



Legislation Details (With Text)

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Title: AN ORDINANCE authorizing the issuance of sewer revenue bonds of the county in the aggregate principal amount of not to exceed \$250,000,000 to provide funds for acquiring and constructing improvements to the sewer system of the county; providing for the form, terms and covenants of such bonds; providing for the sale of the bonds; establishing funds for the receipt and expenditure of bond proceeds and for the payment of the bonds; pledging sewer revenues to pay the principal of and interest on the bonds; and amending the ordinances authorizing certain currently outstanding sewer revenue bonds of the county.

Sponsors: Larry Phillips

Indexes: Bonds, Funds

Code sections:

Attachments: 1. 15758.pdf, 2. 09-05-07 Staff Report, 3. 2007-0178 Fiscal Note.pdf, 4. 2007-0178 transmittal letter.doc, 5. A. EXHIBIT A. Form of Bond, 6. Staff Report 4-18-2007

Date	Ver.	Action By	Action	Result
5/7/2007	1	Metropolitan King County Council	Hearing Held	
5/7/2007	1	Metropolitan King County Council	Passed	Pass
4/30/2007	1	Metropolitan King County Council	Deferred	
4/18/2007	1	Capital Budget Committee	Recommended Do Pass	Pass
3/12/2007	1	Metropolitan King County Council	Introduced and Referred	

Clerk 3/8/2007

AN ORDINANCE authorizing the issuance of sewer revenue bonds of the county in the aggregate principal amount of not to exceed \$250,000,000 to provide funds for acquiring and constructing improvements to the sewer system of the county; providing for the form, terms and covenants of such bonds; providing for the sale of the bonds; establishing funds for the receipt and expenditure of bond proceeds and for the payment of the bonds; pledging sewer revenues to pay the principal of and interest on the bonds; and amending the ordinances authorizing certain currently outstanding sewer revenue bonds of the county.

PREAMBLE:

The county owns and operates facilities for the conveyance and treatment of sewage and control of combined sewer overflows that include, but are not limited to, wastewater treatment plants, interceptor and trunk sewers, pumping stations, regulator stations, outfall sewers, storm sewers to divert stormwater from sanitary sewers, lands for application of biosolids, property rights, and buildings and other structures (collectively the "Sewer System" or the "System"), all in accordance with a comprehensive plan for metropolitan water pollution abatement under the authority of chapters 36.56 and 35.58 of the Revised Code of Washington ("RCW").

Long term service agreements with participating municipalities (the "Participants") obligate the county to treat and dispose of sewage collected by the Participants. The Participants must pay the costs of such services including debt service on sewer revenue bonds, including the bonds authorized herein, and other indebtedness payable from and secured by sewer revenues.

Comparable rates and charge have been established for customers who deliver sewage to the System but are not subject to a contract with the county for such service.

In accordance with RCW 35.58.200(3), the county has declared that the health, safety and welfare of people within the metropolitan area require that certain Participants discharge sewage collected by such Participants into facilities of the System.

The county has issued the following series of sewer revenue bonds with a senior lien on revenues of the Sewer System (the "Parity Bonds"):

Designation	Ordinance	Date of Issue	Original Principal	Outstanding Principal (1/1/2007)
1999 (2nd) Bonds	13650	11/01/1999	\$ 60,000,000	\$ 2,270,000
2001 Bonds	14225	11/28/2001	270,060,000	229,925,000
2002A Bonds	14406	8/14/2002	100,000,000	94,960,000
2002B Bonds	14406	10/03/2002	346,130,000	291,715,000
2003A Bonds	14406	4/24/2003	96,470,000	93,005,000
2004A Bonds	14753	3/18/2004	185,000,000	185,000,000
2004B Bonds	14753	3/18/2004	61,760,000	59,840,000
2006 Bonds	15385	5/16/2006	124,070,000	124,070,000

2006 (2nd) Bonds 15385 11/30/2006 193,435,000 193,435,000

The county has issued the following series of limited tax general obligation bonds additionally secured by a lien on revenues of the Sewer System junior and subordinate to the lien thereon of the Parity Bonds (the "Parity Lien Obligations"):

Designation	Ordinance	Date of Issue	Original Principal Outstanding	Principal (1/1/2007)
Series 1996	12314	12/15/1996	\$ 130,965,000	\$ 2,730,000
Series 1998	13256	9/15/1998	261,625,000	247,810,000
Series 2005	15033	4/21/2005	200,000,000	200,000,000

It is deemed necessary and desirable that the county issue and sell its sewer revenue bonds in the

aggregate principal amount of \$250,000,000 (the "Bonds") to pay costs of certain capital improvements to the System, in accordance with the comprehensive plan. The county wishes to delegate to the county's Finance Director authority to sell the Bonds in one or more series, by competitive bid or negotiated sale, as provided in this ordinance.

The ordinances authorizing the issuance of the outstanding Parity Bonds and Parity Lien Obligations all provide that the county may issue additional sewer revenue bonds on a parity with the outstanding Parity Bonds if certain conditions are met. The county council has found and determined that such parity conditions have been or will be met, and therefore the pledge of revenues of the Sewer System to secure such bonds shall be on a parity with the pledge of such revenues to secure the outstanding Parity Bonds.

The county wishes to clarify an ambiguity in the ordinances authorizing the currently outstanding Parity Bonds by providing (i) that payments for amortizing Term Bonds shall be made from the Debt Service Account and (ii) that the Reserve Account is available to make up any deficiency that might occur in making such required amortization payments for outstanding Term Bonds.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Definitions. The following words and terms as used in this ordinance shall have the

following meanings for all purposes of this ordinance, unless some other meaning is plainly intended.

"Accreted Value" means with respect to any Parity Bonds that are Capital Appreciation Bonds, as of any date of calculation, the sum of the amounts set forth in the ordinance, resolution or motion authorizing such bonds as the amounts representing the initial principal amount of such bonds plus the interest accumulated, compounded and unpaid thereon as of the most recent compounding date, as provided in the ordinance, resolution or motion authorizing the issuance of such bonds; provided that if such calculation is not made as of a compounding date, such amount shall be determined by straight-line interpolation as of the immediately preceding and the immediately succeeding compounding dates.

"Additional Subordinate Lien Obligations" means those revenue bonds or other revenue obligations that may be issued by the county in the future with a lien on Revenue of the System equal to the lien thereon of the Commercial Paper Notes and the Bank Note.

"Annual Parity Debt Service" means, with respect to any calendar year, the sum of the following:

(1) The interest due for all outstanding Parity Bonds (i) on all interest payment dates (other than January 1) in such calendar year, and (ii) on January 1 of the next succeeding year, and any Payment Agreement Payments due on such dates in respect of Parity Payment Agreements, minus any Payment Agreement Receipts due in such period in respect of such Parity Payment Agreements.

