



Legislation Text

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AN ORDINANCE authorizing the issuance and sale of one or more series of limited tax general obligation bonds of the county in an aggregate principal amount not to exceed \$100,000,000 to refinance for savings the county's obligations under the lease/lease-back transaction entered into by the county with Goat Hill Properties for the permitting, design, construction and equipping of a county office building now known as the Chinook Building and the related parking facility now known as the Goat Hill Parking Garage; providing for the use of the bond proceeds to refund all or a portion of the lease revenue bonds issued by Goat Hill Properties and to pay costs of issuing the county's bonds; and pledging the annual levy of taxes to pay principal of and interest on the county's bonds.

PREAMBLE:

As authorized by Ordinance 15043, pursuant to RCW 36.39.205, incorporating by reference chapter 35.42 RCW, and K.C.C. chapter 4.56, the county entered into a lease/lease-back transaction with Goat Hill Properties, a Washington nonprofit corporation ("GHP"), for the permitting, design and construction on county-owned land of the Chinook Building and the Goat Hill Parking Garage. The transaction included (i) the county's lease of two county-owned sites to GHP pursuant to a Garage Ground Lease (the "Garage Ground Lease") and a Building Ground Lease (the "Building Ground Lease"), both dated as of January 1, 2005 (together, the

"Ground Leases"), (ii) GHP's lease back to the county of the buildings that GHP caused to be constructed on those sites (the "Premises") pursuant to a Project Lease Agreement dated as of January 1, 2005 (the "Lease"), and (iii) GHP's issuance of its Lease Revenue Bonds, 2005 (King County, Washington, Governmental Office Building Project) in the original aggregate principal amount of \$101,035,000 (the "GHP Bonds") to finance the costs of the project. As provided in Section 4.3 of the Lease, the county's obligation thereunder to pay Rent (as defined in the Lease) constitutes a general obligation of the county to which it has pledged the county's full faith and credit.

The GHP Bonds were issued pursuant to the Indenture of Trust (the "Indenture"), dated as of January 1, 2005, by and between GHP, as issuer, and U.S. Bank National Association, as trustee. The GHP Bonds satisfy the requirements of Revenue Ruling 63-20 and Revenue Procedure 82-26 of the U.S. Treasury (collectively, the "Rulings").

The county may have opportunities to refinance all or portions of the outstanding GHP Bonds and thereby realize savings to the county. To that end, it is deemed necessary and advisable that the county issue one or more series of its limited tax general obligation bonds in a principal amount not to exceed \$100,000,000 (the "Bonds"), on the terms and conditions set forth in this ordinance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Definitions; Interpretation.

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

"Bond Account" means, with respect to each series of the Bonds, the bond redemption account established therefor pursuant to Section 9 hereof.

"Bonds" means the limited tax general obligation bonds of the county in an aggregate principal amount

not to exceed \$100,000,000, authorized by this ordinance to be issued in one or more series to obtain funds to refinance for savings the county's obligations under the Lease and to pay the costs and expenses incurred in issuing those bonds.

"Building Ground Lease" means the Building Ground Lease, dated as of January 1, 2005, between the county, as ground lessor, and GHP, as ground lessee, and as it may from time to time be supplemented, modified or amended in accordance with its terms and the Indenture.

"Chinook Building Transfer" means the actions necessary, following the refunding and defeasance of all outstanding GHP Bonds, to discharge the lien of the Indenture, thereby terminating the Ground Leases and the Lease and vesting in the county unencumbered fee title to, and exclusive possession of, the Premises, as required under the Rulings.

"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.

"Costs of Issuance Account" means the GHP Lease Revenue Refunding Costs of Issuance Account authorized to be established for each series of Bonds pursuant to section 16 of this ordinance.

"DTC" means The Depository Trust Company, New York, New York.

"Escrow Agent" means each corporate trustee chosen pursuant to section 16 of this ordinance to serve as escrow agent in connection with the refunding of any GHP Bonds.

"Finance Director" means the director of the finance and business operations division of the department of executive services of the county or any other county officer who succeeds to the duties now delegated to that office or the designee of that officer.

"Garage Ground Lease" means the Garage Ground Lease, dated as of January 1, 2005, between the county, as ground lessor, and GHP, as ground lessee, and as it may from time to time be supplemented, modified or amended in accordance with its terms and the Indenture.

"GHP" means Goat Hill Properties, a Washington nonprofit corporation.

"GHP Bonds" means the \$101,035,000 original aggregate principal amount Goat Hill Properties Lease Revenue Bonds, 2005 (King County, Washington, Governmental Office Building Project), dated February 3, 2005.

