



Legislation Text

File #: 2012-0343, **Version:** 2

A MOTION of the county council approving a purchase contract for the county's Sewer Revenue Refunding Bonds, 2012, Series C, in the aggregate principal amount of \$65,415,000 and establishing certain terms of these bonds, approving a purchase contract for the county's Limited Tax General Obligation Refunding Bonds (Payable from Sewer Revenues), 2012, Series C, in the aggregate principal amount of \$53,405,000 and establishing certain terms of these bonds, and approving a plan of refunding from proceeds of the two series of bonds, all in accordance with Ordinance 17111.

WHEREAS, the county council by Ordinance 17111 passed on June 20, 2011 (the "Bond Ordinance"), authorized the issuance and sale of bonds of the county payable from sewer revenues, as follows: (i) \$300,000,000 aggregate principal amount of bonds to pay costs of certain capital improvements to the county's Sewer System in accordance with the county's comprehensive water pollution abatement plan (the "Project Bonds"), and (ii) not to exceed \$1,200,000,000 aggregate principal amount of bonds to refund certain outstanding bonds payable from sewer revenues (the "Refunding Bonds"), and

WHEREAS, the Bond Ordinance authorizes the sale of these bonds in one or more series, as Parity Bonds or Parity Lien Obligations (as such terms are defined in the Bond Ordinance), as Tax-Exempt Bonds, or otherwise, and by negotiated sale or competitive bid, as determined by the county's director of finance and business operations division (the "Finance Director") in consultation with the county's financial advisor, and

WHEREAS, the county has issued and sold \$150,000,000 of the authorized Project Bonds in several series, and \$655,540,000 of the authorized Refunding Bonds in several series, and

WHEREAS, the Finance Director has determined that \$118,820,000 principal amount of additional Refunding Bonds (the "Refunding Bonds") be sold by negotiated sale in (i) a series of Parity Bonds in the aggregate principal amount of \$65,415,000, to be designated as the county's Sewer Revenue Refunding Bonds, 2012, Series C (the "Sewer Revenue Bonds"), and (ii) a series of Parity Lien Obligations in the aggregate principal amount of \$53,405,000, to be designated as the county's Limited Tax General Obligation Refunding Bonds (Payable from Sewer Revenues), 2012, Series C (the "LTGO Sewer Bonds," and together with the Sewer Revenue Bonds, the "Bonds"), all structured as Tax-Exempt Bonds, and

WHEREAS, pursuant to the Bond Ordinance, a preliminary official statement dated August 14, 2012, was prepared and distributed for the sale of the Bonds, and the Finance Director has negotiated the sale of both series of the Bonds to J.P. Morgan Securities LLC as representative of itself and other underwriters named in the attached bond purchase contracts (the "Underwriters"), and

WHEREAS, it is in the best interest of the county that the Bonds be sold to the Underwriters on the terms set forth in the attached bond purchase contracts, the Bond Ordinance, and this motion, and

WHEREAS, in accordance with the Bond Ordinance, the council wishes to ratify and confirm certain terms of the Bonds and approve a plan of refunding certain outstanding sewer revenue bonds of the county from proceeds of the Bonds, as set forth herein;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

A. Definitions. Except as expressly authorized herein, capitalized terms used in this motion have the meanings set forth in the Bond Ordinance.

B. Approval of Bond Purchase Contracts and Authorization of Bonds. The issuance of the Bonds, designated as set forth in the recitals of this motion, and the terms and conditions thereof as set forth in the bond purchase contracts attached hereto as Attachments A and B (the "Purchase Contracts"), are hereby ratified and confirmed, and the Purchase Contracts are hereby approved. The Bonds shall bear interest at the rates set forth in the Purchase Contracts and shall conform in all other respects to the terms and conditions specified in

the Purchase Contracts and Bond Ordinance. The Bonds shall be subject to redemption as set forth in the Purchase Contracts.

C. Satisfaction of Parity Conditions.

1. The Sewer Revenue Bonds. In accordance with the Bond Ordinance and the provisions of the ordinances authorizing the issuance of the currently outstanding Parity Bonds, which permit the issuance of Future Parity Bonds upon compliance with the conditions set forth therein, the county council hereby finds and determines, as follows:

(i) The Sewer Revenue Bonds are to be issued for the purpose of refunding and retiring prior to their maturity certain outstanding obligations of the county payable from Revenue of the System.

