



Legislation Text

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Clerk 07/14/2014

A MOTION of the county council accepting a bid for the purchase of the county's Limited Tax General Obligation and Refunding Bonds, 2014, Series C, in the aggregate principal amount of \$25,515,000; and establishing certain terms of such bonds in accordance with Ordinance 16994, as amended by Ordinance 17519, and Ordinance 17564.

WHEREAS, pursuant to Ordinance 15925 and Motion 12630 (together, "the 2007 Bond Legislation"), the county council authorized the issuance of its Limited Tax General Obligation Bonds, 2007, Series E ("the 2007 Bonds") to provide long-term financing to upgrade the county's PeopleSoft Human Resource Management System and the Oracle financial system, for capital improvement projects for the county's Solid Waste Division, and to pay the costs of issuance and sale of the 2007 Bonds and by that ordinance reserved the right to redeem the 2007 Bonds prior to their maturity, at a price of par plus accrued interest to the date fixed for redemption; and

WHEREAS, pursuant to Ordinance 17564 ("the Refunding Ordinance"), the county council authorized, among other things, the issuance of one or more series of its limited tax general obligation bonds to refund certain outstanding limited tax general obligation bonds of the county, including the 2007 Bonds, in an aggregate principal amount that does not exceed the county's debt capacity at the time of issuance of those bonds; and

WHEREAS, there are presently outstanding \$25,095,000 par value of 2007 Bonds maturing on December 1 of each of the years 2018 through 2025, inclusive, and 2027, all bearing interest at the rate of

5.00%; and

WHEREAS, the county has determined that a debt service savings will be realized by refunding a portion of the 2007 Bonds; and

WHEREAS, pursuant to Ordinance 16994, as amended by Ordinance 17519 (together, "the Improvement Ordinance"), the county council authorized the issuance of one or more series of its limited tax general obligation bonds in an aggregate principal amount not to exceed \$150,000,000 outstanding at any time, to provide funds to pay for the cost of carrying out the Capital Improvement Program for Solid Waste Facilities and the Solid Waste Transfer and Waste Management Plan; and

WHEREAS, in accordance with the Improvement Ordinance and Motion 13836 of the county council adopted on February 19, 2013, the county issued its Limited Tax General Obligation Bonds, 2013, in the aggregate principal amount of \$77,100,000, dated February 27, 2013, as the first issuance of bonds under the Improvement Ordinance, leaving \$72,900,000 aggregate principal amount of limited tax general obligation bonds authorized but unissued; and

WHEREAS, the Improvement Ordinance and the Refunding Ordinance (together, "the Ordinances") provided that such bonds may be publicly sold in one or more series, 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 authorized pursuant to the Ordinances, designated as the county's Limited Tax General Obligation and Refunding Bonds, 2014, Series C, in the aggregate principal amount of \$25,515,000 ("the Bonds"), be sold as provided herein; and

WHEREAS, the aggregate principal amount of the Bonds issued under the Improvement Ordinance is \$15,735,000, and that amount, together with the aggregate principal amount of the bonds previously issued under the Improvement Ordinance, does not exceed \$150,000,000; and

WHEREAS, to effect the refunding in the manner that will be most advantageous to the county, it is found necessary and advisable that a portion of the proceeds of the Bonds be deposited with the Escrow Agent

(defined herein) and held in an irrevocable trust account for the benefit of the holders of the Bonds; and

WHEREAS, a preliminary official statement dated July 7, 2014, as amended by the Errata Notice and Amended Notice of Sale dated July 11, 2014, has been prepared for the public sale of the Bonds, the official amended notice of such sale dated July 11, 2014 and attached as Attachment A ("the Notice"), has been duly published, and bids have been received in accordance with the Notice; and

WHEREAS, the bid of RBC Capital Markets, LLC to purchase the Bonds (attached as Attachment B to this motion) is the best bid received for the Bonds, and it is in the best interest of the county that such Bonds be sold to RBC Capital Markets, LLC on the terms set forth in the Notice, the attached bid, the Ordinances 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 Ordinances.

"Acquired Obligations" means those United States Treasury Certificates of Indebtedness, Notes, and Bonds--State and Local Government Series and other direct, noncallable obligations of the United States of America purchased to carry out the Refunding Plan as authorized by this resolution.

"Escrow Agent" means U.S. Bank National Association, Seattle, Washington, serving as trustee or escrow agent or any successor trustee or escrow agent.

"Refunded Bonds" means the outstanding Limited Tax General Obligation Bonds, 2007, Series E, of the county maturing in the years 2021 through 2024, inclusive, issued pursuant to the 2007 Bond Legislation, the refunding of which has been provided for by the Refunding Ordinance and this motion.

