

ENROLLED ORDINANCE 168-1

AUTHORIZING THE SALE OF \$17,000,000 GENERAL OBLIGATION
PROMISSORY NOTES, SERIES 2013

WHEREAS on March 26, 2013, the County Board of Supervisors of Waukesha County, Wisconsin (the "County") adopted an ordinance authorizing the issuance of general obligation promissory notes pursuant to Ch. 67, Wis. Stats., in an amount not to exceed \$17,000,000 for the public purpose of paying the cost of capital projects included in the County's 2013 Capital Projects Expenditure Plan consisting of improvements to County parks and other park and land use projects; construction, reconstruction and improvement of County highways and bridges; construction of a Health and Human Services Building and improvement of other County buildings; justice and public safety projects; and other public works projects; and

WHEREAS the County Board of Supervisors deems it necessary and in the best interest of the County that the general obligation promissory notes authorized by such ordinance now be issued, upon the terms and conditions hereinafter provided; and

WHEREAS the County has duly received bids for its proposed issue of General Obligation Promissory Notes, Series 2013 (the "Notes"); and

WHEREAS it has been determined that the best bid received was that submitted by William Blair & Company LLC (the "Purchaser");

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that:

Section 1. Award. The bid of the Purchaser for the purchase price of \$17,455,878.00 be and it hereby is accepted and the Chairperson and County Clerk are authorized and directed to execute an acceptance of the offer of the Purchaser on behalf of the County. The good faith deposit of the Purchaser shall be retained by the County Treasurer until the closing of the note issue, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned.

Section 2. The Notes. The Chairperson and County Clerk shall make, execute and deliver the Notes to the Purchaser, for and on behalf of the County. The Notes shall be negotiable, general obligation promissory notes of the County, registered as to both principal and interest, in the denomination of Five Thousand Dollars (\$5,000) each or whole multiples thereof, numbered from R-1 upward and dated May 14, 2013. The Notes shall mature on April 1 of each of the years and shall bear interest at the rates per annum as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2014	\$ 500,000	2.00%
2015	600,000	2.00
2016	600,000	2.00
2017	2,000,000	2.00
2018	2,300,000	2.00

2019	2,350,000	2.00
<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2020	\$2,350,000	2.00%
2021	2,300,000	2.00
2022	2,000,000	2.25
2023	2,000,000	2.25

Interest on the Notes shall be payable on April 1 and October 1 of each year, commencing October 1, 2013.

At the option of the County, the Notes maturing on April 1, 2021 and thereafter shall be subject to redemption prior to maturity on April 1, 2020 or on any date thereafter. Said Notes shall be redeemable as a whole or in part, and if in part, from maturities selected by the County and within each maturity by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

Section 3. Form of Notes. The Notes shall be in substantially the form on file in the County Clerk's office.

Section 4. Tax Provisions.

(a) *Direct, Annual Irrepealable Tax.* For the purpose of paying the principal of and interest on the Notes as the same become due, the full faith, credit and resources of the County are hereby irrevocably pledged and there be and there hereby is levied on all the taxable property in the County a direct, annual, irrepealable tax in an amount and at the times sufficient for said purpose; such tax is levied in the following years and in the following minimum amounts:

<u>Year of Levy</u>	<u>Amount</u>
2013	\$ 845,000
2014	934,000
2015	922,000
2016	2,296,000
2017	2,553,000
2018	2,556,500
2019	2,509,500
2020	2,413,000
2021	2,067,500
2022	2,022,500

(b) *Tax Collection.* The County shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Notes, said tax shall be, from year to year, carried into the tax rolls of the County and collected as other taxes are collected, provided that the amount of tax carried into said tax rolls may be

reduced in any year by the amount of any surplus money in the Debt Service Account created in Section 5(A) hereof.

(c) *Additional Funds.* If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Notes when due, the requisite amounts shall be paid from other funds of the County then available, which sums shall be replaced upon the collection of the taxes herein levied.

(d) *Appropriation.* There be and there hereby is appropriated from funds of the County on hand the sum of \$133,194.44 to be deposited in the Debt Service Account which amount will be used to meet payments with respect to debt service due on October 1, 2013.

Section 5. Debt Service Fund and Account.

(a) *Creation and Deposits.* Within the debt service fund previously established in the treasury of the County, there be and there hereby is established a separate and distinct account designated as the "Debt Service Account for \$17,000,000 General Obligation Promissory Notes, Series 2013, dated May 14, 2013" (the "Debt Service Account") and such account shall be maintained until the indebtedness evidenced by the Notes is fully paid or otherwise extinguished. The County Treasurer shall deposit in such Debt Service Account (i) all accrued interest received by the County at the time of delivery of and payment for the Notes; (ii) the taxes herein levied for the specific purpose of meeting principal of and interest on the Notes when due; (iii) such other sums as may be necessary at any time to pay principal of and interest on the Notes when due; (iv) any premium which may be received by the County above the par value of the Notes and accrued interest thereon; (v) surplus monies in the Borrowed Money Fund as specified in Section 6 hereof; and (vi) such further deposits as may be required by Sec. 67.11, Wis. Stats.

(b) *Use and Investment.* No money shall be withdrawn from the Debt Service Account and appropriated for any purpose other than the payment of principal of and interest on the Notes until all such principal and interest has been paid in full and canceled; provided (i) the funds to provide for each payment of principal of and interest on the Notes prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Notes may be used to reduce the next succeeding tax levy, or may, at the option of the County, be invested by purchasing the Notes as permitted by and subject to Section 67.11(2)(a), Wis. Stats., in interest-bearing obligations of the United States of America, in other obligations of the County or in other investments permitted by law, which investments shall continue to be a part of the Debt Service Account.