(i) For purposes of calculating the amounts required to pay interest on Parity Bonds, capitalized interest and accrued interest paid to the county upon the issuance of Parity Bonds shall be excluded.

(ii) The amount of interest deemed to be payable on any issue of Variable Rate Parity Bonds shall be calculated on the assumption that the interest rate on those bonds would be equal to the rate (the "assumed RBI rate" that is 90% of the average Bond Buyer Revenue Bond Index or comparable index during the fiscal quarter preceding the quarter in which the calculation is made; provided, however, that for purposes of determining actual compliance in any past calendar year with the rate covenant made in Section 15 of this ordinance, the actual amount of interest paid on any issue of Variable Rate Parity Bonds shall be taken into account.

(2) The principal due (at maturity or upon the mandatory redemption of Term Bonds prior to their maturity) for all outstanding Parity Bonds (i) on all principal payment dates (other than January 1) of such calendar year and (ii) on January 1 of the next succeeding year.

In the case of Capital Appreciation Bonds, the Accreted Value due at maturity or upon the mandatory redemption of Parity Term Bonds that are Capital Appreciation Bonds, shall be included in the calculation of Annual Debt Service and references in this ordinance to principal of Parity Bonds shall include the Accreted Value due at maturity or upon the mandatory redemption of any Capital Appreciated Bonds.

Notwithstanding the foregoing, debt service on Parity Bonds with respect to which a Payment Agreement is in force shall be calculated by the county to reflect the net economic effect of the terms of the Parity Bonds and the applicable Payment Agreement, in accordance with the requirements set forth in Section 23 of this ordinance.

"Bank Note" means the bank note authorized to be issued by Ordinance No. 12057 of the county, as amended, to secure payment of the Commercial Paper Notes.

"Bond Fund" means the "Water Quality Revenue Bond Account" designated pursuant to Section 30 of Ordinance No. 12076 of the county for the purpose of paying and securing the payment of the Parity Bonds.

"Bond Register" means the registration books maintained by the Bond Registrar for purposes of identifying ownership of the Bonds.

"Bond Registrar" means the fiscal agency of the State of Washington in either Seattle, Washington, or New York, New York, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register, effecting the transfer of ownership of the Bonds and paying the principal of and interest and premium, if any, on the Bonds.

"Bond Reserve" or "Bond Reserve Account" means the bond reserve account in the Bond Fund securing the payment of the Parity Bonds.

"Bonds" means all or a portion of the sewer revenue bonds of the county authorized to be issued in an

aggregate principal amount of not to exceed \$250,000,000, in one or more series, pursuant to this ordinance to pay costs of acquiring and constructing improvements to the System in accordance with the Comprehensive Plan.

"Capital Appreciation Bonds" means any Parity Bonds the interest on which is compounded, accumulated and payable only upon redemption or on the maturity date of such Parity Bonds; provided, however, that Parity Bonds may be deemed to be Capital Appreciation Bonds for only a portion of their term pursuant to the ordinance, resolution or motion authorizing their issuance. On the date on which Parity Bonds no longer are Capital Appreciation Bonds, they shall be deemed outstanding in a principal amount equal to their Accreted Value.

"Certified Public Accountant" means an independent certified public accountant (or firm of certified public accountants) selected by the county and having a favorable national reputation.

"Closing" means the delivery of a series of the Bonds to, and payment of the purchase price therefor by, the initial purchasers of such series of the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the United States Treasury Department or the Internal Revenue Service, to the extent applicable to the Bonds.

"Commercial Paper Notes" means the King County, Washington, Sewer Revenue Bond Anticipation Notes, Commercial Paper Series A, authorized, issued, and outstanding from time to time pursuant to Ordinance No. 12057 of the county, as amended.

"Commission" means the United States Securities and Exchange Commission.

"Comprehensive Plan" means the county's comprehensive water pollution abatement plan authorized by RCW 35.58.200 and defined in Section 28.82.150 of the King County Code as the Comprehensive Sewage Disposal Plan adopted by Resolution No. 23 of the Metro Council on April 22, 1959, and all amendments

thereto, together with any amendments hereafter approved by ordinance of the county.

"Construction Account" means the "Second Water Quality Construction Account," as designated by Section 30 of Ordinance No. 12076 of the county.

"Credit Facility" means any letter of credit, standby bond purchase agreement, line of credit, surety bond, insurance policy or other insurance commitment or similar agreement (but not including a Payment Agreement), satisfactory to the county, that is provided by a commercial bank, insurance company or other financial institution with a current long term rating (or whose obligations thereunder are guaranteed by a financial institution with a long term rating) from Moody's and S&P not lower than the credit rating of any series of Parity Bonds, to provide support for a series of Parity Bonds, and shall include any substitute therefor in accordance with the provisions of the ordinance providing for the issuance of Parity Bonds supported by a Credit Facility.

"Customers" means Residential Customers and Residential Customer Equivalents as defined and determined in the existing Service Agreements.

"DTC" means The Depository Trust Company, New York, New York.

"Finance Director" means the director of the finance and business operations division of the county or his or her designee, or the successor to the duties of such office.

"Future Parity Bonds" means any sewer revenue bonds, warrants or other obligations that may be issued in the future as Parity Bonds.

"Government Obligations" means those obligations now or hereafter defined as such in Chapter 39.53 RCW, as now in existence or hereafter amended or restated.

"Junior Lien Obligations" means the county's Junior Lien Variable Rate Demand Sewer Revenue Bonds, Series 2001A and Series 2001B, issued under date of August 15, 2001, as authorized by Ordinances 14171 and 14172, the county's Junior Lien Multi-Modal Sewer Revenue Bonds, Series 2006A and 2006B, issued under date of October 4, 2006, as authorized by Ordinances 15584 and 15585, and any other revenue bonds or other

revenue obligations having a lien on Revenue of the System equal to the lien thereon of such bonds.

"Moody's" means Moody's Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency selected by the county.

"MSRB" means the Municipal Securities Rulemaking Board or any successor to its functions.

"Net Revenue" means Revenue of the System less Operating and Maintenance Expenses.

"NRMSIR" means a nationally recognized municipal securities information repository.

"Operating and Maintenance Expenses" means all normal expenses incurred by the county in causing the System to be maintained in good repair, working order and condition and shall include payments to any private or governmental agency for the operation or maintenance of facilities or for the disposal of sewage but shall exclude any allowance for depreciation.

"Parity Bonds" means the bonds identified as such in the Preamble to this ordinance, together with the Bonds and any Future Parity Bonds. "Parity Bonds" include any Parity Payment Agreements and parity reimbursement agreements entered into with the provider of a Credit Facility.