"Refunding Escrow Agreement" means a Refunding Escrow Agreement between the county and the Escrow Agent substantially in the form of that which is on file with the clerk of the county council and by this reference incorporated herein.

"Refunding Plan" means:

(1) the placement with the Escrow Agent of sufficient proceeds of the Bonds, together with other money of the county, if necessary, sufficient to acquire the Acquired Obligations;

(2) the application by the Escrow Agent of all amounts held by it (including the maturing principal of and interest on the Acquired Obligations and any other cash balance) to the payment of interest on the Refunded Bonds when due up to and including December 1, 2017;

(3) the call, payment and redemption on December 1, 2017, of all of the Refunded Bonds at a price of par; and

(4) the payment of the costs of issuing the Bonds allocated to the Refunding Plan and the costs of carrying out the foregoing elements of the Refunding Plan.

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 and Refunding Bonds, 2014, Series C, in the aggregate principal amount of \$25,515,000, to provide the funds to (i) carry out the Refunding Plan, (ii) provide a portion of the financing for the county's Capital Improvement Program for Solid Waste Facilities and the Solid Waste Transfer and Waste Management Plan, and (iii) pay the costs of issuance and sale of the Bonds, and the other terms and conditions thereof set forth in the Notice, are hereby ratified and confirmed.

The offer to purchase the Bonds, as set forth in the bid of RBC Capital Markets, LLC attached as Attachment B to this motion, is hereby accepted. All other bids that have been received are attached as Attachment C to this motion. The Bonds shall be dated their date of issue and delivery, shall be subject to optional redemption, mature on the dates and in the amounts, and shall bear interest at the rates, all as specified in Attachment D to this motion. The Bonds shall be issued as Tax-Exempt Bonds under the Refunding Ordinance and as Tax-Exempt Obligations under the Improvement Ordinance. The Bonds shall conform in all respects to the terms and conditions specified in the Notice and Ordinances.

C. Application of Bond Proceeds. A portion of the proceeds of the Bonds shall be deposited immediately upon the receipt thereof with the Escrow Agent and used to carry out the Refunding Plan, as

defined herein and modified or amplified by the Refunding Escrow Agreement and to pay the costs of issuance and sale of the Bonds allocated to financing the county's Capital Improvement Program for Solid Waste Facilities and the Solid Waste Transfer and Management Plan. Any Bond proceeds or other money deposited with the Escrow Agent not needed to carry out the Refunding Plan shall be returned to the county at the time of delivery of the Bonds to the initial purchaser thereof and deposited in the Bond Fund to pay interest on the Bonds on the first interest payment date. The remaining proceeds of the Bonds shall be deposited into the Solid Waste Construction Fund and used to provide a portion of the financing for the Capital Improvement Program for Solid Waste Facilities and the Solid Waste Transfer and Management Plan.

D. Appointment of Escrow Agent. U.S. Bank National Association of Seattle, Washington, is appointed Escrow Agent.

E. Call for Redemption of the Refunded Bonds. The county calls for redemption on December 1, 2017, all of the Refunded Bonds at par plus accrued interest. Such call for redemption shall be irrevocable after the delivery of the Bonds to the initial purchaser thereof. The date on which the Refunded Bonds are herein called for redemption is the first date on which the Refunded Bonds may be called.

F. Undertaking to Provide Ongoing Disclosure.

1. Contract/Undertaking. This subsection F. 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 (commencing in 2015 for the fiscal year ended December 31, 2014):

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. of this subsection F.2. 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 make specific cross-reference to other documents available to the public on the MSRB's internet web site or filed with the SEC.

3. Specified Events. The county agrees to provide or cause to be provided, in a timely manner not in excess of ten business days after the occurrence of the event, to the MSRB, 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, Notice 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 holders of the Bonds, if material;

h. bond calls (other than scheduled mandatory redemptions of Term Bonds), 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, as such "Bankruptcy Events" are defined in the rule;

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 the Undertaking, the county advises with reference to subsection F.3.c., j. and n. of this motion 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.

4. Notification Upon Failure to Provide Financial Data. 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 F.2. of this motion on or prior to the date set forth in subsection F.2. of this

motion.

5. Electronic Format; Identifying Information. The county agrees that all documents provided to the MSRB pursuant to the Undertaking 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 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, 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 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.

Notwithstanding any other provision of this motion, 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 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 specified event under subsection F.3. of this motion, 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 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 the 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.

G. 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 Bonds and for the proper use and application of the proceeds of such sale.

H. 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.