(ii) There is not now, and when the Sewer Revenue Bonds are issued there will not then be, any deficiency in the Parity Bond Fund or any account therein.

(iii) The Bond Ordinance provides for payment out of the Parity Bond Fund of the principal of and interest on the Sewer Revenue Bonds and the Reserve Requirement will be satisfied, as required by the conditions for Future Parity Bonds.

(iv) The county will have on file at the Closing of the Sewer Revenue Bonds a certificate of the Finance Director showing that upon issuance of the Sewer Revenue Bonds (i) the total debt service required for all Parity Bonds (including the Sewer Revenue Bonds but not including the bonds to be refunded thereby) will decrease, and (ii) the Annual Parity Debt Service for each year that any Parity Bonds (including the Sewer Revenue Bonds) will be outstanding will not be increased by more than \$5,000 by reason of the issuance of the Sewer Revenue Bonds.

The applicable conditions for Future Parity Bonds having been complied with in connection with the issuance of the Sewer Revenue Bonds, the pledge contained in the Bond Ordinance of Revenue of the System to pay and secure the payment of the Sewer Revenue Bonds shall constitute a lien and charge upon that revenue equal in rank with the lien and charge upon the Revenue of the System to pay and secure the payment of the

outstanding Parity Bonds.

2. The LTGO Sewer Bonds. In accordance with the Bond Ordinance and the provisions of the ordinances authorizing the issuance of the currently outstanding Parity Lien Obligations, which permit the issuance of additional Parity Lien Obligations upon compliance with the conditions set forth therein, the county council hereby finds and determines, as follows:

(i) The LTGO Sewer Bonds are to be issued to refund outstanding Parity Lien Obligations, which is a lawful purpose of the county related to the System.

(ii) There is not now, and when the LTGO Sewer Bonds are issued there will not then be, any deficiency in the Parity Bond Fund, the Parity Lien Obligation Bond Fund, or any other bond fund or account securing Parity Lien Obligations.

(iii) The county will file with the clerk of the county council, at or prior to the Closing of the LTGO Sewer Bonds, a certificate of the Finance Director stating that upon the issuance of the LTGO Sewer Bonds (i) total debt service on all Parity Bonds and Parity Lien Obligations (including the LTGO Sewer Bonds but not including the bonds to be refunded thereby) will decrease, and (ii) the Annual Debt Service for each year that any Parity Bonds and any Parity Lien Obligations (including the LTGO Sewer Bonds) will be outstanding will not be increased by more than \$5,000 by reason of the issuance of the LTGO Sewer Bonds.

The applicable parity conditions for additional Parity Lien Obligations having been complied with in connection with the issuance of the LTGO Sewer Bonds, the pledge contained in the Bond Ordinance of Revenue of the System to pay and secure the payment of the LTGO Sewer Bonds shall constitute a lien and charge upon that revenue equal in rank with the lien and charge upon the Revenue of the System to pay and secure the payment of the outstanding Parity Lien Obligations.

D. Refunding and Redemption of Refunded Bonds.

1. Plan of Refunding. In accordance with Sections 16 and 28 of the Bond Ordinance, the Finance Director has determined, in consultation with the county's financial advisors, that proceeds of the Bonds will be

used to refund certain outstanding bonds of the county payable from sewer revenues (as set forth below, the "Refunded Bonds") pursuant to the plan of refunding set forth below and ratified and confirmed hereby:

Sewer Revenue Bonds, 2004A

(refunded from proceeds of the Sewer Revenue Bonds)

| Maturity Date | Par Amount | Interest Rate (%) | Redemption Price (%) | Redemption Date |
|-----------------|-------------------|-------------------|----------------------|-----------------|
| 1/1/2030 | \$ 11,240,000 | 4.50 | 100 | 1/1/2014 |
| 1/1/2032 | 23,995,000 | 4.50 | 100 | 1/1/2014 |
| <u>1/1/2033</u> | <u>12,805,000</u> | 4.75 | 100 | 1/1/2014 |
| Total | \$ 48,040,000 | | | |