"Parity Lien Obligation Bond Fund" means the Water Quality Limited Tax General Obligation Bond Redemption Fund, established pursuant to Section 8 of Ordinance 11241 of the county, to provide for payment of Parity Lien Obligations.

"Parity Lien Obligations" means bonds identified as such in the Preamble to this ordinance together with any future Parity Lien Obligations. "Parity Lien Obligations" include any Parity Lien Obligation Payment Agreements and parity reimbursement agreements entered into with the provider of a credit facility securing any Parity Lien Obligations.

"Parity Lien Obligation Payment Agreement" means a Payment Agreement under which the county's

payment obligations are expressly stated to constitute a charge and lien on the Revenue of the System equal in rank with the charge and lien upon such revenue securing amounts required to be paid into the Parity Lien Obligation Bond Fund to pay and secure the payment of principal of and interest on the Parity Lien Obligations.

"Parity Payment Agreement" means a Payment Agreement under which the county's payment obligations are expressly stated to constitute a charge and lien on the Revenue of the System equal in rank with the charge and lien upon such revenue securing amounts required to be paid into the Bond Fund to pay and secure the payment of principal of and interest on the Parity Bonds.

"Parity Term Bonds" means Parity Bonds that are Term Bonds.

"Payment Agreement" means, to the extent permitted from time to time by applicable law, a written agreement entered into by the county (i) in connection with or incidental to the issuance, incurring or carrying of bonds or other obligations of the county secured in whole or in part by a lien on Revenue of the System; (ii) for the purpose of managing or reducing the county's exposure to fluctuations or levels of interest rates, currencies or commodities or for other interest rate, investment, asset or liability management purposes; (iii) with a Qualified Counterparty; and (iv) which provides, on either a current or forward basis, for an exchange of payments determined in accordance with a formula specified therein.

"Payment Agreement Payments" means the amounts periodically required to be paid by the county to the Qualified Counterparty pursuant to a Payment Agreement. The term "Payment Agreement Payments" does not include any termination payment required to be paid with respect to a Payment Agreement.

"Payment Agreement Receipts" means the amounts periodically required to be paid by the Qualified Counterparty to the county pursuant to a Payment Agreement.

"Professional Utility Consultant" means a licensed professional engineer, a Certified Public Accountant, or other independent person(s) or firm(s) selected by the county having a favorable reputation for skill and experience with sewer systems of comparable size and character to the System in such areas as are relevant to

the purposes for which they are retained.

"Public Works Trust Fund Loans" means loans to the county by the State of Washington Department of Community, Trade and Economic Development under the Public Works Trust Fund loan program pursuant to loan agreements in effect as of the date of this ordinance and any loan agreements hereafter entered into by the county under the Public Works Trust Fund loan program, the repayment obligations of which are secured by a lien on Revenue of the System equal to the lien thereon established by such loan agreements.

"Qualified Counterparty" means with respect to a Payment Agreement an entity (i) whose senior long term debt obligations, other senior unsecured long term obligations or claims paying ability or whose payment obligations under a Payment Agreement are guaranteed by an entity whose senior long term debt obligations, other senior unsecured long term obligations or claims paying ability are rated (at the time the Payment Agreement is entered into) at least as high as A3 by Moody's and A- by S&P, or the equivalent thereof by any successor thereto, and (ii) who is otherwise qualified to act as the other party to a Payment Agreement under any applicable laws of the State.

"Qualified Insurance" means any unconditional municipal bond insurance policy or surety bond issued by any insurance company licensed to conduct an insurance business in any state of the United States or by a service corporation acting on behalf of one or more such insurance companies, which insurance company or service corporation is rated in one of the two highest rating categories by Moody's, S&P, and any other rating agency then maintaining a rating on the Bonds, provided, that, as of the time of issuance of such policy or surety bond, such insurance company or companies maintain a policy owner's surplus in excess of \$500,000,000.

"Qualified Letter of Credit" means any irrevocable letter of credit issued by a bank for the account of the county and for the benefit of the owners of Parity Bonds, provided that such bank maintains an office, agency or branch in the United States, and provided further, that, as of the time of issuance of such letter of credit, such bank is currently rated in one of the two highest rating categories by Moody's, S&P, and any other

rating agency then maintaining a rating on the Bonds.

"Rate Stabilization Fund" means the fund of that name created pursuant to Section 13.D of Ordinance 12314 of the county.

"RCW" means the Revised Code of Washington.

"Rebate Amount" means the amount, if any, determined to be payable with respect to the Bonds by the county to the United States of America in accordance with Section 148(f) of the Code.

"Registered Owner" means any person or entity who shall be the registered owner of any Bond.

"Reserve Requirement" means maximum Annual Parity Debt Service with respect to any calendar year.

"Revenue Fund" means the "Water Quality Operating Account" as designated by Section 30 of Ordinance 12076 of the county.

"Revenue of the System" means all the earnings, revenues and money received by the county from or on account of the operations of the Sewer System and the income from the investment of money in the Revenue Fund or any account within such fund, but shall not include any money collected pursuant to the Service Agreements applicable to administrative costs of the county other than costs of administration of the System.

"Rule" means the Commission's Rule 15c2-12 under the Securities and Exchange Act of 1934, as the same may be amended from time to time.

"S&P" means Standard and Poor's Ratings Services, a Division of The McGraw Hill Companies, duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term "S&P" shall be deemed to refer to any other nationally recognized securities rating agency selected by the county.

"Sale Motion" means a motion of the county council approving each sale of a series of the Bonds, in accordance with Section 23 hereof.

"Service Agreements" means the sewage disposal agreements entered into between the county and

municipal corporations, persons, firms, private corporations, or governmental agencies providing for the disposal by the county of sewage collected from such contracting parties.

"SID" means a state information depository for the State of Washington (if one is created).

"SRF Loans" means loans to the county by the State of Washington Department of Ecology pursuant to loan agreements in effect as of the date of this ordinance and any loans and loan agreements hereafter entered into by the county under the State of Washington water pollution control revolving fund loan program, the repayment obligations of which are secured by a lien on Revenue of the System equal to the lien thereon established by such loan agreements.

"State" means the State of Washington.

"Subordinate Lien Obligations" means the Commercial Paper Notes, the Bank Note and any Additional Subordinate Lien Obligations.

"System" or "Sewer System" means the sewers and sewage disposal facilities now or hereafter acquired, constructed, used or operated by the county for the purpose of carrying out the Comprehensive Plan.

"Tax Certificate" means the Federal Tax Certificate with respect to certain federal tax matters executed on behalf of the County upon the issuance of each series of the Bonds.

