

2022-

RESOLUTION NO. 16

A RESOLUTION OF BONNER COUNTY, IDAHO, AUTHORIZING THE ISSUANCE OF A BOND ANTICIPATION NOTE PENDING THE ISSUANCE OF A SOLID WASTE REVENUE BOND; PROVIDING A FORM OF THE BOND ANTICIPATION NOTE; PROVIDING FOR THE MANNER OF ISSUANCE OF THE NOTE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL THEREOF AND THE INTEREST THEREON; PROVIDING TERMS, COVENANTS, AND OTHER MATTERS RELATING THERETO; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Bonner County, Idaho (the "County"), is a political subdivision organized and existing under the laws of the State of Idaho; and

WHEREAS, the Board of Commissioners (the "Board") of the County, by adoption of Resolution No. 21-35 on March 25, 2021, ordered a special bond election to be held within the County on May 18, 2021, for the submission to the qualified electors of the County the question of whether or not the County should be authorized to issue its solid waste revenue bonds in a principal amount not to exceed \$8,733,700 in order to provide funds for certain capital improvements to its solid waste system; and

WHEREAS, the requisite majority of the qualified electors of the County, at the special bond election of May 18, 2021, authorized the incurring of indebtedness and the issuance of revenue bonds in a principal amount not to exceed \$8,733,700; and

WHEREAS, by Resolution No. 15, adopted on March 1, 2022 (the "Bond Resolution"), the Board authorized the issuance of a solid waste revenue bond, Series 2022, in a principal amount not to exceed \$8,733,700 (the "Bond") and provided for the sale and delivery of the Bond to the United States of America, acting through the Department of Agriculture, Rural Utilities Service (the "USDA"); and

WHEREAS, the County Board is authorized and empowered by the Idaho Pollution Control Financing Act, being Idaho Code Sections 31-4501 through 31-4516, inclusive, and by Resolution No. \_\_\_\_\_, to issue bond anticipation notes for temporary financing of the construction of authorized improvements, such bond anticipation notes to be issued, sold, and delivered from time to time until moneys are available from the First Proceeds (as herein defined) of the issuance and sale of the Bond; and

WHEREAS, the County is also authorized to incur indebtedness pursuant to Idaho Code Sections 31-810 and 31-1901; and

WHEREAS, the County has received an offer from Columbia State Bank, dated February 3, 2022 (the "Commitment") to provide interim financing for the County's solid waste improvement project, pending the issuance of the Bond, and the Board desires to accept such offer and to authorize the issuance, sale, and delivery of a bond anticipation note in accordance with such offer.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF BONNER COUNTY, IDAHO, as follows:

Section 1: Authorization of Issuance of Bond to USDA. The Bond shall be issued and sold to the USDA under the terms and conditions set forth in the Loan and Grant Approval Conditions dated August 16, 2021, between the County and USDA, and as may be hereafter amended (the "USDA Loan Conditions"). The Bond shall be issued to the USDA in the principal amount not to exceed \$8,733,700, or in such amount as may be permitted by the USDA Loan Conditions and shall be payable pursuant to the USDA Loan Conditions and the Bond Resolution.

Section 2: For the purpose of paying any contractor for the costs of construction and installation of improvements and betterments to the System of the County (the "Project"), as provided in Bond Resolution, or otherwise defraying any cost of the Project authorized thereby, including costs of issuance of the bond anticipation note, as the same become due, the Chairman, County Clerk, and Treasurer are hereby authorized and directed, on behalf of the County, to cause to be issued, sold, and delivered a bond anticipation note in the manner hereinafter provided.

Section 3: The County hereby accepts and agrees to be bound by the terms of the Commitment, in the form attached hereto as Exhibit "B," and authorizes the Chairman to execute and deliver the Commitment to Columbia State Bank, and the officials of the County to perform all requirements and actions required thereunder. The bond anticipation note is hereby authorized to be issued, sold, and delivered, designated "Bonner County, Idaho, Solid Waste Revenue Bond Anticipation Note, Series 2022" (the "Note"), shall be substantially in the form which is annexed hereto as Exhibit "A," and shall be dated as of the date of delivery thereof. The Note shall mature no later than twenty-four months from the date of Note issuance unless extended to mature on the first day of the month.