"Government Obligations" means those obligations now or hereafter defined as such in chapter 39.53 RCW, as now in existence or hereafter amended or restated.

"Ground Leases" means, collectively, the Building Ground Lease and the Garage Ground Lease.

"Indenture" means the Indenture of Trust, dated as of January 1, 2005, by and between GHP, as issuer, and U.S. Bank National Association, as trustee.

"Lease" means the Project Lease Agreement, dated as of January 1, 2005, by and between GHP, as landlord, and the county, as tenant.

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

"Premises" means the office building now known as the Chinook Building and related improvements located at 401 5th Avenue in Seattle and the parking facility now known as the Goat Hill Parking Garage and related improvements located at 415 6th Avenue in Seattle, which were permitted, designed, constructed and equipped for the county by GHP and paid for with proceeds of the GHP Bonds.

"Rebate Amount" means the amount, if any, determined to be payable to the United States of America with respect to a specified series of Bonds that are issued as Tax-Exempt Bonds in accordance with Section 148 (f) of the Code.

"Refunding Account" means the GHP Lease Revenue Bonds Refunding Account authorized to be established for each series of Bonds pursuant to section 16 of this ordinance.

"Register" means the registration books maintained by the Registrar for purposes of identifying ownership of the Bonds.

"Registered Owner" means any person or entity who is the registered owner of any Bond.

"Registrar" means the fiscal agency of the State of Washington appointed from time to time by the Washington State Finance Committee pursuant to chapter 43.80 RCW.

"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.

"Rulings" means, collectively, Revenue Ruling 63-20 and Revenue Procedure 82-26 of the U.S. Treasury.

"Sale Motion" means a motion of the county council adopted at the time of sale of a series of Bonds that establishes terms for that series of Bonds, the plan for refunding GHP Bonds thereby, and, if applicable, the plan for effecting the Chinook Building Transfer, as provided in sections 13 and 16 of this ordinance.

"Savings Target" means the minimum savings for a refunding as set forth in the county's Debt Management Policy adopted by Motion 12660 of the council as it may be amended and updated from time to time.

"Tax Certificate" means the Federal Tax Certificate regarding certain federal tax matters authorized by section 11.B. of this ordinance to be executed on behalf of the county upon the issuance of each series of Bonds issued as Tax-Exempt Bonds.

"Tax-Exempt Bonds" means Bonds the interest on which the county intends to be excludable from gross income for federal income tax purposes, as provided in section 11 of this ordinance and so designated pursuant to section 13 of this ordinance.

"Undertaking" means an undertaking for ongoing disclosure to be entered into by the county for each series of Bonds, if and to the extent required by the Rule, as authorized by the Sale Motion.

B. Rules of Interpretation. As used in this ordinance, unless the context otherwise requires:

1. The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms refer to this ordinance as a whole and not to any particular section, subdivision or clause of this ordinance.

2. Unless the context otherwise indicates, words expressed in the singular may include the plural and

vice versa, and the use of the neuter, masculine, or feminine gender is for convenience only and is deemed to mean and include the neuter, masculine or feminine gender, as appropriate.

3. Any headings preceding the text of the various sections and subsections of this ordinance, and any table of contents or marginal notes appended to copies of this ordinance, are solely for convenience of reference and do not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect.

4. All references in this ordinance to "sections", "subsections" and other subdivisions, paragraphs or clauses are to the corresponding sections, subsections, subdivisions, paragraphs or clauses of this ordinance as originally passed.

SECTION 2. Findings: The county council hereby finds that the issuance of one or more series of limited tax general obligation bonds of the county to refund all or a portion of the GHP Bonds will effect a savings to the county by refinancing the county's payment obligations under the Lease and is in the best interests of the county and its residents.

SECTION 3. Authorization of Bonds. The county council approves and authorizes the incurring of indebtedness by the issuance one or more series of limited tax general obligation bonds of the county in an aggregate principal amount not to exceed \$100,000,000 (the "Bonds") to provide funds sufficient to redeem all or a portion of the GHP Bonds prior to their scheduled maturity and to pay the costs and expenses of issuing each series of the Bonds and, if applicable, costs of the Chinook Building Transfer.

The Bonds may be issued and sold in one or more series, as provided in section 13 of this ordinance, so long as the aggregate principal amount of the Bonds does not exceed \$100,000,000 and the Savings Target for each series of Bonds is met. Each series of the Bonds will be designated "King County, Washington, Limited Tax General Obligation Refunding Bonds," with the year and any applicable series designation. The Bonds will be fully registered as to both principal and interest, will be in the denomination of \$5,000 each or any integral multiple thereof (but no Bond shall represent more than one maturity), will be numbered separately in such manner and with any additional designation as the Registrar deems necessary for purposes of

identification, and will be dated as of such date and mature on the dates, in the years and the amounts established as provided in section 13 of this ordinance.

