



Legislation Text

File #: 2009-0562, **Version:** 1

Clerk 09/17/2009

A MOTION of the county council approving a bond purchase contract for the purchase of the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, in the aggregate principal amount of \$ _____, and establishing certain terms of such notes in accordance with Ordinance _____.

WHEREAS, pursuant to Ordinance _____ (the "Ordinance"), the county council authorized the issuance of one or more series of its limited tax general obligation bonds in an outstanding aggregate principal amount not to exceed \$29,000,000 to provide long-term financing for the Green River Flood Mitigation Project, defined and described in the Ordinance, and further authorized the issuance and public sale of one or more series of its limited tax general obligation bond anticipation notes in an outstanding aggregate principal amount not to exceed \$29,000,000 to provide interim financing for such project pending the issuance of the bonds, and

WHEREAS, the Ordinance provided that such bond anticipation notes may be sold at public sale, either by negotiated sale or by competitive bid, in one or more series as determined by the Finance Director in consultation with the county's financial advisor, and

WHEREAS, the Finance Director has determined that a series of such bond anticipation notes, to be designated as the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, in the aggregate principal amount of \$ _____ (the "Notes"), be sold as provided herein, and

WHEREAS, currently, none of the bonds authorized by the Ordinance are outstanding. Currently, none of the bond anticipation notes authorized by the Ordinance are outstanding. The aggregate principal amount of all such bonds and bond anticipation notes (including the Notes) to be outstanding on the date of issuance of the

Notes will be \$ _____, which amount does not exceed \$29,000,000, and

WHEREAS, pursuant to the Ordinance, the Finance Director has negotiated the sale of the Notes to _____ (the "Representative"), acting on behalf of itself, _____ and _____ (collectively, the "Underwriters"), and a preliminary official statement dated _____, 20__, has been prepared for the sale of the Notes, and

WHEREAS, it is in the best interest of the county that such Notes be sold to the Underwriters on the terms set forth in the attached note purchase contract (the "Purchase Contract"), the Ordinance and this motion;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

A. Definitions. Except as expressly authorized herein, terms used in this motion have the meanings set forth in the Ordinance.

B. Approval of Bond Purchase Contract and Authorization of Notes. The issuance of the Notes, designated as the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, in the aggregate principal amount of \$ _____, and the other terms and conditions thereof set forth in the Purchase Contract contract attached hereto as Attachment A, are hereby ratified and confirmed, and the Purchase Contract is hereby approved. The Notes shall be dated their date of issue and delivery, shall mature on the date, and shall bear interest payable only at maturity at the rate specified in the Purchase Contract. The Notes shall be [Tax-Exempt][Taxable] Obligations, as defined in the Ordinance, and shall not be subject to redemption. The Notes shall conform in all other respects to the terms and conditions specified in the Purchase Contract and Ordinance.

C. Application of Note Proceeds. The proceeds of the Notes shall be applied to provide interim financing for the Green River Flood Mitigation Project, and paying costs and expenses incurred in issuing the Notes.

D. Undertaking to Provide Ongoing Disclosure.

1. Contract/Undertaking. This section D constitutes the county's limited written undertaking for the

benefit of the owners and beneficial owners of the Notes as required by section (b)(5)(i)(C) of rule 15c2-12 (the "rule") of the Securities and Exchange Commission.

2. Material Events. The county agrees to provide or cause to be provided, in a timely manner to the MSRB, notice of the occurrence of any of the following events with respect to the Notes, if material:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) substitution of credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions or events affecting the tax-exempt status of the Notes;
- (g) modifications to rights of Noteholders;
- (h) optional, contingent or unscheduled calls of any Notes other than scheduled sinking fund

redemptions for which notice is given pursuant to Exchange Act Release 34-23856;

- (i) defeasances;
- (j) release, substitution or sale of property securing repayment of the Notes; and
- (k) rating changes.

Solely for purposes of disclosure, and not intending to modify this undertaking, the county advises with reference to items (c) and (j) above that no debt service reserves secure payment of the Notes and no property secures repayment of the Notes.

3. Electronic Format; Identifying Information. The county agrees that all documents provided to the MSRB pursuant to this section D shall be provided in an electronic format and accompanied by such identifying information, each as prescribed by the MSRB.

4. Termination/Modification. The county's obligations to provide annual financial information and notices of material events shall terminate upon the legal defeasance, prior redemption or payment in full of all

of the Notes. This section, or any provision hereof, shall be null and void if the county (i) obtains an opinion of nationally recognized bond counsel to the effect that those portions of the rule which require this section, or any such provision, are invalid, have been repealed retroactively or otherwise do not apply to the Notes; and (ii) notifies the MSRB of such opinion and the cancellation of this section.

Notwithstanding any other provision of this motion, the county may amend this section D, and any provision of this section D may be waived, with an approving opinion of nationally recognized bond counsel and in accordance with the rule.

5. Note Owners' Remedies Under This Section. The right of any Note owner or beneficial owner of Notes to enforce the provisions of this section shall be limited to a right to obtain specific enforcement of the county's obligations hereunder, and any failure by the county to comply with the provisions of this undertaking shall not be an event of default with respect to the Notes. For purposes of this section, "beneficial owner" means any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Notes, including persons holding Notes through nominees or depositories.

E. Further Authority. The county officials, their agents, and representatives are hereby authorized and directed to do everything necessary for the prompt issuance and delivery of the Notes and for the proper use and application of the proceeds of such sale.

F. Severability. The covenants contained in this motion shall constitute a contract between the county and the owners of each and every Note. If any one or more of the covenants or agreements provided in this motion 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 of this motion and shall in no way affect the validity of the other provisions of this motion or of the Notes.