

CITY OF EDMONDS, WASHINGTON

ORDINANCE NO. 3424

AN ORDINANCE of the City of Edmonds, Washington, relating to contracting indebtedness; authorizing the issuance of limited tax general obligation bonds for general City purposes; authorizing the issuance of a Limited Tax General Obligation Bond Anticipation Note, 2002, in the aggregate principal amount of not to exceed \$3,240,000 to pay costs of acquiring property for an arts center to be owned by the City or the Edmonds Public Facilities District, pending the issuance of bonds; providing for the determination of the date, interest rate, form, maturity, terms and covenants of the note; creating a note redemption fund; and providing for the delivery of that note to Church Development Fund, Inc., a California nonprofit corporation.

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WHEREAS, the City Council of the City of Edmonds, by Ordinance No. 3358, effective May 4, 2001, established the Edmonds Public Facilities District (the "City PFD") for City purposes, pursuant to Chapter 35.57 RCW, to acquire, design, construct, own, finance, operate and maintain an arts center as a regional center defined under RCW 35.57.020 (the "Regional Center" or the "Arts Center"); and

WHEREAS, the City of Edmonds, Washington (the "City"), is in need of acquiring property, or assisting the City PFD to acquire, and improve property for an arts center (the "Project"), the estimated cost of which is approximately \$16,000,000, and neither the City nor the City PFD has available sufficient funds to pay the cost; and

WHEREASE, the City has entered into or will enter into an Interlocal Agreement for the Development of the Edmonds Centre for the Arts (the "Interlocal Agreement") with the City

PFD, the Snohomish County PFD and Snohomish County, under which the City agrees to assist in the financing of the Project as set forth in that Interlocal Agreement;

WHEREAS, the City Council deems it to be in the best interests of the City to borrow money by the issuance of bonds authorized herein, and, pending the issuance of those bonds or the availability of other sources of repayment, to issue short-term obligations in accordance with the provisions of chapter 39.50 RCW for the purpose of providing the funds with which to pay costs of the Project; and

WHEREAS, the City wishes to assist the City PFD in the acquiring and financing of an arts center pursuant to the interlocal agreement hereinafter defined; and

WHEREAS, Church Development Fund, Inc. a California nonprofit corporation has offered to convey certain property to the City or the City PFD in exchange for a limited tax general obligation bond anticipation note under the terms and conditions set forth herein; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, as follows:

Section 1. Definitions. As used in this ordinance the following words shall have the following meanings:

“City” means the City of Edmonds, Washington.

“City PFD” means the Edmonds Public Facilities District, a municipal corporation of the state of Washington formed by the City pursuant to chapter 35.57 RCW and established by Ordinance No. 3358 of the City.

“Code” means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

“Note” means the Limited Tax General Obligation Bond Anticipation Note, 2002, of the City in the principal amount of not to exceed \$3,240,000, which is authorized to be issued and delivered by this ordinance.

“Note Fund” means that special fund of the City known as the 2002 General Obligation Note Redemption Fund, created by this ordinance for the payment of the principal of and interest on the Note.

“Note Registrar” means the City Finance Director.

“Purchaser” means Church Development Fund, Inc., a California nonprofit corporation.

“Project” means the acquisition and improvement of property for the Arts Center.

Section 2. Debt Capacity. The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for the calendar year 2002 is \$3,260,973,309, and the City has outstanding general indebtedness evidenced by limited tax general obligation bonds and leases in the principal amount of \$14,016,092 incurred within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein, unlimited tax general obligation bonds in the principal amount of \$8,600,000 incurred within the limit of up to 2-1/2% of the value of the taxable property within the City for capital purposes only, issued pursuant to a vote of the qualified voters of the City, and the amount of indebtedness for which the note is authorized herein to be issued is \$ 3,240,000.

Section 3. Authorization of Bonds. For the purpose of providing the funds to pay the cost of carrying out the Project and modernizing and improving the facilities to be acquired and providing parking therefor, the City shall borrow money and issue limited tax general obligation bonds in the amount not to exceed \$7,400,000. Such bonds shall be issued in one or more series at such times as the City shall deem advisable; shall be in such denominations and form, shall be dated, shall bear such interest rate or rates, shall be payable at such time or times, shall have such option of payment prior to maturity, shall provide for such additional funds and accounts and shall contain and be subject to such provisions and covenants as hereafter shall be provided by

ordinance. The general indebtedness to be incurred shall be within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein.