The Note shall allow for one monthly draw in any amount, unless USDA allows for more frequent draws, pursuant to the Commitment and the USDA Loan Conditions. Each month following execution of the construction contract, the County will be subject to a monthly draw fee of \$110, even in the event no draws are made. Each draw request shall be signed by the County and approved by USDA and subject to the conditions for such draws as set forth in the Commitment. Draws up to \$500,000 may be made prior to execution of the construction contract, so long as other conditions set forth in the Commitment have been satisfied and such draw has been approved by USDA. The Note shall bear interest at a fixed rate of 2.15%.

Section 4: The Note shall be sold at private sale for not less than par value thereof to Columbia State Bank, in accordance with the Commitment. The Chairman, County Clerk, and Treasurer are hereby authorized to execute and attest the Note on behalf of the County, and any other documents necessary to effect the sale.

Section 5: There has heretofore been created, by the Bond Resolution, the Project Construction Account, which shall be held by Columbia State Bank, into which shall be deposited the proceeds received from the Note. The Chairman and the Treasurer of the County are authorized

to sign on the account, and to sign draw requests under the Note. The amount so credited shall be expended for the purpose of paying the costs of acquisition and construction of the Project, as described in the Bond Resolution, and of the expenses incidental thereto, including bank fees and bank counsel fees and other costs of issuance of the Note, and for no other purpose.

**Section 6:** The Note is subject to prior call and redemption at any time at the option of the County when proceeds of the Bond become available. Written notice of prior redemption of the Note shall be delivered to the registered owner thereof not less than 30 days prior to such redemption.

**Section 7:** Interest and principal shall be payable as provided in the Note and Commitment.

**Section 8:** The Note shall be executed in the name of Bonner County, shall be signed by the Chairman, countersigned by the Treasurer, and attested by the Clerk, and shall be authenticated by the seal of the County affixed thereto. The Note shall be registered with the Treasurer of the County in the name of Columbia State Bank, or its assignee, both as to principal and as to interest, and any transfer thereof must likewise be registered.

**Section 9:** The First Proceeds of the Bond (as defined below), any unexpended grant proceeds for the Project, and the Net Revenues of the County's System (such capitalized terms shall have the meanings set forth in the Bond Resolution) are hereby pledged for the payment and redemption of the principal of and any unpaid interest on the Note. The First Proceeds of the Bond shall not be pledged to pay any other obligation of the County until all principal and interest payments on the Note have been paid to the registered owner. The "First Proceeds of the Bond" are defined as all of the monies received from the sale of the County's Bond, before any fees are paid or deductions are made.

The County shall establish, revise, maintain, and collect charges sufficient, with other revenues received, after taking into consideration anticipated delinquencies, to provide Net Revenues of the System equal to not less than 1.2 times the annual debt service on the Note and any parity obligations. Except as otherwise specified herein, the County shall abide by the covenants as set forth in the Bond Resolution.

**Section 10:** The County covenants as follows:

A. The Note is hereby designated as a "bank-qualified tax-exempt obligation" within the meaning and for the purpose of Section 265(b)(3) of the Internal Revenue Code of 1986 (the "Code"), and the County, including all aggregated issuers as described in Section 265(b)(3)(E), does not reasonably anticipate that it will issue more than \$10,000,000, including the Note, as qualified tax-exempt obligations during the calendar year 2022.

B. None of the proceeds of the Note will be used directly or indirectly (i) to make or finance loans to persons or (ii) in any trade or business carried on by any person (other than use as a member of the general public). For purposes of the preceding sentence, the term "person" does

not include a government unit other than the United States or any agency or instrumentality thereof, and the term "trade or business" means any activity carried on by a person other than a natural person.

C. The County has general taxing powers. The Note is not a "private activity bond" within the meaning of Section 141 of the Code. 95% or more of the net proceeds of the Note are to be used for the local governmental activities of the County. The County has no subordinate bond-issuing entities.

