



Legislation Text

File #: 2008-0502, **Version:** 2

A MOTION of the county council accepting a bid for the purchase of the county's Limited Tax General Obligation Bond Anticipation Notes, 2008, in the aggregate principal amount of \$48,755,000 and fixing the interest rate and other terms thereof in accordance with Ordinance 14167, as amended by Ordinance 14463, Ordinance 14745, Ordinance 14992, Ordinance 15285 and Ordinance 15604.

WHEREAS, pursuant to Ordinance 14167, 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 \$125,000,000 to provide long-term financing for the Courthouse Seismic Project, the North Rehabilitation Facility Project and the Regional Communications and Emergency Control Center Project, each defined and described in Ordinance 14167, 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 \$125,000,000 to provide interim financing for such projects pending the issuance of the bonds, and

WHEREAS, pursuant to Ordinance 14463, the county council amended Ordinance 14167 to revise the description of the North Rehabilitation Facility Project and to augment the projects authorized to be financed, on a long-term basis, by such bonds, and pending the sale of such bonds, on an interim basis, by such bond anticipation notes by the addition of the Courthouse Earthquake Repairs, all as defined and described in Ordinance 14463, and

WHEREAS, pursuant to Ordinance 14745, the county council amended Ordinance 14167, as previously amended by Ordinance 14463, to add the Integrated Security and Jail Health Remodel Project to the list of projects that are authorized to be financed, on a long-term basis, by such bonds, and pending the sale of such

bonds, on an interim basis, by such bond anticipation notes, and increase the maximum outstanding aggregate principal amount of such bonds and bond anticipation notes to \$145,000,000 as a result; and also to amend certain provisions of Ordinance 14167, as previously amended by Ordinance 14463, pertaining to such bonds and bond anticipation notes, and

WHEREAS, pursuant to Ordinance 14992, the county council amended Ordinance 14167, as previously amended by Ordinance 14463 and Ordinance 14745, to add the Courthouse Lobby Project and the Jail ITR Remodel Project to the list of projects that are authorized to be financed, on a long-term basis, by such bonds, and pending the sale of such bonds, on an interim basis, by such bond anticipation notes, and increase the maximum outstanding aggregate principal amount of such bonds and bond anticipation notes to \$150,000,000 as a result; and amend certain provisions of Ordinance 14167, as previously amended by Ordinance 14463 and Ordinance 14745, pertaining to such bonds and bond anticipation notes, and

WHEREAS, pursuant to Ordinance 15285, the county council amended Ordinance 14167, as previously amended by Ordinance 14463, Ordinance 14745 and Ordinance 14992, to add the Orcas Building Acquisition and Tenant Improvement Project, the PAO 4th Floor Courthouse Move Project, the Pedestrian Tunnel Project, the Sky Bridge Feasibility Study Project to the list of projects that are authorized to be financed, on a long-term basis, by such bonds, and pending the sale of such bonds, on an interim basis, by such bond anticipation notes, and increase the maximum outstanding aggregate principal amount of such bonds and bond anticipation notes to \$160,000,000 as a result; and amend certain provisions of Ordinance 14167, as previously amended by Ordinance 14463, Ordinance 14745 and Ordinance 14992, pertaining to such bonds and bond anticipation notes, and

WHEREAS, pursuant to Ordinance 15604, the county council amended Ordinance 14167, as previously amended by Ordinance 14463, Ordinance 14745, Ordinance 14992 and Ordinance 15285, to change the scope of the Pedestrian Tunnel Project to include construction as well as design, add the NCOB Equipping Project to the list of projects that are authorized to be financed, on a long-term basis, by such bonds, and pending the sale

of such bonds, on an interim basis, by such bond anticipation notes, and increase the maximum outstanding aggregate principal amount of such bonds and bond anticipation notes to \$170,000,000 as a result; and amend certain provisions of Ordinance 14167, as previously amended by Ordinance 14463, Ordinance 14745, Ordinance 14992 and Ordinance 15285 (as so amended, the "Ordinance"), pertaining to such bonds and bond anticipation notes, and

WHEREAS, the Ordinance provided that such bond anticipation notes may be sold at public sale by competitive bid in one or more series as determined by the Finance Director, 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, 2008, in the aggregate principal amount of \$48,755,000 (the "Notes"), be sold as provided herein, and

WHEREAS, currently, \$108,430,000 in aggregate principal amount of the bonds authorized by the Ordinance are outstanding. Currently, \$43,975,000 of the bond anticipation notes authorized by the Ordinance are outstanding, all of which will be paid and retired from the proceeds of the Notes simultaneously with the issuance thereof. 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 \$157,185,000, which amount does not exceed \$170,000,000, and

WHEREAS, a preliminary official statement dated October 10, 2008, as amended by an amendment thereto dated October 16, 2008, has been prepared for the public sale of the Notes, the official Notice of such sale dated October 10, 2008, as amended by an amendment thereto dated October 16, 2008 (as so amended, the "Notice"), has been duly published, and bids have been received in accordance with the Notice, and

WHEREAS, the attached bid of Banc of America Securities LLC to purchase the Notes is the best bid received for the Notes, and it is in the best interest of the county that such Notes be sold to Banc of America 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 Notice of Sale, Acceptance of Bids, and Authorization of Notes. The issuance of the Notes, designated as the county's Limited Tax General Obligation Bond Anticipation Notes, 2008, in the aggregate principal amount of \$48,755,000, and the other terms and conditions thereof set forth in the Notice attached hereto as Exhibit A, are hereby ratified and confirmed. The offer to purchase the Notes, as set forth in the bid of Banc of America Securities LLC attached hereto as Exhibit 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 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 Exhibit B. The Notes shall not be subject to redemption. The Notes shall conform in all other respects to the terms and conditions specified in the Notice and Note Ordinance.

C. Application of Note Proceeds. The proceeds of the Notes shall be applied to provide interim financing for the following projects, and paying costs and expenses incurred in issuing the Notes: the Integrated Security and Jail Health Remodel Project, the Jail ITR Remodel Project and the NCOB Equipping Project.

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 (the "commission").

2. Material Events. The county agrees to provide or cause to be provided, in a timely manner, to the SID, if any, and to each NRMSIR or 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. Centralized Filing. Any filing required to be made with any NRMSIR or SID pursuant to the County's undertaking may be made by transmitting such filing solely to (i) the Texas Municipal Advisory Council (the "MAC") as provided in <http://www.disclosureusa.org> unless the SEC has withdrawn the interpretive advice in its letter to the MAC dated September 7, 2004, or (ii) any other entity for whom the SEC has provided interpretive advice to the effect that a filing solely with such entity shall satisfy an issuer's filing requirements under the Rule.

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 each then existing NRMSIR and the SID, if any, 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.