Each series of the Bonds will bear interest (computed on the basis of a 360-day year of twelve 30-day months) from their date or from the most recent interest payment date for which interest has been paid or duly provided for, whichever is later, payable on interest payment dates and at the rate or rates established as provided in Section 13 hereof and ratified and confirmed by the Sale Motion.

SECTION 4. Registration, Exchange and Payments.

A. Registrar/Bond Register. In accordance with K.C.C. chapter 4.84, the county hereby adopts for the Bonds the system of registration specified and approved by the Washington State Finance Committee, which utilizes the fiscal agencies of the State of Washington in Seattle, Washington, and New York, New York, as registrar, authenticating agent, paying agent and transfer agent (collectively, the "Registrar"). The Registrar will keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds, which will at all times be open to inspection by the county. The Registrar is authorized, on behalf of the county, to authenticate and deliver the Bonds transferred or exchanged in accordance with the provisions of those Bonds and this ordinance and to carry out all of the Registrar's powers and duties under this ordinance.

The Registrar will be responsible for its representations contained in the Certificate of Authentication on the Bonds. The Registrar may become the Registered Owner of Bonds with the same rights it would have if it were not the Registrar, and to the extent permitted by law may act as depositary for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Registered Owners.

B. Registered Ownership. The county and the Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes, and neither the county nor the Registrar will be affected by any notice to the contrary. Payment of any Bond will be made only as described

in section 4.G. of this ordinance, but registration of any Bond may be transferred as herein provided. All payments made as described in section 4.G. of this ordinance will be valid and will satisfy and discharge the liability of the county upon such Bond to the extent of the amount or amounts so paid. The county and the Registrar are entitled to treat the person in whose name any Bond is registered as the absolute owner thereof for all purposes of this ordinance and any applicable laws, notwithstanding any notice to the contrary received by the Registrar or the county.

C. DTC Acceptance/Letter of Representations. The Bonds will initially be held in fully immobilized form by DTC acting as depository. To induce DTC to accept the Bonds as eligible for deposit at DTC, the county has heretofore executed and delivered to DTC a Blanket Issuer Letter of Representations.

Neither the county nor the Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding 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 the principal of or interest on the Bonds, any notice that is permitted or required to be given to Registered Owners under this ordinance (except those notices that are required to be given by the county to the Registrar or to DTC), or any consent given or other action taken by DTC as the Registered Owner. For so long as any Bonds are held in fully immobilized form hereunder, DTC or its successor depository will be deemed to be the Registered Owner for all purposes hereunder, and all references herein to the Registered Owners will mean DTC or its nominee and will not mean the owners of any beneficial interest in the Bonds.

D. Use of Depository.

1. The Bonds will be registered initially in the name of "Cede & Co.," as nominee of DTC, with one Bond of each series maturing on each maturity date for the Bonds of that series in a denomination corresponding to the total principal therein designated to mature on that date. Registered ownership of immobilized Bonds, or any portions thereof, may not thereafter be transferred except (i) to any successor of DTC or its nominee, provided that any such successor must be qualified under any applicable laws to provide

the service proposed to be provided by it; (ii) to any substitute depository appointed by the county pursuant to subsection D.2. of this section or such substitute depository's successor; or (iii) to any person as provided in subsection D.4. of this section.

2. 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 to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the county may hereafter appoint a substitute depository. Any such substitute depository must be qualified under any applicable laws to provide the services proposed to be provided by it.

3. In the case of any transfer pursuant to subsection D.1. (i) or (ii) of this section, the Registrar will, upon receipt of all outstanding Bonds, together with a written request on behalf of the county, issue a single new Bond for each maturity of those Bonds 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.

4. If (i) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (ii) the county determines that it is in the best interest of the beneficial owners of any of the Bonds that they be able to obtain such Bonds in the form of bond certificates, the ownership of Bonds may then be transferred to any person or entity as herein provided, and the Bonds will no longer be held in fully immobilized form. The county will deliver a written request to the Registrar, together with a supply of definitive Bonds, to issue Bonds as herein provided in any authorized denomination. Upon receipt of all then outstanding Bonds by the Registrar together with a written request on behalf of the county to the Registrar, new Bonds will be issued in such denominations and registered in the names of such persons as are requested in the written request.

