



Legislation Text

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Clerk 02/23/2016

A MOTION of the county council accepting a bid for the purchase of the county's Limited Tax General Obligation Bonds, 2016, Series A, in the aggregate principal amount of \$22,450,000, accepting a bid for the purchase of the county's Limited Tax General Obligation Bonds, 2016, Series B (Taxable), in the aggregate principal amount of \$2,575,000, and establishing certain terms of such bonds in accordance with Ordinance 18180.

WHEREAS, pursuant to Ordinance 18180 ("the Ordinance"), the county council authorized the issuance of one or more series of its limited tax general obligation bonds in an aggregate original principal amount not to exceed \$29,000,000 to provide financing for the Building for Culture Program, defined and described in the Ordinance, and to pay costs of issuing the bonds, and

WHEREAS, the Ordinance provided that such bonds may be issued as Tax-Exempt Bonds or Taxable Bonds and sold at public sale, either by competitive bid or negotiated sale, in one or more series as determined by the Finance Director in consultation with the county's financial advisors, and

WHEREAS, the Finance Director has determined that a series of such bonds, to be designated as the county's Limited Tax General Obligation Bonds, 2016, Series A, in the aggregate principal amount of \$22,450,000 ("the 2016A Bonds"), be issued as Tax-Exempt Bonds and sold as provided herein, and

WHEREAS, the Finance Director has determined that a second series of such bonds, to be designated as the county's Limited Tax General Obligation Bonds, 2016, Series B (Taxable), in the aggregate principal amount of \$2,575,000 ("the 2016B Bonds" and, together with the 2016A Bonds, "the Bonds"), be issued as

Taxable Bonds and sold as provided herein, and

WHEREAS, currently, none of the bonds authorized by the Ordinance are outstanding, and

WHEREAS, a preliminary official statement dated February 12, 2016, has been prepared for the public sale of the Bonds, the official notice of such sale dated February 12, 2016 ("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 2016A Bonds is the best bid received for the 2016A Bonds, and it is in the best interest of the county that the 2016A Bonds 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 LLC to purchase the 2016B Bonds is the best bid received for the 2016B Bonds, and it is in the best interest of the county that the 2016B Bonds be sold to J.P. Morgan Securities LLC 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 Terms, Acceptance of Bids, and Authorization of Sale of Bonds.

1. 2016A Bonds. The issuance of the 2016A Bonds, designated as the county's Limited Tax General Obligation Bonds, 2016, Series A, in the aggregate original principal amount of \$22,450,000, 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 2016A Bonds, as set forth in the bid of Citigroup Global Markets Inc., is attached hereto as Attachment B; provided, that such bid has been adjusted with respect to the aggregate principal amount and principal amount per maturity consistent with the terms of the Notice, such that the 2016A Bonds will mature on the dates and in the amounts, shall bear interest at the rates, and shall be sold at

the purchase price specified in Attachment C. The 2016A Bonds shall be issued as Tax-Exempt Bonds, shall be dated their date of issue and delivery, and shall be subject to purchase and optional redemption, all as set forth in the Notice. In all other respects, the 2016A Bonds shall conform to the terms and conditions specified in the Notice and Ordinance.

2. 2016B Bonds. The issuance of the 2016B Bonds, designated as the county's Limited Tax General Obligation Bonds, 2016, Series B (Taxable), in the aggregate original principal amount of \$2,575,000, 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 2016B Bonds, as set forth in the bid of J.P. Morgan Securities LLC, is attached hereto as Attachment D; provided, that such bid has been adjusted with respect to the aggregate principal amount and principal amount per maturity consistent with the terms of the Notice, such that the 2016B Bonds will mature on the dates and in the amounts, shall bear interest at the rates, and shall be sold at the purchase price specified in Attachment E. The 2016B Bonds shall be issued as Taxable Bonds, shall be dated their date of issue and delivery, and shall be subject to purchase but shall not be subject to optional redemption, all as set forth in the Notice. The 2016B Bonds shall conform in all other respects to the terms and conditions specified in the Notice and Ordinance.

C. Application of Bond Proceeds.

1. 2016A Bonds. The proceeds, including any net original issue premium but net of the underwriter's discount, of the 2016A Bonds received by the county shall be applied as follows: \$26,147,134.68 shall be deposited into the 2016 Tax-Exempt G.O. Bonds Building for Culture Subfund within the Arts and Cultural Development Fund to be used to provide financing for such portion of the Building for Culture Program as qualifies for tax-exempt financing under the Code and to pay costs of issuing the 2016A Bonds.