Limited Tax General Obligation Bonds (Payable from Sewer Revenues), 2005

(refunded from proceeds of the LTGO Sewer Bonds)

| Maturity Date | Par Amount | Interest Rate (%) | Redemption Price (%) | Redemption Date |
|-----------------|--------------------|-------------------|----------------------|-----------------|
| 1/1/2030 | \$ 12,385,000 | 5.00 | 100 | 1/1/2015 |
| <u>1/1/2035</u> | <u>43,205,000*</u> | 5.00 | 100 | 1/1/2015 |
| Total | \$ 55,590,000 | | | |

* Partial Refunding

Sewer Revenue Bonds, 2006

(refunded from proceeds of the Sewer Revenue Bonds)

| Maturity Date | Par Amount | Interest Rate (%) | Redemption Price (%) | Redemption Date |
|---------------|------------------|-------------------|----------------------|-----------------|
| 1/1/2018 | \$ 2,530,000 | 5.00 | 100 | 1/1/2016 |
| 1/1/2019 | 2,680,000 | 5.00 | 100 | 1/1/2016 |
| 1/1/2020 | 2,855,000 | 5.00 | 100 | 1/1/2016 |
| 1/1/2021 | 3,005,000 | 5.00 | 100 | 1/1/2016 |
| 1/1/2022 | 3,190,000 | 5.00 | 100 | 1/1/2016 |
| 1/1/2023 | 3,365,000 | 5.00 | 100 | 1/1/2016 |
| 1/1/2024 | <u>3,475,000</u> | 5.00 | 100 | 1/1/2016 |
| Total | \$ 21,100,000 | | | |

As provided in Section 16 of the Bond Ordinance, the King County 2012, Series C, Sewer Revenue Bonds Refunding Account (the "Refunding Account") will be established and maintained with the Escrow Agent (as identified below). Proceeds of the Bonds (exclusive of accrued interest, if any, which will be deposited into the Debt Service Account in the Bond Fund or Parity Lien Obligation Bond Fund, as applicable)

will be deposited in the Refunding Account and used, together with other funds of the county, if necessary, to purchase certain "Government Obligations" (which obligations so purchased are herein called "Escrow Securities"), bearing interest and maturing as to principal and interest in amounts and at times that, together with any necessary beginning cash balance, will provide for the payment of:

- (a) the interest on the refunded Sewer Revenue Bonds, 2004A (the "Refunded 2004A Bonds") payable on and prior to January 1, 2014;
- (b) the redemption price (100% of the principal amount) payable on January 1, 2014, of the Refunded 2004A Bonds;
- (c) the interest on the refunded Limited Tax General Obligation Bonds (Payable from Sewer Revenues), 2005 (the "Refunded 2005 Bonds") payable on and prior to January 1, 2015;
- (d) the redemption price (100% of the principal amount) payable on January 1, 2015, of the Refunded 2005 Bonds;
- (e) the interest on the refunded Sewer Revenue Bonds, 2006 (the "Refunded 2006 Bonds") payable on and prior to January 1, 2016; and
- (f) the redemption price (100% of the principal amount) payable on January 1, 2016, of the Refunded 2006 Bonds.

The selection of U.S. Bank National Association as Escrow Agent is hereby ratified and confirmed. In accordance with Section 16.C of the Bond Ordinance, the Finance Director is authorized and directed to enter into an Escrow Agreement with the Escrow agent in a form approved by the county's bond counsel.

Any beginning cash balance and the Escrow Securities shall be irrevocably deposited with the Escrow Agent in an amount sufficient to defease the Refunded Bonds in accordance with the ordinances authorizing their issuance. Any amounts described above that are not provided for in full by the beginning cash balance and the purchase and deposit with the Escrow Agent of the Escrow Securities shall be provided for by the irrevocable deposit of the necessary amount out of the proceeds of sale of the Refunding Bonds or any other

money of the county legally available therefor. The proceeds of the Refunding Bonds remaining in the Refunding Account after acquisition of the Escrow Securities and provision for the necessary beginning cash balance shall be utilized to pay expenses of the acquisition and safekeeping of the Escrow Securities and the costs of issuing the Refunding Bonds. Payment of the costs of issuing the Refunding Bonds may be provided for in the Escrow Agreement or in a separate agreement, as the Finance Director may determine.