E. Transfer or Exchange of Registered Ownership; Change in Denominations. The registered ownership of any Bond may be transferred or exchanged, but no transfer of any Bond will be valid unless it is

surrendered to the Registrar with the assignment form appearing on the Bond duly executed by the Registered Owner or the Registered Owner's duly authorized agent in a manner satisfactory to the Registrar. Upon that surrender, the Registrar will cancel the surrendered Bond and will authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same series, date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same series, date, maturity and interest rate, in any authorized denomination. The Registrar is not obligated to transfer or exchange any Bond during a period beginning at the opening of business on the 15th day of the month next preceding any interest payment date and ending at the close of business on that interest payment date, or, in the case of any proposed redemption of the Bonds, after the mailing of notice of redemption for such Bonds.

F. Registration Covenant. The county covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code.

G. Place and Medium of Payment. Both principal of and interest on the Bonds are payable in lawful money of the United States of America. For so long as all Bonds are in fully immobilized form, payments of principal thereof and interest thereon will be made in accordance with the operational arrangements of DTC referred to in the Letter of Representations. If the Bonds are no longer held in fully immobilized form, interest on the Bonds will be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the 15th day of the month preceding the interest payment date; provided, however, that if so requested in writing by the Registered Owner of at least \$1,000,000 principal amount of a series of Bonds, interest will be paid by wire transfer on the interest payment date to an

account with a bank located within the United States. Principal of the Bonds is payable upon presentation and surrender of the Bonds by the Registered Owners at the principal office of the Registrar.

SECTION 5. Redemption of Bonds; Purchases.

A. Optional Redemption. The county may reserve the right to redeem outstanding Bonds prior to their maturity on the dates and at the prices established as provided in section 13 of this ordinance and ratified and confirmed by a Sale Motion. Portions of the principal amount of any Bond, in increments of \$5,000 or any integral multiple of \$5,000, may be redeemed.

If less than all of the Bonds subject to optional redemption are called for redemption, the county may choose the maturities to be redeemed. If less than a whole of a maturity is called for redemption, the Bonds to be redeemed will be chosen randomly or by a method to be established in connection with the sale of each series of the Bonds in accordance with section 13 of this ordinance.

B. Mandatory Redemption of Term Bonds. If the Bonds of any series are designated as term bonds in accordance with the provisions of section 13 of this ordinance, a mandatory redemption schedule to amortize the principal of those term bonds (in increments of \$5,000 or any integral multiple of \$5,000) will be set forth in the Sale Motion.

Payments of principal of any term bonds under any such mandatory redemption schedule will be made from the applicable Bond Account. If more than the required principal amount of the term bonds of a series of Bonds is retired by purchase or optional redemption in any given year, the county may credit those excess purchase amounts or excess optional redemption amounts to the mandatory redemption schedule for that series of Bonds in any manner that the county determines.

C. Partial Redemption. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond at the principal office of the Registrar there will be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal amount thereof, a new Bond or Bonds, at the option of the Registered Owner, of like series, maturity and interest rate in any denomination

authorized by this ordinance.

D. Purchase of Bonds. The county reserves the right to purchase any or all of the Bonds at any time at any price.

SECTION 6. Notice and Effect of Redemption.

A. Notice of Redemption. Written notice of any redemption of Bonds will be given by the Registrar on behalf of the county by first class mail, postage prepaid, not less than 20 days nor more than 60 days before the redemption date to the Registered Owners of Bonds that are to be redeemed at their last addresses shown on the Bond Register. So long as the Bonds are in book-entry form, notice of redemption will be given as provided in the Letter of Representations. The Registrar will provide additional notice of redemption to the MSRB in accordance with the applicable Undertaking.

The requirements of this section will be deemed complied with when notice is mailed, whether or not it is actually received by the owner.

Each notice of redemption will contain the following information: (1) the redemption date, (2) the redemption price, (3) any condition to the redemption (including, but not limited, to the receipt of proceeds of refunding bonds), (4) if less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the Bonds to be redeemed, (5) that on the redemption date, upon the satisfaction of any conditions, the redemption price will become due and payable upon each Bond or portion called for redemption, and that interest will cease to accrue from the redemption date, (6) that the Bonds are to be surrendered for payment at the principal office of the Registrar, (7) the CUSIP numbers of all Bonds being redeemed, (8) the dated date of the Bonds, (9) the rate of interest for each Bond being redeemed, (10) the date of the notice, (11) information regarding the county's right to rescind an optional redemption prior to the designated redemption date by giving notice of such rescission, and (12) any other information relating to the redemption or identifying the Bonds being redeemed.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of

funds issued for that purpose will bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

B. Conditional Redemption; Rescission of Redemption. Any redemption of Bonds may be subject to such conditions, including but not limited to the receipt of proceeds of refunding bonds, as the county may specify in the notice of redemption. The county may also rescind any notice of an optional redemption of Bonds by giving written notice of such rescission no later than the business day before the designated redemption date to all parties who were given notice of redemption in the same manner as such notice was given.