Section 4. Authorization and Description of Note. For the purpose of providing part of the cost of carrying out the Project and the costs of issuance and delivery of the Note pending the issuance of limited tax general obligation bonds authorized herein, the City shall provide to the Purchaser the Note consistent with the provisions of this ordinance and under and in consideration of the conveyance by the Church Development Fund, Inc. to the City and/or the Edmonds Public Facilities District of certain property pursuant to a Purchase and Sale Agreement dated September 26, 2002, as it may be amended, and shall issue and deliver the Note in an aggregate principal amount not to exceed \$3,240,000. The general indebtedness to be incurred shall be within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein.

The Note shall be designated the Limited Tax General Obligation Bond Anticipation Note, 2002; shall be dated as of its date of delivery to the Purchaser; shall be in fully registered form; shall be numbered R-1; and shall mature not to exceed one year from its dated date (the "Maturity Date").

The Note shall bear interest at a rate or rates not exceeding 5.5% per annum, which may be fixed or variable, shall be issued under such terms and conditions, consistent with this ordinance, as may be approved by the City Council President, including any prepayment or redemption provisions. The City's Administrative Services Director and/or the Mayor may negotiate, the City Council President is authorized to approve and the Administrative Services Director or the Mayor may execute the Note, all as authorized by Chapter 39.50 RCW.

The City Council finds that the approval of the above-described method of determining the interest rate on the Note is in the best interest of the City and its taxpayers.

Section 5. Finding as to Value. The City finds that the property to be acquired with the proceeds of the Note exceeds the value of the Note.

Section 6. Payment of Note. Both principal of and interest on the Note shall be payable in lawful money of the United States of America solely out of the Note Fund from the proceeds of bonds, other short-term obligations to be deposited in such account or from other money legally available and to be used therefor.

Monthly payments of interest on shall be made (i) by check, draft or warrant of the City mailed at least five days prior to the payment date to the Purchaser, or (ii) by wire or electronic funds transfer to the Purchaser on or before the payment date, at the option of the City. The Purchaser shall present to the City a monthly statement of interest due on the Note and of the total amount of principal outstanding. Note payments shall be recorded on a loan payment record attached to the Note, or in such other form as the District and the Purchaser may agree.

Principal of the Note, plus accrued interest thereon, is payable at maturity or prior repayment at the office of the City Administrative Services Director, who is appointed Note Registrar for the Note, in Edmonds, Washington, upon presentation and surrender of the Note or at such other place or by such other means as the City Administrative Services Director and the Bank shall agree.

Section 7. Failure to Pay Installments or Redeem Note. If the City fails to make an interest payment within ten days following its due date or redeem the Note at maturity, then the City shall pay to the Purchaser a late fee equal to 5% of the payment amount then due.

Section 8. Pledge to Redeem Note and Levy Taxes. The City irrevocably pledges to redeem the Note from the proceeds of a sufficient amount of bonds or additional short-term obligations and to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of the electors of the City on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal of and interest on the Note. The full faith, credit and resources of the City are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

In addition, the City expressly pledges to the payment of the principal of and interest on the Note, the proceeds of the intergovernmental payments received from the City PFD and from the Snohomish County Public Facilities District and the proceeds of Real Estate Excise Taxes imposed by the City under RCW 82.41.010.

The Note is an obligation of the City, payable solely from project payments transferred to the City by the City PFD, from City Real Estate Excise Tax receipts and from other money of the City legally available therefor, and the Note is not an obligation of the City PFD, Snohomish County or the Snohomish County Public Facilities District. The City PFD, Snohomish County, and the Snohomish County Public Facilities District are political subdivisions of the state of Washington that are separate from the City. The Note shall be satisfied exclusively from the sources described above and no creditor or other person shall have any right of action against or recourse to Snohomish County, the Snohomish County PFD or any of the respective assets, credit or services on account of any debts, obligations, liabilities or omissions of the City and/or City PFD. The Snohomish County Public Facilities District is a municipal corporation is a municipal corporation organized under RCW 36.100.010 and amended Ordinance No. 01-041 of

Snohomish County. Amended Ordinance No. 01-041 expressly provides: “All liabilities incurred by the District [the ‘County PFD’] shall be satisfied exclusively from the assets, credit and property of the District and no creditor or other person shall have any right of action against or recourse to the County, its assets, credit or services on account of any debts, obligations, liabilities, or omissions of the District.”

