



## Legislation Text

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**File #:** 2010-0332, **Version:** 1

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Clerk 06/01/2010

A MOTION of the county council accepting a bid for the purchase of the county's Limited Tax General Obligation Bonds, 2010, Series A (Federally Tax-Exempt), in the aggregate principal amount of \$ \_\_\_\_\_ and fixing the interest rates and other terms thereof 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 \$31,000,000 to provide long-term financing for the South Park Bridge Replacement Project, defined and described in the Ordinance, and

WHEREAS, the Ordinance provided that such bonds may be issued as Tax-Exempt Obligations, BABs, RZEDBs or other Taxable Obligations in one or more series, any of which may be sold in a combined offering with other bonds of the county, publicly, either by negotiated sale or by competitive bid, 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 bonds, to be designated as the county's Limited Tax General Obligation Bonds, 2010, Series A (Federally Tax-Exempt), in the aggregate principal amount of \$ \_\_\_\_\_ (the "Bonds"), be sold as provided herein, and

WHEREAS, currently, none of the bonds authorized by the Ordinance are outstanding. The aggregate principal amount of all such bonds (including the Bonds) to be outstanding on the date of issuance of the Bonds, will be \$ \_\_\_\_\_, which amount does not exceed \$31,000,000, and

WHEREAS, a preliminary official statement dated \_\_\_\_\_, 2010, has been prepared for the public

sale of the Bonds, the official Notice of such sale dated \_\_\_\_\_, 2010 (the "Notice"), has been duly published, and bids have been received in accordance with the Notice, and

WHEREAS, the attached bid of \_\_\_\_\_ to purchase the Bonds is the best bid received for the Bonds, and it is in the best interest of the county that such Bonds be sold to \_\_\_\_\_ 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 Bonds. The issuance of the Bonds, designated as the county's Limited Tax General Obligation Bonds, 2010, Series A (Federally Tax-Exempt), in the aggregate principal amount of \$ \_\_\_\_\_, 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 Bonds, as set forth in the bid of \_\_\_\_\_ attached hereto as Attachment B, which shall be deemed to be adjusted to reflect the changed aggregate principal amount of the Bonds, as and to the extent permitted by the Notice, is hereby accepted. The Bonds shall be Tax-Exempt Obligations, as defined in the Ordinance, shall be dated their date of issue and delivery, and shall be subject to optional redemption as set forth in the Notice. The Bonds shall mature or be subject to mandatory redemption on the dates and in the amounts, and shall bear interest at the rates specified in Attachment C hereto. The Bonds shall conform in all other respects to the terms and conditions specified in the Notice and the Ordinance.

C. Application of Bond Sale Proceeds. The sale proceeds of the Bonds shall be deposited into the South Park Bridge Replacement Subfund to provide long-term financing for the South Park Bridge Replacement Project and paying costs and expenses incurred in issuing the Bonds.

D. Undertaking to Provide Ongoing Disclosure.

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

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 (commencing in 2011 for the fiscal year ended December 31, 2010):

(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.

Such annual information and operating data described above shall 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 and operating data, the county may cross-reference to other documents available to the public on the MSRB's internet web site or filed with the Commission, and, if

such document is a final official statement within the meaning of the rule, such document will be available from the MSRB.

If not provided as part of the annual financial information discussed above, the county shall provide the county's audited annual financial statement prepared in accordance with BARS when and if available to the MSRB.

3. 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 Bonds, 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 Bonds;
- (g) modifications to rights of Bondholders;
- (h) optional, contingent or unscheduled calls of any Bonds 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 Bonds; 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 Bonds and no property secures repayment of the Bonds.

4. Notification Upon Failure to Provide Financial Data. The county agrees to provide or cause to be provided, in a timely manner, to the MSRB, 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.

5. 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.

6. 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 Bonds. 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 Bonds; 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.

In the event of any amendment or waiver of a provision of this section D, the county shall describe such amendment in the next annual report, and shall 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 shall be given in the same manner as for a material event under subsection 3, and (ii) the annual report 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. Bond Owners' Remedies Under This Section. The right of any Bond owner or beneficial owner of Bonds 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 Bonds. 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 Bonds, including persons holding Bonds through nominees or depositories.

E. Further Authority. The 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 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.