C. Effect of Redemption. Unless the county has rescinded a notice of redemption or a condition to the redemption has not been satisfied, the county will transfer to the Registrar amounts that, in addition to other money, if any, held by the Registrar, will be sufficient to redeem, on the redemption date, all the Bonds to be redeemed. From the redemption date interest on each Bond to be redeemed will cease to accrue.

D. Amendment of Notice Provisions. The foregoing notice provisions of this section, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

SECTION 7. Form of Bonds; Execution of Bonds. The Bonds will be in substantially the form set forth in Attachment A to this ordinance. The Bonds will be executed on behalf of the county with the manual or facsimile signature of the county executive, attested by the manual or facsimile signature of the clerk of the county council, and will have the seal of the county impressed or imprinted thereon.

If any officer who has signed or attested any of the Bonds ceases to be an officer of the county authorized to sign bonds before the Bonds bearing his or her signature are authenticated or delivered by the Registrar or issued by the county, those Bonds nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the county as though that person had continued

to be an officer of the county authorized to sign bonds. Any Bond also may be signed on behalf of the county by any person who, on the actual date of signing of the Bond, is an officer of the county authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Only Bonds that bear a Certificate of Authentication in the form set forth in Exhibit A of this ordinance, manually executed by the Registrar, will be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication will be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

SECTION 8. Mutilated, Lost, or Destroyed Bonds. If any Bond becomes mutilated, the Registrar will authenticate and deliver a new Bond of like series, amount, date, interest rate and tenor in exchange and substitution for the Bond so mutilated, upon the owner's paying the expenses and charges of the county and the Registrar in connection therewith and upon surrender to the Registrar of the Bond so mutilated. Every mutilated Bond so surrendered will be canceled and destroyed by the Registrar.

If any Bonds are lost, stolen or destroyed, the Registrar may authenticate and deliver a new Bond or Bonds of like series, amount, date, and tenor to the Registered Owner thereof upon the owner's paying the expenses and charges of the county and the Registrar in connection therewith and upon his or her filing with the Registrar evidence satisfactory to the Registrar that such Bond or Bonds were actually lost, stolen or destroyed and of his or her ownership thereof, and upon furnishing the county and Registrar with indemnity satisfactory to the Finance Director and the Registrar.

SECTION 9. Bond Accounts; Pledge of Taxation and Credit There has heretofore been created in the office of the Finance Director a special fund known as the "King County Limited Tax General Obligation Bond Redemption Fund" to be drawn on to pay the principal of and interest on limited tax general obligation bonds of the county. There is hereby authorized to be created within this fund a special account for each series of the Bonds to be known as the "Limited Tax General Obligation Bond Redemption Account, [Year] [Series ____]" (each, a "Bond Account").

Any accrued interest on any series of the Bonds shall be deposited in the applicable Bond Account at the time of delivery of that series of Bonds and shall be applied to the payment of interest thereon.

The taxes hereafter levied to pay principal of and interest on the Bonds and any other funds to be used to pay the Bonds shall be deposited in the applicable Bond Account no later than the date funds are required for the payment of principal of and interest on a series of the Bonds; provided, however, that if the payment of principal of and interest on any series of the Bonds is required prior to the receipt of such levied taxes, the county may make an interfund loan to the applicable Bond Account pending actual receipt of those taxes. Each Bond Account shall be drawn on to pay the principal of and interest on the applicable series of the Bonds. Money in each Bond Account not needed to pay the interest or principal next coming due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of county funds. Each Bond Account will be a second tier fund in accordance with Ordinance 7112 and K.C.C. chapter 4.10.

The county hereby irrevocably covenants and agrees for as long as any Bonds are outstanding and unpaid, that each year it will include in its budget and levy an *ad valorem* tax upon all property within the county subject to taxation in an amount that will be sufficient, together with all other revenues and money of the county legally available for such purposes, to pay the principal of and interest on the Bonds as the same become due. All of the taxes so collected will be paid into the applicable Bond Account no later than the date those funds are required for the payment of principal and interest on a series of the Bonds.

The county hereby irrevocably pledges that the annual tax herein authorized to be levied for the payment of such principal and interest shall be within and a part of the tax levy permitted to counties without a vote of the people, and that a sufficient portion of the taxes to be levied and collected annually by the county prior to the full payment of the principal of and interest on the Bonds will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on those Bonds.