2. 2016B Bonds. The proceeds, including any net original issue premium but net of the underwriter's discount, of the 2016B Bonds received by the county shall be applied as follows: \$2,570,614.62 shall be deposited into the 2016 Taxable G.O. Bonds Building for Culture Subfund within the Arts and Cultural

Development Fund to be used to provide financing for such portion of the Building for Culture Program as does not qualify for tax-exempt financing under the Code and to pay costs of issuing the 2016B Bonds.

D. Undertaking to Provide Ongoing Disclosure.

1. Contract/Undertaking. This section D. constitutes the county's written undertaking ("the Undertaking") for the benefit of the owners and beneficial owners of the Bonds as required by section (b)(5)(i) (C) of rule 15c2-12 ("the rule") of the Securities and Exchange Commission ("the SEC").

2. Financial Statements/Operating Data. The county agrees to provide or cause to be provided to the Municipal Securities Rulemaking Board ("the MSRB") the following annual financial information and operating data for the prior fiscal year (collectively, "the Annual Financial Information") (commencing in 2016 for the fiscal year ended December 31, 2015):

(a) annual financial statements prepared in accordance with the Budget Accounting and Reporting System ("BARS") prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statutes) and generally of the type attached to the official statement as "Appendix B," which statements will not be audited, except that if and when audited financial statements are otherwise prepared and available to the county they will be provided;

(b) a summary of the assessed value of taxable property in the county;

(c) a summary of budgeted General Fund revenues and appropriations;

(d) a summary of *ad valorem* property tax levy rates per \$1,000 of assessed value and delinquency rates;

(e) a summary of outstanding tax-supported indebtedness of the county; and

(f) a schedule of the aggregate annual debt service on tax-supported indebtedness of the county.

Items (b) through (f) shall be required only to the extent that such information is not included in the annual financial statements.

The Annual Financial Information will be provided on or before the end of seven months after the end

of the county's fiscal year. The county's fiscal year currently ends on December 31. The county may adjust such fiscal year by providing written notice of the change of fiscal year to the MSRB. In lieu of providing such Annual Financial Information, the county may make specific cross-reference to other documents available to the public on the MSRB's internet web site or filed with the SEC.

If not provided as part of the Annual Financial Information discussed above, the county will provide to the MSRB the county's audited annual financial statements prepared in accordance with BARS when and if available.

3. Notification Upon Failure to Provide Annual Financial Information. The county agrees to provide or cause to be provided to the MSRB, in a timely manner, notice of its failure to provide the Annual Financial Information described in subsection 2 above on or prior to the date set forth in subsection 2 above.

4. Specified Events. The county agrees to provide or cause to be provided to the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following specified events with respect to the Bonds:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (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, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (g) modifications to rights of Bondholders, if material;
- (h) Bond calls, if material, and tender offers;

(i) defeasances;

(j) release, substitution or sale of property securing repayment of the Bonds, if material;

(k) rating changes;

(l) bankruptcy, insolvency, receivership, or similar event of the county;

(m) the consummation of a merger, consolidation or acquisition involving the county or the sale of all or substantially all of the assets of the county, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(n) appointment of a successor or additional trustee or the change of name of a trustee, if material.

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

5. Electronic Format; Identifying Information. Until otherwise designated by the MSRB or the SEC, any information or notices submitted to the MSRB in compliance with the rule are to be submitted through the MSRB's Electronic Municipal Market Access system, currently located at www.emma.msrb.org. All notices, financial information and operating data required by the Undertaking to be provided to the MSRB must be in an electronic format as prescribed by the MSRB. All documents provided to the MSRB pursuant to the Undertaking must be accompanied by identifying information as prescribed by the MSRB.

6. Termination/Modification. The county's obligations to provide Annual Financial Information and notices of specified events shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. The Undertaking, or any provision hereof, will 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 the Undertaking, or any such provision, are invalid, have been repealed retroactively or otherwise do not apply to the Bonds; and (ii) notifies the MSRB of such opinion and the cancellation of the Undertaking.

The county may amend the Undertaking, and any provision of the Undertaking may be waived, with an approving opinion of nationally recognized bond counsel and in accordance with the rule.

In the event of any amendment or waiver of a provision of the Undertaking, the county will describe such amendment in the next Annual Financial Information, and will include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the county. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change will be given in the same manner as for a specified event under subsection 4, and (ii) the annual financial statements for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

7. Remedies Under the Undertaking. The right of any Bond owner or beneficial owner of Bonds to enforce the provisions of the Undertaking 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 Bonds. For purposes of the Undertaking, "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 Bonds, including persons holding Bonds through nominees or depositories.

E. Further Authority. The Finance Director and other proper county officials, their agents, and representatives are hereby authorized and directed to do everything necessary for the prompt issuance and delivery of the Bonds, for the preparation, execution and delivery of the final official statement for the sale of the Bonds, 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 Bond. 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 Bonds.