"Term Bonds" means those bonds or obligations identified as such in the proceedings authorizing their issuance, the principal of which is amortized by a schedule of mandatory redemptions, payable from a bond redemption fund, prior to their maturity.

"Trustee" means a trustee for the Parity Bonds authorized to be appointed by owners of Parity Bonds, as provided by this ordinance.

"Variable Rate Parity Bonds" means Parity Bonds bearing interest at a variable rate of interest, provided that at least one of the following conditions is met: (i) at the time of issuance the county has entered into a Payment Agreement with respect to such Parity Bonds, which Agreement converts the effective interest rate to the county on the Variable Rate Parity Bonds from a variable interest rate to a fixed interest rate, or (ii) the

Parity Bonds bear interest at a variable rate but are issued concurrently in equal par amounts with other Parity Bonds bearing interest at a variable rate and which are required to remain outstanding in equal amounts at all times, if the net effect of such equal par amounts and variable rates at all times is a fixed rate of interest to the county.

SECTION 2. Findings. In accordance with the provisions of the ordinances authorizing the issuance of the currently outstanding Parity Bonds, which permit the issuance of additional Parity Bonds upon compliance with the conditions set forth therein (the "Parity Conditions"), the county council hereby finds and determines, as follows:

(i) The Bonds are to be issued for the purpose of acquiring, constructing and installing portions of the Comprehensive Plan and for acquiring, constructing and installing necessary renewals or replacements of the System.

(ii) There is not now, and when any series of Bonds are issued there shall not then be, any deficiency in the Bond Fund or any account therein.

(iii) This ordinance provides for payment out of the Bond Fund of the principal of and interest on the Bonds and provides for satisfaction of the Reserve Requirement, as required by the Parity Conditions.

(iv) The county shall have on file at the Closing of each series of the Bonds a certificate of the Finance Director or of a Professional Utility Consultant to satisfy the revenue test for issuance of Future Parity Bonds required by the Parity Conditions.

The applicable Parity Conditions having been complied with in connection with the issuance of the Bonds, the pledge contained herein of Revenue of the System to pay and secure the payment of the Bonds shall constitute a lien and charge upon such 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.

SECTION 3. Authorization of Bonds. To provide funds necessary to pay costs of acquiring, constructing and equipping improvements, additions or betterments to the System set forth in the

Comprehensive Plan, the county shall issue the Bonds in the aggregate principal amount of \$250,000,000. The Bonds shall be issued and sold in one or more series, as provided in Section 23, each series to be designated as "King County, Washington, Sewer Revenue Bonds" with an applicable year and series designation. The Bonds shall be fully registered as to both principal and interest, shall be in the denomination of \$5,000 each or any integral multiple thereof (but no Bond shall represent more than one maturity), shall be numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification, and shall be dated as of such date and shall mature on the dates, in the years and the amounts established as provided in Section 23 hereof.

Each series of the Bonds shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) from their date or from the most recent interest payment date for which interest has been paid or duly provided for, whichever is later, payable on interest payment dates and at the rate or rates established as provided in Section 23 hereof and ratified and confirmed by a Sale Motion. The Accreted Values of any Bonds that are Capital Appreciation Bonds shall be set forth in a Sale Motion.

SECTION 4. Registration, Exchange and Payments.

A. Bond Registrar/Bond Register. In accordance with KCC 4.84, the county hereby adopts for the Bonds the system of registration specified and approved by the Washington State Finance Committee, which utilizes the fiscal agencies of the State of Washington in Seattle, Washington, and New York, New York, as registrar, authenticating agent, paying agent and transfer agent (collectively, the "Bond Registrar"). The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the county. The Bond Registrar is authorized, on behalf of the county, to authenticate and deliver the Bonds transferred or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance.

The Bond Registrar shall be responsible for its representations contained in the Certificate of

Authentication on the Bonds. The Bond Registrar may become the Registered Owner of Bonds with the same rights it would have if it were not the Bond Registrar, and to the extent permitted by law may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Registered Owners.

B. Registered Ownership. The county and the Bond Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes, and neither the county nor the Bond Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 4.G hereof, but such registration may be transferred as herein provided. All such payments made as described in Section 4.G shall be valid and shall satisfy and discharge the liability of the county upon such Bond to the extent of the amount or amounts so paid. The county and the Bond Registrar shall be entitled to treat the person in whose name any Bond is registered as the absolute owner thereof for all purposes of this ordinance and any applicable laws, notwithstanding any notice to the contrary received by the Bond Registrar or the county.

C. DTC Acceptance/Letter of Representations. The Bonds initially issued shall be held in fully immobilized form by DTC acting as depository. To induce DTC to accept the Bonds as eligible for deposit at DTC, the county has heretofore executed and delivered to DTC a Blanket Issuer Letter of Representations.

Neither the county nor the Bond Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds in respect of the accuracy of any records maintained by DTC or any DTC participant, the payment by DTC or any DTC participant of any amount in respect of the principal of or interest on the Bonds, any notice which is permitted or required to be given to Registered Owners under this ordinance (except such notices as shall be required to be given by the county to the Bond Registrar or to DTC), or any consent given or other action taken by DTC as the Registered Owner. For so long as any Bonds are held in fully immobilized form hereunder, DTC or its successor depository shall be deemed to be the Registered Owner for all purposes hereunder, and all references herein to

the Registered Owners shall mean DTC or its nominee and shall not mean the owners of any beneficial interest in the Bonds.

D. Use of Depository.

(1) The Bonds shall be registered initially in the name of "Cede & Co.," as nominee of DTC, with one Bond maturing on each of the maturity dates for the Bonds of each series in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Bonds, or any portions thereof, may not thereafter be transferred except (i) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it; (ii) to any substitute depository appointed by the county pursuant to subsection (2) below or such substitute depository's successor; or (iii) to any person as provided in subsection (4) below.

(2) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the county to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the county may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provided the services proposed to be provided by it.

(3) In the case of any transfer pursuant to clause (i) or (ii) of subsection (1) above, the Bond Registrar shall, upon receipt of all outstanding Bonds, together with a written request on behalf of the county, issue a single new Bond for each maturity of such Bonds then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the county.

(4) In the event that (i) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (ii) the county determines that it is in the best interest of the beneficial owners of any of the Bonds that they be able to obtain such Bonds in the form of bond certificates, the ownership of Bonds may then be transferred to any person or entity as herein

provided, and the Bonds shall no longer be held in fully immobilized form. The county shall deliver a written request to the Bond Registrar, together with a supply of definitive Bonds, to issue Bonds as herein provided in any authorized denomination. Upon receipt of all then outstanding Bonds by the Bond Registrar together with a written request on behalf of the county to the Bond Registrar, new Bonds shall be issued in such denominations and registered in the names of such persons as are requested in such written request.