D. No portion of the original proceeds of the Note will be invested in higher-yielding non-purpose obligations beyond a temporary period determined as the earlier of three (3) years after the date the Note is issued or the date the Project is substantially completed.

E. The County will take no action which would cause the Note to become an arbitrage bond within the meaning of Section 148 of the Code.

F. The County will comply with any information reporting requirements of Section 149(e) of the Code.

G. None of the proceeds of the Note will be used to reimburse the County for non-preliminary capital expenditures made prior to the date of delivery of the Note unless the County, not later than sixty (60) days after the payment of such expenditure, shall have adopted an official intent resolution as provided by Section 1.150-2 of the Treasury Regulations.

H. The Note, when executed pursuant to the terms of this Resolution, will be a legal, binding and valid obligation of the County. In executing the Note, the County has not defaulted on any other obligations of the County and the Note is not adverse to any other existing contracts, agreements, judgments, orders or other instruments the County has entered into or by which the County is bound..

I. All official actions taken by the Chairman and Board of the County with respect to the approval of this resolution occurred at open and public meetings of the Board which were duly called, noticed, held, and conducted in compliance with the laws of the State of Idaho relating to public meetings of the Board.

J. The County certifies that there is no litigation now pending or threatened questioning the organization of the County, the proceedings pursuant to which the Note will be issued, or the means provided for payment of the principal of and interest on said Note, or in any manner questioning the County's right and power to execute and deliver said Note or otherwise questioning the validity of said obligation.

K. The County covenants to issue the Bond to USDA pursuant to the terms of the USDA Loan Conditions and covenants that it is in compliance under and will continue to comply with all requirements of the USDA Loan Conditions. To the extent USDA does not buy the Bond, Columbia State Bank shall be entitled to purchase the Bond based on the terms competitive in the

market. If the County prefers to sell the Bond to another entity such as the Idaho Bond Bank Authority, it would be permitted to do so.

L. For as long as the Note remains outstanding, the County hereby covenants and agrees it will provide to registered owner of the Note: (a) a copy of the County's annual audited financial statements within 270 days after each County fiscal year end; (b) a copy of the County's annual operating budgets for the upcoming fiscal year within 90 days of the County's fiscal year end; and (c) other financial reports as may be reasonably requested.

M. The County covenants not to issue any Additional Bonds or other notes, bonds or obligations payable from the Net Revenues without the prior written consent of the registered owner of the Note.

Section 11: It is an "event of default" under the Note if:

A. Non-Payment of Principal. Payment of principal of the Note is not made when due at maturity or upon prior redemption.

B. Non-Payment of Interest. Payment of interest is not made when due.

C. Incapable to Perform. The County is not capable of fulfilling its obligations hereunder.

D. Default of any Provision. The County defaults in the punctual performance of its covenants hereunder for thirty (30) days after written notice shall have been given by the holders of 25% or more of the outstanding Note.

E. Cross Default. An event of default shall have occurred on any parity bonds or notes.

F. Bankruptcy. The County (i) is adjudged insolvent by a court of competent jurisdiction, (ii) admits in writing its inability to pay its debts generally as they become due, (iii) files a petition in bankruptcy, (iv) makes an assignment for the benefit of creditors, or (v) consents to the appointment of a receiver of itself or the System.

Section 12: Upon the happening of any event of default, the holder or holders of not less than 25% in principal amount of the outstanding Note, or any trustee therefore, may protect and enforce the rights of any holder by proper legal or equitable remedy deemed most effectual, including mandamus, specific performance or any covenant, the appointment of a receiver (the consent to such appointment being hereby granted), injunctive relief, or requiring the governing body of the County to act as if it were the trustee of an express trust, or any combination of such remedies. All proceedings shall be maintained for the equal benefit of all holders. Any receiver appointed to protect the rights of the holders may take possession and operate and maintain the System in the same manner as the County itself might do. The failure of any holder to proceed does not relieve the County or any person of any liability for failure to perform any duty

hereunder. The foregoing rights are in addition to any other right and the exercise of any right by any holder shall not be deemed a waiver of any other right.