The county may, from time to time, transfer, or cause to be transferred, from the Refunding Account any money not thereafter required for the purposes set forth in subparagraphs (a) - (f) above, subject to verification in writing by an independent certified public accountant that the transfer will not result in inadequate funds being available to make the required payments therefrom. The county reserves the right to substitute other securities for the Escrow Securities if it may do so pursuant to Section 148 of the Code and applicable regulations thereunder, upon compliance with the conditions set forth in the Escrow Agreement.

2. Redemption of Refunded Bonds. The county hereby irrevocably sets aside sufficient funds through the purchase of the Escrow Securities and an initial cash deposit to make the payments specified in subparagraphs (a) - (f) above.

The county hereby irrevocably defeases and calls for redemption on January 1, 2014, the Refunded 2004A Bonds, on January 1, 2015, the Refunded 2005 Bonds, and on January 1, 2016, the Refunded 2006 Bonds, all in accordance with the provisions of the ordinances authorizing the redemption and retirement of the Refunded Bonds prior to their fixed maturities.

Said defeasance and call for redemption of the Refunded Bonds shall be irrevocable after the final establishment of the Refunding Account and delivery of the Escrow Securities and the requisite cash deposit, if any, to the Escrow Agent, except as provided herein relating to the substitution of securities. The Finance Director is authorized and requested to provide whatever assistance is necessary to accomplish that defeasance and redemption.

The Escrow Agent is hereby authorized and directed to notify the fiscal agency of the State of

Washington to give notice of the defeasance and redemption of the Refunded Bonds in accordance with the applicable provisions of the ordinances authorizing their issuance. The Finance Director is authorized and requested to provide whatever assistance is necessary to accomplish the defeasance and redemption and the giving of notices therefor. The costs of publication of the notices shall be an expense of the county.

The Escrow Agent is hereby authorized and directed to pay to the fiscal agency or agencies of the State of Washington sums sufficient to make, when due, the payments specified in subparagraphs (a) - (f) above. All such sums shall be paid from the money and the Escrow Securities deposited with the Escrow Agent in accordance with this section, and the income therefrom and proceeds thereof. All sums so paid shall be credited to the Refunding Account. All money and Escrow Securities deposited with the Escrow Agent and any income therefrom shall be held, invested and applied in accordance with the provisions of the Bond Ordinance and with the laws of the State of Washington for the benefit of the county and the owners of the Refunded Bonds.

3. Findings of Saving and Defeasance. This council hereby finds and determines that the issuance and sale of the Refunding Bonds at this time will effect a savings to the county and ratepayers of the System. In making this finding and determination, the council has given consideration to the interest on and the fixed maturities of the Refunding Bonds and the Refunded Bonds, the costs of issuance of the Refunding Bonds and the known earned income from the investment of the proceeds of sale of the Refunding Bonds pending redemption and payment of the Refunded Bonds.

This council hereby further finds and determines that the Escrow Securities to be deposited with the Escrow Agent and the income therefrom, together with any necessary beginning cash balance, are sufficient to defease and redeem the Refunded Bonds and will discharge and satisfy the obligations of the county with respect to the Refunded Bonds under the ordinances authorizing their issuance and the pledges of the county therein. Immediately upon the delivery of the Escrow Securities to the Escrow Agent and the deposit of any necessary beginning cash balance, the Refunded Bonds shall be deemed not to be outstanding under their

authorizing ordinances and shall cease to be entitled to any lien, benefit or security under those ordinances except the right to receive payment from the Escrow Securities and beginning cash balance so set aside and pledged.

E. Continuing Disclosure Undertakings. In accordance with Section 31 of the Bond Ordinance, the county will enter into undertakings for continuing disclosure for the Bonds in substantially the forms set forth as Attachments C and D.

F. Further Authority. The county officials, their agents, attorneys 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 sale of the Bonds.

G. Severability. If any provision in this motion is declared by any court of competent jurisdiction to be contrary to law, then that provision shall be null and void and shall be deemed separable from the remaining provisions of this motion and shall in no way affect the validity of the other provisions of this motion or of the Bonds.