Section 9. Prepayment and Redemption Provisions. The City reserves the right and option to prepay and redeem at any time prior to its stated maturity date any or all of the principal amount of the Note then-outstanding at par plus accrued interest to the date of such prepayment and redemption. Written notice to the Purchaser of any intended prepayment and redemption of the Note shall not be required. Interest on the Note so prepaid shall cease to accrue on the date of such prepayment.

Section 10. Form and Execution. The Note shall be printed, lithographed, typed or multicopied on good bond paper in a form consistent with the provisions of this ordinance, shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

The Note shall contain a Certificate of Authentication in the following form, manually signed by the Note Registrar, and only if so executed shall the Note be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Note is the fully registered City of Edmonds, Washington, Limited Tax General Obligation Bond Anticipation Note, 2002, described in the Note Ordinance.

By \_\_\_\_\_  
City Administrative Services Director  
City of Edmonds, Washington  
Note Registrar

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Note so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 11. Registration and Transfer of the Note. The Note shall be issued to the Purchaser only in registered form as to both principal and interest and recorded on the books or records maintained by the Note Registrar (the "Note Register"). The Note Register shall contain the name and mailing address of the owner of the Note.

The Note may not be assigned or transferred by the Purchaser, except that the Purchaser may assign or transfer the Note to any successor to the business and assets of the Purchaser.

When the Note has been paid in full, both principal and interest, the Note shall be surrendered by the Purchaser to the Note Registrar, who shall cancel the Note.

Section 12. Preservation of Tax Exemption for Interest on Note. The City covenants that it will take all actions necessary to prevent interest on the Note from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Draws on the Note or other funds of the City treated as proceeds of the Note at any time during the term of the Note which will cause interest on the Note to be included in gross income for federal income tax purposes. The City certifies that it has not been

notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

Section 13. Designation of Note as a “Qualified Tax-Exempt Obligation.” The City has determined and certifies that (a) the Note is not a “private activity bond” within the meaning of Section 141 of the Code; (b) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) which the City and any entity subordinate to the City (including any entity which the City controls, which derives its authority to issue tax-exempt obligations from the City or which issues tax-exempt obligations on behalf of the City) will issue during the calendar year in which the Note is issued will not exceed \$10,000,000; and (c) the amount of tax-exempt obligations, including the Note, designated by the City as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Note is issued does not exceed \$10,000,000. The City designates the Note as a “qualified tax-exempt obligation” for the purposes of Section 265(b)(3) of the Code.

Section 14. Creation of Note Fund. There shall be created and established in the office of the Administrative Services Director a fund of the City to be known and designated as the 2002 General Obligation Note Redemption Fund (the “Note Fund”), and the Administrative Services Director is authorized and directed to create and establish such fund. The principal of and interest on the Note shall be paid out of such fund, and, pending expenditure, money therein may be invested and the earnings used for the purpose of that fund.

Section 15. Approval of Transaction. The City find that the terms and conditions contained in this ordinance are in the best interest of the City and authorizes and approves the

execution and delivery of, and the performance by the City of its obligations contained in the Note and this ordinance in connection with the Note.

The Note will be prepared at the City's expense and will be delivered to the Purchaser with the approving legal opinion of Foster Pepper & Shefelman PLLC, municipal bond counsel of Seattle, Washington, regarding the Note. The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Note to the Purchaser.

Section 16. Ratification and Confirmation. Any actions of the City or its officers prior to the date hereof and consistent with the terms of this ordinance are ratified and confirmed.

Section 17. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Edmonds, Washington, at a regular open public meeting thereof, of which due notice was given as provided by law, this 29<sup>th</sup> day of October, 2002.

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Mayor Gary Haakenson

ATTEST:

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City Clerk Sandra S. Chase

APPROVED AS TO FORM:

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FOSTER PEPPER & SHEFELMAN PLLC  
Bond Counsel

Filed with the City Clerk:	10/29/2002
Passed by the City Council:	10/29/2002
Published:	11/03/2002
Effective Date:	11/08/2002

CERTIFICATION

I, the undersigned, City Clerk of the City of Edmonds, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 3424 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on October 29, 2002, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper.

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of November, 2002.

CITY OF EDMONDS, WASHINGTON

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SANDRA S. CHASE, City Clerk