E. Transfer or Exchange of Registered Ownership; Change in Denominations. The registered ownership of any Bond may be transferred or exchanged, but no transfer of any Bond shall be valid unless it is surrendered to the Bond Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the Bond Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same series, date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Bond Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity and interest rate, in any authorized denomination. The Bond Registrar shall not be obligated to transfer or exchange any Bond during a period beginning at the opening of business on the 15th day of the month next preceding any interest payment date and ending at the close of business on such interest payment date, or, in the case of any proposed redemption of the Bonds, after the mailing of notice of the call of such Bonds for redemption.

F. Registration Covenant. The county covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code.

G. Place and Medium of Payment. Both principal of and interest on the Bonds shall be payable in

lawful money of the United States of America. For so long as all Bonds are in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations. In the event that the Bonds are no longer held in fully immobilized form, interest on the Bonds shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the 15th day of the month preceding the interest payment date; provided, however, that if so requested in writing by the Registered Owner of at least \$1,000,000 principal amount of a series of Bonds, interest will be paid by wire transfer on the interest payment date to an account with a bank located within the United States. Principal of the Bonds shall be payable upon presentation and surrender of such Bonds by the Registered Owners at the principal office of the Bond Registrar.

SECTION 5. Redemption of Bonds; Open Market Purchases. The county may reserve the right to redeem outstanding Bonds prior to their maturity on the dates and at the prices established as provided in Section 23 hereof and ratified and confirmed by a Sale Motion. Portions of the principal amount of any Bond, in increments of \$5,000 or any integral multiple of \$5,000, may be redeemed.

If less than all of the Bonds subject to optional redemption are called for redemption, the county shall choose the maturities to be redeemed. If less than a whole of a maturity is called for redemption, the Bonds to be redeemed shall be chosen at random by the Bond Registrar (or in such other manner as the Bond Registrar may determine) or, so long as the Bonds are registered in the name of CEDE & CO. or its registered assign, the Bonds to be redeemed shall be chosen in accordance with the operational arrangements in effect of DTC.

If less than all of the principal amount of any Bond is redeemed, upon surrender of such Bond at the principal office of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal amount thereof, a new Bond or Bonds, at the option of the Registered Owner, of like maturity and interest rate in any denomination authorized by this ordinance.

The county reserves the right to purchase any or all of the Bonds on the open market at any time at any

price.

SECTION 6. Notice and Effect of Redemption.

A. Notice of Redemption. Written notice of any redemption of Bonds shall be given by the Bond Registrar on behalf of the county by first class mail, postage prepaid, not less than 30 days nor more than 60 days before the redemption date to the Registered Owners of Bonds that are to be redeemed at their last addresses shown on the Bond Register. So long as the Bonds are in book-entry form, notice of redemption shall be given as provided in the Letter of Representations. The Bond Registrar shall provide additional notice of redemption (at least 30 days) to each NRMSIR and SID, if any, in accordance with the ongoing disclosure provisions to be adopted by the Sale Motion.

The requirements of this section shall be deemed complied with when notice is mailed, whether or not it is actually received by the owner.

Each notice of redemption shall contain the following information: (1) the redemption date, (2) the redemption price, (3) if less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the Bonds to be redeemed, (4) that on the redemption date the redemption price will become due and payable upon each Bond or portion called for redemption, and that interest shall cease to accrue from the redemption date, (5) that the Bonds are to be surrendered for payment at the principal office of the Bond Registrar, (6) the CUSIP numbers of all Bonds being redeemed, (7) the dated date of the Bonds, (8) the rate of interest for each Bond being redeemed, (9) the date of the notice, (10) information regarding the county's right to cancel an optional redemption prior to the designated redemption date by giving notice of such cancellation, and (11) any other information relating to the redemption or to the Bonds being redeemed.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

B. Cancellation of Redemption. The county may cancel any notice of an optional redemption of Bonds by giving written notice of such cancellation no later than seven days prior to the designated redemption date to all parties who were given notice of redemption in the in the same manner as such notice was given.

C. Effect of Redemption. Unless the county has cancelled a notice of redemption, the county shall transfer to the Bond Registrar amounts that, in addition to other money, if any, held by the Bond Registrar, will be sufficient to redeem, on the redemption date, all the Bonds to be redeemed. From the redemption date interest on each Bond to be redeemed shall cease to accrue.

D. Amendment of Notice Provisions. The foregoing notice provisions of this section, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes in order to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

SECTION 7. Form of Bonds; Execution of Bonds. The Bonds shall be in substantially the form set forth in Exhibit A of this ordinance. The Bonds shall be executed on behalf of the county with the manual or facsimile signatures of the county executive and the clerk of the county council, and shall have the seal of the county impressed or imprinted thereon.

In case either or both of the officers who shall have executed the Bonds shall cease to be an officer or officers of the county before the Bonds so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the county, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance shall be as binding upon the county as though those who signed the same had continued to be such officers of the county. Any Bond also may be signed and attested on behalf of the county by such persons as at the actual date of execution of such Bond shall be the proper officers of the county although at the original date of such Bond any such person shall not have been such officer of the county.

Only such Bonds as shall bear thereon a Certificate of Authentication in the form set forth in Exhibit A

of this ordinance, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

SECTION 8. Mutilated, Lost, or Destroyed Bonds. If any Bond shall become mutilated, the Bond Registrar shall authenticate and deliver a new Bond of like series, amount, date, interest rate and tenor in exchange and substitution for the Bond so mutilated, upon the owner's paying the expenses and charges of the county and the Bond Registrar in connection therewith and upon surrender to the Bond Registrar of the Bond so mutilated. Every mutilated Bond so surrendered shall be canceled and destroyed by the Bond Registrar.

In case the Bonds or any of them shall be lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new Bond or Bonds of like series, amount, date, and tenor to the Registered Owner thereof upon the owner's paying the expenses and charges of the county and the Bond Registrar in connection therewith and upon his/her filing with the Bond Registrar evidence satisfactory to the Bond Registrar that such Bond or Bonds were actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the county and Bond Registrar with indemnity satisfactory to the Finance Director and the Bond Registrar.

SECTION 9. Bond Fund. There has heretofore been created a special fund of the county known as the "Water Quality Revenue Bond Account" (the "Bond Fund"). The Bond Fund is at all times completely segregated and set apart from all other funds and accounts of the county and is a trust fund for the security and payment of the principal of and interest and any premium on any Parity Bonds. All money credited to the Bond Fund is pledged and ordered to be used for the sole purpose of paying the principal of and interest and any premium on the Parity Bonds.