(c) *Remaining Monies.* When all of the Notes have been paid in full and canceled, and all permitted investments disposed of, any money remaining in the

Debt Service Account shall be deposited in the general fund of the County, unless the County Board of Supervisors directs otherwise.

Section 6. Proceeds of the Notes. All monies received by the County upon the delivery of the Notes to the Purchaser, except for any premium and accrued interest, shall be deposited by the County Treasurer into a special fund (the "Borrowed Money Fund") which shall be maintained separate and distinct from all other funds of the County and shall be used for no purpose other than the purposes for which the Notes are issued. In no event shall monies in the Borrowed Money Fund be used to fund operating expenses of the general fund of the County or of any special revenue fund of the County that is supported by property taxes. Monies in the Borrowed Money Fund may be temporarily invested as provided in Section 66.0603(1m), Wis. Stats. Any monies, including any income from permitted investments, remaining in the Borrowed Money Fund after the purposes for which the Notes have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purposes shall be deposited in the Debt Service Account.

Section 7. No Arbitrage. All investments permitted by this resolution shall be legal investments, but no such investment shall be made in such a manner as would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or the Regulations of the Commissioner of Internal Revenue thereunder (the "Regulations"); and an officer of the County, charged with the responsibility for issuing the Notes, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of closing which will permit the conclusion that the Notes are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 8. Persons Treated as Owners; Transfer of Notes. The County Clerk shall keep books for the registration and for the transfer of the Notes. The person in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Note shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Any Note may be transferred by the registered owner thereof by surrender of the Note at the office of the County Clerk, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Chairperson and County Clerk shall execute and deliver in the name of the transferee or transferees a new Note or Notes of a like aggregate principal amount, series and maturity, and the County Clerk shall record the name of each transferee in the registration book. No registration shall be made to bearer. The County Clerk shall cancel any Note surrendered for transfer.

The County shall cooperate in any such transfer, and the Chairperson and County Clerk are authorized to execute any new Note or Notes necessary to effect any such transfer.

The fifteenth day of each calendar month next preceding each interest payment date shall be the record dates for the Notes. Payment of interest on the Notes on any interest payment date shall be made to the registered owners of the Notes as they appear on the registration book of the County at the close of business on the corresponding record date.

Section 9. Compliance with Federal Tax Laws.

(a) The County represents and covenants that the projects financed by the Notes and their ownership, management and use will not cause the Notes to be "private activity bonds" within the meaning of Section 141 of the Code. The County further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Notes including, if applicable, the rebate requirements of Section 148(f) of the Code. The County further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Notes) if taking, permitting or omitting to take such action would cause any of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Notes to be included in the gross income of the recipients thereof for federal income tax purposes. The County Clerk or other officer of the County charged with the responsibility of issuing the Notes shall provide an appropriate certificate of the County certifying that the County can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The County also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Notes provided that in meeting such requirements the County will do so only to the extent consistent with the proceedings authorizing the Notes and the laws of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 10. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Notes eligible for the services provided by The Depository Trust Company, New York, New York, the County agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the County and on file in the County Clerk's office.

Section 11. Ratification and Approval of Official Notice of Sale and Official Statement.

(a) The Official Notice of Sale with respect to the Notes, which is on file in the County Clerk's office, is ratified and approved. In addition, all actions taken by any committee of the County Board, by the officers and employees of the County and by the County's financial consultant, Robert W. Baird & Co. Incorporated, in connection with the offering and sale of the Notes are ratified and approved.

(b) The County Board of Supervisors hereby approves the Preliminary Official Statement with respect to the Notes and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the County in connection with the preparation of such Preliminary Official Statement and any addenda to it or Final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate County official shall certify the Preliminary Official Statement and any addenda or Final Official

Statement. The County Clerk shall cause copies of the Preliminary Official Statement and any addenda or Final Official Statement to be distributed to the Purchaser.

Section 12. Undertaking to Provide Continuing Disclosure. The County covenants and agrees, for the benefit of the holders of the Notes, to enter into a written undertaking (the "Undertaking") required by SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the holders of the Notes or by the original purchaser(s) of the Notes on behalf of such holders (provided that the rights of the holders and the purchaser(s) to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the County to comply with the provisions of the Undertaking shall not be an event of default with respect to the Notes).

The County Clerk, or other officer of the County charged with the responsibility for issuing the Notes, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the County's Undertaking.

Section 13. Records. The County Clerk shall provide and keep a separate record book and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing these Notes.

Section 14. Bond Insurance. If the purchaser of the Notes determines to obtain municipal bond insurance with respect to the Notes, the officers of the County are authorized to take all actions necessary to obtain such municipal bond insurance. The Chairperson and County Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Chairperson and County Clerk including provisions regarding restrictions on investment of Note proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Notes by the bond insurer and notices to be given to the bond insurer. In addition, appropriate reference to the municipal bond insurance policy shall be made in the form of Note provided herein.

Section 15. Execution of the Notes; Closing; Professional Services. The Notes shall be issued in printed form, executed on behalf of the County by the manual or facsimile signatures of the Chairperson and County Clerk, authenticated, if required, sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the County of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Notes may be imprinted on the Notes in lieu of the manual signature of the officer but, unless the County has contracted with a fiscal agent to authenticate the Notes, at least one of the signatures appearing on each Note shall be a manual signature. In the event that either of the officers whose signatures appear on the Notes shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Notes and all such documents, certificates and acknowledgements as may be

necessary and convenient to effectuate the Closing. The County hereby authorizes the officers and agents of the County to enter into, on its behalf, agreements and contracts in conjunction with the Notes, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Notes is hereby ratified and approved in all respects.

Section 16. Effect of Ordinance. This action by the County Board of Supervisors is taken pursuant to Section 67.12(12), Wis. Stats., and is intended to constitute a "resolution" for purposes of that section.