and statutory tax limitations provided by law without a vote of the people upon all the property within the County subject to taxation in an amount that will be sufficient, together with bond proceeds and all other revenue, taxes and money of the County legally available for such purposes, to pay the principal of and interest on the Bonds as the same shall become due. The County has irrevocably pledged its full faith, credit and resources for the annual levy and collection of such taxes and the prompt payment of the principal of and interest on the Bonds as the same shall become due.

The pledge of tax levies for repayment of principal of and interest on the Notes may be discharged prior to maturity of the Notes by making provisions for the payment thereof on the terms and conditions set forth in the Note Ordinance.

This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Ordinance until the Certificate of Authentication hereon shall have been manually signed by the Note Registrar.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington and the Charter and ordinances of the County to exist, to have happened, been done and performed precedent to and in the issuance of this Note have happened, been done and performed and that the issuance of this Note and the Notes of this series does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the County may incur.

IN WITNESS WHEREOF, the County has caused this Note to be executed by the manual or facsimile signatures of the County Executive and the Clerk of the County Council, and the seal of the County to be impressed or imprinted hereon, as of this [] day of [].

KING COUNTY, WASHINGTON

By

County Executive

ATTEST:

Clerk of the Council

The Note Registrar's Certificate of Authentication on the Notes shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

This Note is one of the Notes described in the within mentioned Note Ordinance and is of the Limited Tax General Obligation Bond Anticipation Notes, [Year, Series], of King County, Washington, dated [].

WASHINGTON STATE FISCAL

AGENCY, as Note Registrar

By

Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION

NUMBER OF TRANSFEREE

[]

(Please print or typewrite name and address, including zip code of Transferee)

the within Note and does hereby irrevocably constitute and appoint

, or its successor, as Note Registrar to transfer said Note on the books kept for registration thereof with full power of substitution in the premises.

DATED: , _____.

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever.

SIGNATURE GUARANTEED:

SECTION 7. Ordinance 14167, Section 12, is hereby amended to read as follows:

The county hereby creates the "Building Construction Improvement Fund," and within such fund the "Building Construction Improvement Project Subfund," the "Building Construction Improvement 2001 BAN Subfund" and the "Building Construction Improvement 2001 BAN Excess Earnings Subfund." This fund and each of

these subfunds shall be first tier funds managed by the director of the department of construction and facilities management. All of the Note Proceeds shall be deposited into the Building Construction Improvement 2001 BAN Subfund at the time of delivery of the Notes to provide interim financing for the Courthouse Seismic Project, the Courthouse

Earthquake Repairs, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project.