Upon the happening of any event of default, the County will perform all proper acts to protect and preserve the security created for the prompt payment of the principal of and interest on the Note. The holder or holders of not less than 25% in principal amount of the outstanding Note, after written demand, may proceed to protect and enforce the rights provided by this Section. In the event of non-payment or loss of bank-qualified tax-exempt status, the interest rate shall increase to 5%.

Section 13: Any amendment, modification and/or waiver of any of the terms or conditions of this Resolution or the Note shall require the prior written consent of the County and the registered owner of the Note.


Section 14: This Resolution shall take effect and be in force from and after its passage and approval and shall be published once in the County's official newspaper. The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Note so long as the Note hereby authorized remains unpaid.

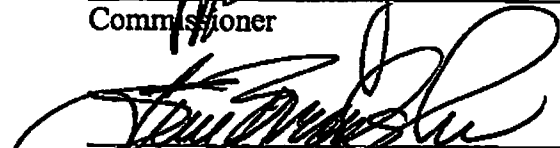
Section 15: If any one or more of the covenants or agreements provided in this Resolution to be performed on the part of the County shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Resolution and shall in no way affect the validity of the other provisions of this Resolution or of the Note.

DATED this 15<sup>th</sup> day of March 2022.

BONNER COUNTY, IDAHO  
Board of County Commissioners

  
Chairman

  
Commissioner

  
Commissioner

ATTEST:

  
County Clerk

( S E A L )



[FORM OF BOND ANTICIPATION NOTE]

NO. ONE

NOT TO EXCEED \$8,733,700

UNITED STATES OF AMERICA  
STATE OF IDAHO

BONNER COUNTY, IDAHO  
SOLID WASTE REVENUE BOND ANTICIPATION NOTE, SERIES 2022

On or before April 1, 2024, Bonner County, Idaho (the "County"), will pay in lawful money of the United States of America, to

COLUMBIA STATE BANK, as purchaser ("Registered Owner")  
the sum of not exceeding

EIGHT MILLION SEVEN HUNDRED THIRTY-THREE THOUSAND SEVEN HUNDRED  
DOLLARS

(\$8,733,700.00), together with interest on the outstanding principal balance thereof commencing on the date of each draw at the tax-exempt interest rate of 2.15% per annum, computed on an actual/360 day basis. Interest-only payments will be paid semi-annually on each May 15 and November 15, beginning November 15, 2022. The outstanding principal hereunder shall be paid with proceeds of the Bond hereinafter described upon issuance thereof.

This Bond Anticipation Note is issued, sold, and delivered to the Registered Owner in anticipation of the issuance of a Bonner County Solid Waste Revenue Bond, Series 2022 (which designation will be changed to reflect the calendar year in which it is issued) (the "Bond") pursuant to Idaho Code Title 31, Chapters 8, 19 and 45, and under and by virtue of and in full conformity with the Constitution and laws of the State of Idaho, Resolution No. 15 of the County, adopted on Mar 1, 2022 (the "Bond Resolution"), and Resolution No. 16 of the County, adopted on Mar 1, 2022 (the "Note Resolution"), for the purpose of paying any contractor for the construction and installation of improvements and betterments to the solid waste, collection and disposal facilities as described in the Bond Resolution and in the Note Resolution (the "Project"), or otherwise defraying any costs of the Project as the same become due.

This Note creates a lien on the First Proceeds of the Bond and charge upon the Net Revenues of the County's System (as such capitalized terms are defined in the Bond Resolution), superior to all other charges of any kind and nature, except the charges necessary to pay the principal of and interest on any and all existing or future parity bonds until the principal and interest on the Note are paid in full. This Note is a limited obligation of the County and is payable as to principal and interest from the proceeds of the Bond or in the event that the Bond is not issued, the Net Revenues of the County's System.