The full faith, credit and resources of the county are hereby irrevocably pledged for the annual levy and

collection of those taxes and for the prompt payment of the principal of and interest on those Bonds as the same become due.

SECTION 10. General Covenants. The county makes the following covenants with and warranties to the owners of the Bonds:

A. Legal Authority. The county has full legal right, power and authority to adopt this ordinance, to sell, issue and deliver Bonds as provided herein, and to carry out and consummate all other transactions contemplated by this ordinance.

B. Due Authorization. By all necessary official action prior to or concurrently herewith, the county has duly authorized and approved the execution and delivery of, and the performance by the county of its obligations contained in, the Bonds and in this ordinance and the consummation by it of all other transactions necessary to effectuate this ordinance in connection with the issuance of Bonds, and such authorizations and approvals are in full force and effect and have not been amended, modified or supplemented in any material respect.

C. Binding Obligation. This ordinance constitutes a legal, valid and binding obligation of the county.

D. General Obligations. The Bonds, when issued, sold, authenticated and delivered, will constitute the legal, valid and binding general obligations of the county.

E. Within Debt Limits. The Bonds will be issued within all statutory and constitutional debt limitations applicable to the county.

F. No Conflict. The county's adoption of this ordinance and its compliance with the provisions contained herein will not conflict with or constitute a breach of or default under any constitutional provisions, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, ordinance, motion, agreement or other instrument to which the county is a party or to which the county or any of its property or assets are otherwise subject.

SECTION 11. Tax Covenants.

A. General. The county may elect to structure any series of Bonds so that interest on that series of Bonds would be taxable or would be excludable from gross income for federal income tax purposes pursuant to sections 103 and 141 through 150 of the Code and the applicable regulations (the "Tax-Exempt Bonds"). The county covenants not to take any action, or knowingly omit to take any action within its control, that if taken or omitted would cause the interest on Tax-Exempt Bonds to be includable in gross income, as defined in section 61 of the Code, for federal income tax purposes. Additional tax covenants as necessary or desirable for any series of Bonds may be set forth in the Sale Motion or Tax Certificate for that series of Bonds.

B. Tax Certificate. Upon the issuance of any series of Tax-Exempt Bonds, the Finance Director is authorized to execute a federal tax certificate (the "Tax Certificate"), which will certify to various facts and representations concerning that series of Bonds, based on the facts and estimates known or reasonably expected on the date of their issuance, and make certain covenants with respect to that series of Bonds as may be necessary or desirable to obtain or maintain the benefits conferred under the Code relating to that series of Tax-Exempt Bonds.

The county covenants that it will comply with the Tax Certificate unless it receives advice from nationally recognized bond counsel or the Internal Revenue Service that certain provisions have been amended or no longer apply to the Tax-Exempt Bonds.

C. Arbitrage Rebate. If the county does not qualify for an exception to the requirements of Section 148 (f) of the Code relating to the payment of arbitrage rebate to the United States with respect to a series of Tax-Exempt Bonds, the county will take all necessary steps to comply with the requirement that certain amounts earned by the county on the investment of the "gross proceeds" of that series of Bonds (within the meaning of the Code) be rebated.

SECTION 12. Refunding or Defeasance of Bonds. The county may issue refunding obligations pursuant to the laws of the State of Washington or use money available from any other lawful source to pay when due the principal of and interest on the Bonds or any portion thereof included in a refunding or

defeasance plan, and to redeem and retire, refund or defease all such then outstanding Bonds, and to pay the costs of the refunding or defeasance.

If money or noncallable Government Obligations maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to redeem and retire, refund or defease part or all of the Bonds in accordance with their terms, are set aside in a special account of the county to effect such redemption and retirement, and such money and the principal of and interest on such Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the applicable Bond Account for the payment of the principal of and interest on the Bonds so provided for, and those Bonds will cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the money so set aside and pledged, and those Bonds will be deemed not to be outstanding hereunder.

Upon the defeasance of any of the Bonds, the Registrar will provide notice of the defeasance to the Registered Owners of the Bonds and to the MSRB in accordance with the Undertaking.

SECTION 13. Sale of Bonds.

A. Determination by Finance Director. The Finance Director will determine, in consultation with the county's financial advisors, whether the Bonds will be sold in one or more series, the timing of the sale of each series of Bonds, whether a series of Bonds will be structured as Tax-Exempt Bonds or otherwise, and whether a series of Bonds will be sold by negotiated sale or competitive bid and by current or future delivery. In any event, the aggregate principal amount of all Bonds issued and sold under this ordinance may not exceed \$100,000,000, and the sale of each series of Bonds must meet the Savings Target applicable on the date of sale of that series of Bonds. The authority to sell any of the Bonds authorized hereunder will terminate two years from the effective date of this ordinance.