A. **Debt Service Account.** A "Debt Service Account" has heretofore been established in the Bond Fund. The county hereby obligates and binds itself to set aside and pay into said account out of the Revenue of the System amounts sufficient, together with accrued interest, if any, received at the time of delivery of the Bonds

and deposited therein, income from the investment of money in the Debt Service Account and Bond Reserve Account and any other money on deposit in the Debt Service Account and legally available, to pay the principal of and interest on outstanding Parity Bonds as the same become due and payable.

For each series of the Bonds there is hereby authorized to be created a special subaccount in the Debt Service Account. All money required by this Section 9.A to be deposited into the Debt Service Account for the payment of principal of and interest on such series of the Bonds shall be deposited into the subaccount created for such series. Money in such subaccount shall be treated in all respects as all other money in the Debt Service Account, but shall be accounted for separately for the purpose of calculating any Rebate Amount payable with respect to such series of the Bonds.

Payments on account of each series of the Bonds shall be made out of the Revenue of the System into the applicable debt service subaccount in the Bond Fund on or before the day each payment of interest on or principal of such Bonds is due.

B. Term Bond Provisions. If any Bonds are designated as Term Bonds pursuant to Section 23 hereof, the Sale Motion for such series of Bonds shall set forth a mandatory redemption schedule to amortize the principal of such Parity Term Bonds. Payments of principal of Parity Term Bonds under any such mandatory redemption schedule shall be made from the Debt Service Account, as provided in Section 9.A above; provided, however, that if more than the required principal amount of such Parity Term Bonds is retired by purchase or optional redemption in any given year, the mandatory redemption amount in the next succeeding year or years may be reduced accordingly.

The county covenants that in the event it issues any Future Parity Bonds as Term Bonds, it will identify such Future Parity Bonds as Parity Term Bonds in the proceedings authorizing their issuance and establish a schedule of mandatory redemptions, payable from the Debt Service Account, to amortize the principal of such Parity Term Bonds prior to their maturity.

C. Bond Reserve Account. A Bond Reserve Account has heretofore been established in the Bond Fund,

and the county hereby pledges that it will pay into and maintain in the Bond Reserve Account an amount that together with other funds in the Bond Reserve Account will be at least equal to the Reserve Requirement. The county may substitute Qualified Insurance or a Qualified Letter of Credit for amounts required to be paid into or maintained in the Bond Reserve Account. Such Qualified Letter of Credit or Qualified Insurance shall not be cancelable on less than five years' notice. In the event of any cancellation, the Bond Reserve Account shall be funded in accordance with the provisions of this section providing for payment in the event of a deficiency therein, as if the Parity Bonds that remain outstanding had been issued on the date of such notice of cancellation.

An amount sufficient to establish the Reserve Requirement in the Bond Reserve Account required by the issuance of each series of the Bonds shall be deposited therein from the proceeds of Bonds or other funds available therefor on the date of Closing or shall be provided for by Qualified Insurance or a Qualified Letter of Credit, as herein permitted. Within one year following the issuance of any Future Parity Bonds (or upon the issuance of such Future Parity Bonds, if required by the terms of any agreement with a provider of Qualified Insurance or a Qualified Letter of Credit then securing any Parity Bonds), the amounts required to be paid into the Bond Reserve to establish the Reserve Requirement therein shall be paid from Revenue of the System, proceeds of such Future Parity Bonds, or other funds available therefor, or provided for by Qualified Insurance or a Qualified Letter of Credit.

In the event there shall be a deficiency in the Debt Service Account to make any payment when due of either principal or interest on any Parity Bonds, such deficiency shall be made up from the Bond Reserve Account by the withdrawal of money therefrom and by the sale or redemption of obligations held in the Bond Reserve Account, if necessary, in such amounts as will provide cash in the Bond Reserve Account sufficient to make up any such deficiency, and if a deficiency still exists immediately prior to an interest payment date and after the withdrawal of cash, the county shall then draw from any Qualified Letter of Credit, Qualified Insurance, or other equivalent credit facility in sufficient amount to make up the deficiency. Such draw shall be

made at such times and under such conditions as the agreement for such Qualified Letter of Credit or such Qualified Insurance shall provide. If more than one Qualified Letter of Credit or Qualified Insurance is available, draws shall be made ratably thereon to make up the deficiency. Any deficiency created in the Bond Reserve Account by reason of any such withdrawal shall then be made up from the Revenue of the System that shall be available after first making the payments required to be made under paragraph "FIRST" through "THIRD" of Section 12 hereof.

Income from the investment of money in the Bond Reserve Account shall be deposited in and become a part of the Bond Fund.

SECTION 10. Pledge of Sewer Revenues. The amounts covenanted to be paid out of the Revenue of the System into the Bond Fund and the accounts therein shall constitute a lien and charge on such revenue superior to all other charges of any kind or nature except Operating and Maintenance Expenses, and of equal lien to any charges heretofore or hereafter made upon the Revenue of the System for the payment of the principal of and interest on any Parity Bonds.

In the event that money and/or investments in the Debt Service Account and the Bond Reserve Account shall be reduced below the amounts required to pay the principal and/or interest then due and payable on any Parity Bonds, funds on deposit in any reserve created in the Revenue Fund not then required for the payment of necessary Operating and Maintenance Expenses shall be transferred to the Debt Service Account to the extent required to pay such principal and interest.

SECTION 11. Revenue Fund. There has heretofore been created a special fund of the county known as the "Water Quality Operating Account" (the "Revenue Fund"). All of the Revenue of the System shall be deposited in the Revenue Fund. All Operating and Maintenance Expenses shall be paid out of the Revenue Fund or appropriate reserves therein.

A special fund of the county designated as the "Sewer Rate Stabilization Fund" (the "Rate Stabilization Fund") has been established in anticipation of increases in revenue requirements of the System. In accordance

with the provisions of Section 12 of this ordinance, the county may from time to time appropriate or budget amounts in the Revenue Fund for deposit in the Rate Stabilization Fund and may from time to time withdraw amounts therefrom for deposit in the Revenue Fund to prevent or mitigate sewer rate increases or for other lawful purposes of the county related to the System.

