



Legislation Text

File #: 2009-0561, **Version:** 2

Clerk 12/14/2009

A MOTION of the county council accepting a bid for the purchase of the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, Series A, in the aggregate principal amount of \$9,480,000, accepting a bid for the purchase of the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, Series B (Taxable), in the aggregate principal amount of \$17,615,000, and establishing certain terms of such notes in accordance with Ordinance 16681.

WHEREAS, pursuant to Ordinance 16681 (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, Series A, in the aggregate principal amount of \$9,480,000 (the "Series A Notes"), be sold as provided herein, and

WHEREAS, the Finance Director has determined that a second series of such bond anticipation notes,

to be designated as the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, Series B (Taxable), in the aggregate principal amount of \$17,615,000 (the "Series B Notes" and, together with the Series A Notes, the "Notes"), also be sold as provided herein, and

WHEREAS, currently, none of the bonds or 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 \$27,095,000, which amount does not exceed \$29,000,000, and

WHEREAS, a preliminary official statement dated December 7, 2009, has been prepared for the public sale of the Notes, the official Notice of such sale dated December 4, 2009 (the "Notice"), has been duly published, and bids have been received in accordance with the Notice, and

WHEREAS, the attached bid of Citigroup Global Markets Inc. to purchase the Series A Notes is the best bid received for the Series A Notes, and it is in the best interest of the county that the Series A Notes be sold to Citigroup Global Markets Inc. on the terms set forth in the Notice, the attached bid, the Ordinance and this motion, and

WHEREAS, the attached bid of J.P. Morgan Securities Inc. to purchase the Series B Notes is the best bid received for the Series B Notes, and it is in the best interest of the county that the Series B Notes be sold to J.P. Morgan Securities Inc. on the terms set forth in the Notice, the attached bid, 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. Ratification of Notice of Sale, Acceptance of Bids, and Authorization of Notes.

1. Series A Notes. The issuance of the Series A Notes, designated as the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, Series A, in the aggregate principal amount of \$9,480,000, and the other terms and conditions thereof set forth in the Notice attached hereto as Attachment A, are hereby ratified

and confirmed. The offer to purchase the Series A Notes, as set forth in the bid of Citigroup Global Markets Inc. attached hereto as Attachment B, which shall be deemed to be adjusted to reflect the changed aggregate principal amount of the Notes, as and to the extent permitted by the Notice, is hereby accepted. The Series A 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 Attachment B. The Series A Notes shall be Tax-Exempt Obligations, as defined in the Ordinance, and shall not be subject to redemption. The Series A Notes shall conform in all other respects to the terms and conditions specified in the Notice and Ordinance.

2. Series B Notes. The issuance of the Series B Notes, designated as the county's Limited Tax General Obligation Bond Anticipation Notes, 2009, Series B (Taxable), in the aggregate principal amount of \$17,615,000, and the other terms and conditions thereof set forth in the Notice attached hereto as Attachment A, are hereby ratified and confirmed. The offer to purchase the Series B Notes, as set forth in the bid of J.P. Morgan Securities Inc. attached hereto as Attachment C, which shall be deemed to be adjusted to reflect the changed aggregate principal amount of the Notes, as and to the extent permitted by the Notice, is hereby accepted. The Series B 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 Attachment C. The Series B Notes shall be Taxable Obligations, as defined in the Ordinance, and shall not be subject to redemption. The Series B Notes shall conform in all other respects to the terms and conditions specified in the Notice and Ordinance.

C. Application of Note Proceeds.

1. Series A Notes. The proceeds of the Series A Notes shall be applied to provide interim financing for such portion of the Green River Flood Mitigation Project as qualifies for tax-exempt financing under the Code, and paying costs and expenses incurred in issuing the Series A Notes.

2. Series B Notes. The proceeds of the Series B Notes shall be applied to provide interim financing for such portion of the Green River Flood Mitigation Project as does not qualify for tax-exempt financing under the Code, and paying costs and expenses incurred in issuing the Series B 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 Series A 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.