This Note is registered, both as to principal and interest, with the Note Registrar hereunder, and any transfer hereof must likewise be registered. This Note is a negotiable instrument, payable from the proceeds of the issuance and sale of the Bond. The proceeds of said Bond will be placed in the County's Capital Improvement Fund, created by the Bond Resolution, which special fund is hereby pledged for the payment of both the principal of and interest on this Note.

This Note is subject to prior call and redemption at any time at the option of the County when proceeds of the Bond become available. Notice of such prior call and redemption shall be given in accordance with the Note Resolution. In the event of such call and redemption, interest on the principal amount of this Note shall cease to accrue after the date fixed for call and redemption in the notice thereof and funds equal to the amount of call and redemption have been deposited at the place of payment at that time.

All terms defined herein, unless the context otherwise requires, shall have the same meaning as defined in the Bond Resolution and/or the Note Resolution.

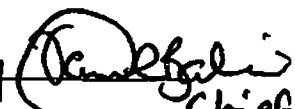
The County has designated this Bond Anticipation Note as a "qualified tax-exempt obligation" within the meaning and for the purpose of Section 265(b)(3) of the Internal Revenue Code of 1986 (the "Code"), and the County does not reasonably anticipate that it will designate more than \$10,000,000, including this Note, as qualified tax-exempt obligations during the 2022 calendar year.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all matters, acts, conditions, and things required by law to make this Note a valid limited obligation of the County have happened, have been done, and have been performed and the First Proceeds of the Bond and Net Revenues of the County's System are pledged for the payment of the same.

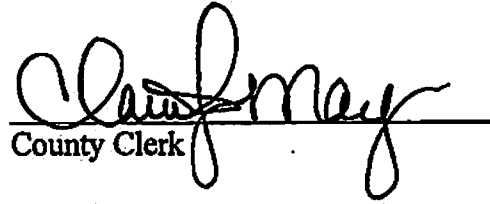
IN WITNESS WHEREOF, Bonner County, Idaho, by its Board of County Commissioners, has caused this Bond Anticipation Note to be executed in its behalf and under its official seal by the manual signature of its Chairman, countersigned by the manual signature of its Treasurer, and attested by the manual signature of its Clerk, all as of the 15<sup>th</sup> day of March, 2022.

BONNER COUNTY, IDAHO  
Board of County Commissioners

  
Chairman

Cheng O. Picht by   
County Treasurer Chief Deputy

ATTEST:

  
County Clerk

(SEAL)

This Bond Anticipation Note is registered in the name of the Registered Owner whose name and address appear last below, and both principal and interest are payable only to said Registered Owner.

NOTE: There must be no writing in the space below except by the Registrar.

<u>Date of Registration</u>	<u>Name and Address of Registered Owner</u>	<u>Signature of Treasurer/Note Registrar</u>
, 2022	Columbia State Bank 414 Church Street Sandpoint, ID 83864	-

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# BONNER COUNTY SOLID WASTE

1500 Highway 2, Suite 101 • Sandpoint, Idaho 83864-1303  
Phone (208) 255-5681 • Fax 844-985-9700 • [www.bonnercountyid.gov](http://www.bonnercountyid.gov)

**SOLID WASTE  
ITEM #2**

## Memorandum

March 1, 2022

To: Commissioners

From: Bob Howard, Solid Waste Director

Re: Issuance of a Bond Anticipation Note Resolution

Solid Waste is requesting approval of a resolution for the issuance of a bond anticipation note, pending the issuance of a solid waste revenue bond. This bond anticipation note is needed for the temporary financing of the construction of the solid waste improvements. Should the commissioners accept the bond resolution for temporary financing provided by Columbia Bank it is necessary to authorize the issuance of a bond anticipation note.


It will be necessary to advertise this resolution to notify the public of its intent. The public will have 30 days for comment.

Distribution: Original to BOCC  
Email copy to Bob Howard, Melissa Libbers

**Suggested Motion:** Mr. Chairman based on the information before us I move that the County approve Resolution #22- 16 issuance of a bond anticipation note.

Legal Review: SB

Recommendation Acceptance:  yes  no

  
BOCC Chairman

Date: 3/1/22