SECTION 12. Sewer Revenue Priorities of Payment. So long as any Bond shall be outstanding, the Revenue of the System shall be deposited into the Revenue Fund and used and applied in the following order of priority:

First, to pay all Operating and Maintenance Expenses;

Second, to make all required deposits into the Debt Service Account to provide for the payment of principal of and interest on Parity Bonds as the same shall become due and payable and to make any Payment Agreement Payments with respect to any Parity Payment Agreements;

Third, to make all payments required to be made pursuant to a reimbursement agreement or agreements (or other equivalent documents) in connection with Qualified Insurance or a Qualified Letter of Credit, provided that if there is not sufficient money to make all payments under such reimbursement agreements the payments will be made on a pro rata basis;

Fourth, to establish and maintain the Bond Reserve (including making deposits into the Bond Reserve Account and paying the costs of obtaining Qualified Insurance or a Qualified Letter of Credit therefor);

Fifth, to make all required payments of principal and interest on the Parity Lien Obligations and to make any Payment Agreement Payments with respect to any Parity Lien Obligation Payment Agreements; and

Sixth, to make all required payments of principal of and interest on the Junior Lien Obligations as the same shall become due and payable, to make all Payment Agreement Payments with respect to any Payment Agreements entered into with respect to Junior Lien Obligations, and to make any payments required to be made to providers of any credit enhancement or liquidity facilities for Junior Lien Obligations;

Seventh, to make all required payments of principal of and interest on the Subordinate Lien Obligations

as the same shall become due and payable;

Eighth, to make all required payments of principal and interest on bonds, notes, warrants and other evidences of indebtedness, the lien and charge against Revenue of the System of which is junior and inferior to the Subordinate Lien Obligations, as the same shall become due and payable;

Ninth, to make all required payments of principal and interest due on the SRF Loans and the Public Works Trust Fund Loans; and

Tenth, to accumulate in the special reserve account for the SRF Loans the amount required to be accumulated therein pursuant to the terms of the SRF Loans.

Any surplus money that the county may have on hand in the Revenue Fund after making all required payments set forth above may be used by the county (i) to make necessary improvements, additions and repairs to and extensions and replacements of the System, (ii) to purchase or redeem and retire outstanding sewer revenue bonds of the county, (iii) to make deposits into the Rate Stabilization Fund, or (iv) for any other lawful purposes of the county related to the System.

SECTION 13. Construction Account; Disposition of Bond Proceeds

A. Construction Account. There has heretofore been created a special fund of the county known as the "Second Water Quality Construction Account" (the "Construction Account"). For purposes of separately accounting for investment earnings on the proceeds of the Bonds to facilitate compliance with the requirements of Section 17 of this ordinance, there is hereby established for each series of Bonds issued hereunder a special subaccount within the Construction Account to be designated as the "Series [applicable year designation] Construction Subaccount" (each a "Construction Subaccount").

Money in each Construction Subaccount shall be held and applied to pay costs of acquiring, constructing and equipping improvements, additions or betterments to the System set forth in the Comprehensive Plan and all costs incidental thereto, including but not limited to engineering, architectural, planning, financial, legal, urban design or any other incidental costs, and to repay any advances heretofore or

hereafter made on account of such costs, provided that if deficiencies exist in the Bond Fund, money in any Construction Subaccount may be transferred to the Bond Fund in such amounts as shall be necessary to pay principal of and interest on the Bonds.

B. Disposition of Bond Proceeds. The proceeds of the Bonds shall be deposited as follows:

(1) The amount equal to the interest, if any, accruing on each series of the Bonds from their dated date to the date of their Closing shall be deposited in the appropriate subaccount for such series created in the Debt Service Account in the Bond Fund.

(2) Proceeds of each series of the Bonds may be deposited into the Bond Reserve Account, as shall be provided for in each Sale Motion.

(3) The balance of the proceeds of the Bonds shall be deposited in the appropriate Subaccount and applied as provided in subsection A of this Section 13.

SECTION 14. Due Regard for Expenses. The county council hereby declares that, in fixing the amounts to be paid into the Bond Fund and the accounts therein out of the Revenue of the System, it has exercised due regard for the necessary Operating and Maintenance Expenses and has not obligated the county to set aside, pay into and maintain in said fund and accounts a greater amount of the Revenue of the System than in its judgment will be available over and above such necessary Operating and Maintenance Expenses.

SECTION 15. Rate Covenant. The county hereby covenants with the owner of each of the Bonds for so long as any of the same are outstanding that the county will at all times establish, maintain and collect rates and charges for sewage disposal service that together with the interest to be earned on investments made of money in the Revenue Fund, Bond Fund, Bond Reserve and Construction Account, will provide in each calendar year Net Revenue in an amount equal to at least 1.15 times the amount required to pay the Annual Parity Debt Service for such calendar year.

At all times and in any event, rates and charges for sewage disposal service shall be sufficient to provide funds adequate to operate and maintain the System, to make all payments and to establish and maintain all

reserves required by this or any other ordinance authorizing obligations of the county payable from Revenue of the System, to make up any deficit in such payments remaining from prior years and to pay all costs incurred in the construction or acquisition of any portion of the Comprehensive Plan that may be ordered by the county and for the payment of which sewer revenue bonds (or other obligations payable from Revenue of the System) are not issued.

For the purpose of meeting the requirement of this Section 15, there may be added to Revenue of the System for any fiscal year any amount withdrawn from the Rate Stabilization Fund and deposited in the Revenue Fund. There shall be subtracted from Net Revenue for any fiscal year any amounts in such year withdrawn from the Revenue Fund and deposited into the Rate Stabilization Fund in such fiscal year.

SECTION 16. Certain Other Covenants. The county hereby covenants with the owner and holder of each of the Bonds for as long as any of the Bonds are outstanding, as follows:

A. **Maintain in Good Order.** The county shall cause the System and the business in connection therewith to be operated in a safe, sound, efficient, and economic manner in compliance with all health, safety, and environmental laws, regulatory body rules, regulatory body orders and court orders applicable to the county's operation of the System, and shall cause to be maintained, preserved, reconstructed, expanded and kept, with all appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time cause to be made, without undue deferral, all necessary or proper repairs, replacements and renewals, so that all times the operation of the System shall be properly and advantageously conducted.

B. **Sale or Disposition.** The county will not sell or voluntarily dispose of all of the operating properties of the System unless provision is made for payment into the Bond Fund of a sum sufficient to pay the principal of and interest on all outstanding Parity Bonds in accordance with the terms thereof, nor will the county sell or voluntarily dispose of any part of the operating properties of the System unless provision is made for payment into the Bond Fund of an amount that will bear at least the same proportion to the amount of the outstanding Parity Bonds that the estimated amount of any resulting reduction in the Revenue of the System for the twelve

months following such sale or disposition bears to the Revenue of the System that would have been realized if such sale or disposition had not been made. Such estimate shall be made by a Professional Utility Consultant. Any money so paid into the Bond Fund shall be used to retire outstanding Parity Bonds as provided herein at the earliest possible date; provided, however, that the county may sell or otherwise dispose of any of the works, plant, properties and facilities of the System or any real or personal property comprising a part of the System with a value of less than 5% of the net utility plant of the System or which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or no longer necessary, material to or useful in such operation, without making any deposit into the Bond Fund.

C. Books and Records. The county will cause proper books of record and accounts of operation of the System to be kept, including an annual financial report.