B. Procedure for Negotiated Sale. If the Finance Director determines that a series of Bonds will be sold by negotiated sale, the Finance Director will, in accordance with applicable county procurement procedures, solicit one or more underwriting firms with which to negotiate the sale of that series of Bonds. The purchase

contract for any series of Bonds will establish the date, principal amount, interest rates, maturity schedule, redemption and bond insurance provisions, and delivery date of that series of Bonds. The county council by a Sale Motion will approve the bond purchase contract and ratify and confirm the terms for the series of Bonds established therein.

C. Procedure for Sale by Competitive Bid. If the Finance Director determines that a series of Bonds will be sold by competitive bid, bids for the purchase of such Bonds will be received at such time or place and by such means as the Finance Director directs. The Finance Director is authorized to prepare a notice of sale for the Bonds, establishing in the notice the date, principal amount, interest payment dates, maturity schedule, and redemption and bond insurance provisions for such Bonds. The official notice of sale or an abridged form thereof may be published in those newspapers or financial journals that the county's financial advisors deem desirable or appropriate.

Upon the date and time established for the receipt of bids for any series of Bonds, the Finance Director or his designee will review the bids, cause the bids to be mathematically verified and report to the county council regarding the bids received. The bids will 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 such Bonds. The county council by a Sale Motion will approve the sale of the Bonds and ratify and confirm the date, interest rates, maturity schedule, redemption and bond insurance provisions, plan of refunding (if any), and any other terms of such Bonds.

SECTION 14. Preliminary Official Statement; Official Statement. The county hereby authorizes and directs the Finance Director: (i) to review and approve the information contained in the preliminary official statement (the "Preliminary Official Statement") prepared in connection with the sale of a series of the Bonds; and (ii) for the sole purpose of the Bond purchasers' compliance with Section (b)(1) of the Rule, to "deem final" the Preliminary Official Statement as of its date, except for the omission of information on offering prices, interest rates, selling compensation, delivery dates, bond insurance, any other terms or provisions required by

the county to be specified in a competitive bid or bond purchase contract, ratings, the identity of the Bond purchasers, and other terms of that series of Bonds dependent on such matters. After the Preliminary Official Statement has been reviewed and approved in accordance with the provisions of this section, the county hereby authorizes distribution of the Preliminary Official Statement to prospective purchasers of that series of Bonds.

Following the sale of any series of Bonds in accordance with section 13 of this ordinance, the Finance Director is hereby authorized to review and approve on behalf of the county a final official statement for those Bonds. The county agrees to cooperate with the purchaser of the Bonds to deliver or cause to be delivered, within seven business days from the date of the Sale Motion and in sufficient time to accompany any confirmation that requests payment from any customer of the purchaser, copies of the final official statement in sufficient quantity to comply with paragraph (b)(4) of the Rule and the rules of the Municipal Securities Rulemaking Board ("MSRB").

SECTION 15. Delivery of Bonds. Following the sale of any series of the Bonds, the county will cause definitive Bonds of that series to be prepared, executed and delivered, which Bonds will be typewritten, lithographed or printed with engraved or lithographed borders, or in such other form acceptable to DTC as initial depository for the Bonds.

If definitive Bonds are not ready for delivery by the date established for issuing the Bonds, then the Finance Director, upon the approval of the purchasers, may cause to be issued and delivered to the purchasers one or more temporary Bonds with appropriate omissions, changes and additions. Any temporary Bond or Bonds will be entitled and subject to the same benefits and provisions of this ordinance with respect to the payment, security and obligation thereof as definitive Bonds authorized thereby. Any temporary Bond or Bonds will be exchangeable without cost to the owners thereof for definitive Bonds when the latter are ready for delivery.

SECTION 16. Refunding Accounts; Plan of Refunding GHP Bonds.

A. **Refunding Accounts.** Proceeds of any series of the Bonds will be used to refund the designated

GHP Bonds and to pay costs of issuing the Bonds. If all outstanding GHP Bonds are to be refunded by the issuance of a series of Bonds, proceeds of that series of Bonds may also be used to pay costs of the Chinook Building Transfer. For these purposes, the following special accounts of the county are authorized to be established and maintained with the Escrow Agent for each series of Bonds: (i) the GHP Lease Revenue Bonds Refunding Account" (the "Refunding Account") and (ii) the GHP Lease Revenue Refunding Costs of Issuance Account (the "Costs of Issuance Account"). The Refunding Account is to be drawn on to pay the principal of and interest on the GHP Bonds to be refunded and defeased by that series of Bonds. The Costs of Issuance Account is to be drawn on to pay costs and expenses incurred in issuing that series of Bonds and, if applicable, to pay costs and expenses of the Chinook Building Transfer.

B. Appointing an Escrow Agent. In connection with the issuance of each series of Bonds, to carry out the refunding and defeasance of the applicable GHP Bonds, the Finance Director is hereby authorized to appoint as escrow agent a bank or trust company qualified by law to perform the duties described herein (each, an "Escrow Agent").

The county will take such actions as are found necessary to see that all necessary and proper fees, compensation and expenses of the Escrow Agent are paid when due. The proper officers and agents of the county are directed to obtain from the Escrow Agent an agreement setting forth the duties, obligations and responsibilities of the Escrow Agent in connection with the redemption and defeasance of the GHP Bonds as provided herein and setting forth provisions for the payment of the fees, compensation and expenses of the Escrow Agent as are satisfactory to it. To carry out the purposes of this section of this ordinance, the Finance Director is authorized and directed to execute and deliver to the Escrow Agent an escrow agreement and, if requested, a costs of issuance agreement, in forms approved by the county's bond counsel.

C. Plan of Refunding. A final plan of refunding will be set forth in each Sale Motion. As part of any such plan, net proceeds from the sale of a series of Bonds and any other funds of the county to be applied to refunding and defeasance of all or a portion of the GHP Bonds and, if applicable, paying costs of the Chinook

Building Transfer, will be paid to the Escrow Agent and deposited in and credited to the applicable Refunding Account and Costs of Issuance Account. Money in each Refunding Account and Costs of Issuance Account will be used immediately upon receipt thereof to defease the GHP Bonds included in the plan of refunding, satisfy any other obligations of the county under the Lease or the Indenture, pay costs of issuing the Bonds, and, if applicable, pay costs of the Chinook Building Transfer.

The county will direct the Escrow Agent to use the money in each Refunding Account to purchase Government Obligations, as identified in the Escrow Agreement (the "Escrow Securities"), bearing such interest and maturing as to principal and interest in such amounts and at such times that, together with any necessary initial cash balance, will provide for the payment in full of the GHP Bonds included in the plan of refunding, as set forth in the Sale Motion. The Escrow Securities will be purchased at a yield not greater than the yield permitted by the Code relating to obligations acquired in connection with refunding bond issues. Any beginning cash balance and the Escrow Securities will be irrevocably deposited with the Escrow Agent in an amount sufficient to defease applicable GHP Bonds in accordance with the Indenture, this Section 16, and the Sale Motion.

The county will direct the Escrow Agent to use the money in each Costs of Issuance Account to pay expenses of the acquisition and safekeeping of the Escrowed Securities and costs and expenses of issuing the Bonds and, if applicable, costs of the Chinook Building Transfer.

Funds deposited in each Refunding Account and Costs of Issuance Account described in this section 16 of this ordinance shall be invested as permitted by law for the sole benefit of the respective account.

Irrespective of the general provisions of Ordinance 7112 and K.C.C. chapter 4.10, the county current expense fund shall not receive any earnings attributable to such accounts. Money other than proceeds of Bonds may be deposited into any Refunding Account or Costs of Issuance Account; provided, however, that proceeds of any Bonds issued as Tax-Exempt Bonds and earnings thereon shall be accounted for separately for purposes of the arbitrage rebate computations required to be made under the Code. For purposes of these computations, Bond

proceeds will be deemed to have been expended first, and then any other funds.

D. Findings of Savings and Defeasance. By each Sale Motion, the county council will set forth its findings of savings and defeasance regarding the obligation of the county to pay Rent under the Lease, which obligation is authorized to be refinanced in whole or in part by issuing the Bonds to refund all or a portion of the GHP Bonds.

SECTION 17. General Authorization. The appropriate county officials, agents and representatives are hereby authorized and directed to do everything necessary for the prompt sale, issuance, execution and delivery of the Bonds, and for the proper use and application of the proceeds of the sale thereof.

SECTION 18. Undertaking to Provide Ongoing Disclosure. If and to the extent required by Section (b)(5) of the Rule, each Sale Motion will authorize an Undertaking for each series of the Bonds.

SECTION 19. Contract; Severability. The covenants applicable to the Bonds contained in this ordinance constitute a contract between the county and the owners of each and every Bond. If any court of competent jurisdiction determines that any covenant or agreement provided in this ordinance to be performed on the part of the county is contrary to law, then such covenant or agreement shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

SECTION 20. Effective Date. This ordinance shall be effective 10 days after its enactment, in accordance with Article II of the King County Charter.