D. Annual Audit. The county shall cause its books of accounts, including its annual financial report, to be audited annually by the State auditor's office or other State department or agency as may be authorized and directed by law to make such audits, or if such an audit shall not be made for twelve months after the close of any fiscal year of the county, by a Certified Public Accountant. The county will furnish such audit to the owner or holder of any Parity Bond upon written request therefor.

E. Insurance. The county will at all times carry fire and extended coverage and such other forms of insurance on such of the buildings, equipment, facilities and properties of the Sewer System as under good practice are ordinarily carried on such buildings, equipment, facilities and properties by municipal or privately owned utilities engaged in the operation of sewer systems and will also carry adequate public liability insurance at all times, provided that the county may, if deemed advisable by the county council, institute or continue a self insurance program with respect to any or all of the aforementioned risks.

F. Construction. The county shall cause the construction of any duly authorized and ordered portions of the Comprehensive Plan to be performed and completed within a reasonable time and at the lowest reasonable cost.

G. Collection of Revenue. The county shall so operate and maintain the System and conduct its affairs as to entitle it at all times to receive and enforce payment to it of sewage disposal charges payable (i) pursuant to the ordinance or ordinances establishing a tariff of rates and charges for sewage disposal services and (ii) under any Service Agreement that the county has now or may hereafter enter into and to entitle the county to collect all revenues derived from the operation of the System. The county shall not release the obligations of any person, corporation or political subdivision under such tariff of rates and charges or the Service Agreements and shall at all times, to the extent permitted by law, defend, enforce, preserve and protect the rights and privileges of the county and of the holders of the Parity Bonds under or with respect thereto.

In accordance with RCW 35.58.200(3), the county shall require any county, city, special district or other political subdivision to discharge to the System all sewage collected by such entity from any portion of the Seattle metropolitan area that can drain by gravity flow into facilities of the System that serve such areas if the county council declares that the health, safety or welfare of the people within the metropolitan area require such action.

SECTION 17. Tax-Exemption.

A. General. The county intends that interest on the Bonds shall be excludable from gross income for federal income tax purposes pursuant to sections 103 and 141 through 150 of the Code, and the applicable regulations. The county covenants not to take any action, or knowingly omit to take any action within its control, that if taken or omitted would cause the interest on the Bonds to be includable in gross income, as defined in section 61 of the Code, for federal income tax purposes.

B. Tax Certificate. Upon the issuance of each series of Bonds, the Finance Director is authorized to execute a federal tax certificate (the "Tax Certificate"), which will certify to various facts and representations concerning such series of Bonds, based on the facts and estimates known or reasonably expected on the date of issuance of such series of Bonds, and make certain covenants with respect to such series of Bonds, including but not limited to the following:

(i) *No Private Activity Bonds.* The proceeds of such series of Bonds will not be used in a manner that would cause such Bonds to be "private activity bonds" within the meaning of the Code, as further described in the Tax Certificate. Moreover, the county covenants that it will use the proceeds of such Bonds (including interest or other investment income derived from Bond proceeds), regulate the use of property financed or refinanced, directly or indirectly, with such proceeds, and take such other and further action as may be required so that such Bonds will not be "private activity bonds."

(ii) *No Federal Guarantee.* The county has not and will not take any action, and has not knowingly omitted and will not knowingly omit to take any action within its control, that, if taken or omitted would cause such Bonds to be "federally guaranteed" within the meaning of the Code, as further described in the Tax Certificate.

(iii) *No Arbitrage Bonds.* The county reasonably expects that the proceeds of such Bonds will not be used in a manner that would cause such Bonds to be "arbitrage bonds" within the meaning of the Code, as further described in the Tax Certificate.

(iv) *No Hedge Bonds.* The county reasonably expects that at least 85% percent of the proceeds of such Bonds will be spent within three years of the date such Bonds are issued to carry out the governmental purposes of such Bonds.

The county covenants that it will comply with the Tax Certificate unless it receives advice from nationally recognized bond counsel or the Internal Revenue Service that certain provisions have been amended or no longer apply to the Bonds.

C. Arbitrage Rebate. If the county does not qualify for an exception to the requirements of Section 148 (f) of the Code relating to the payment of arbitrage rebate to the United States, the county will take all necessary steps to comply with the requirement that certain amounts earned by the county on the investment of the "gross proceeds" of the Bonds (within the meaning of the Code) be rebated.

SECTION 18. Trustee for Bondowners.

A. Appointment of Trustee. Upon the occurrence of any "event of default" described in Section 19.A of this ordinance, the owners of a majority in principal amount of the outstanding Parity Bonds may appoint a Trustee by an instrument or concurrent instruments in writing signed and acknowledged by such Bondowners or by their attorneys-in-fact duly authorized and delivered to such Trustee, notification thereof being given to the county. Any appointment of a Trustee under the provisions of this subsection shall be a bank or trust company organized under the laws of the State of Washington or the State of New York or a national banking association. The fees and expenses of a Trustee shall be borne by the Bondowners and not by the county. The bank or trust company acting as a Trustee may be removed at any time and a successor Trustee may be appointed by the owners of a majority in principal amount of the outstanding Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondowners or by their attorneys-in-fact duly authorized.

The Trustee appointed in the manner herein provided, and each successor thereto, is hereby declared to be a trustee for the owners of all the Parity Bonds and is empowered to exercise all the rights and powers herein conferred on the Trustee.

B. Certain Rights and Obligations of Trustee. The Trustee shall not be responsible for recitals in any ordinance or in the Parity Bonds, or for the validity of said bonds, nor shall the Trustee be responsible for insuring the System or for collecting any insurance money or for the title to any of the property of the System.

The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and correct and to have been signed, sent or delivered by the person or persons by whom such paper or document shall purport to have been signed, sent or delivered.

The Trustee shall not be answerable for any neglect or default of any person, firm or corporation employed and selected by it with reasonable care.

The Trustee will permit the owner or holder of any Parity Bonds to inspect any instrument, opinion or

certificate filed with the Trustee by the county or by any person, firm or corporation acting for the county.

The Trustee shall not be bound to recognize any person as an owner or holder of any Parity Bond until his, her or its title thereto, if disputed, shall have been established to its reasonable satisfaction.

The Trustee may consult with counsel and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

SECTION 19. Events of Default; Powers and Duties of Trustee

A. Events of Default. The occurrence of one or more of the following events shall be "events of default" under this ordinance:

(i) default in the payment of principal of or interest on any Parity Bonds when the same shall become due; or

(ii) default in the observance or performance of any of the other covenants herein contained, and such default continues for a period of six months after written notice to the county from a bondholder specifying such default and requiring the same to be remedied.

B. Powers of Trustee. The Trustee in its own name and on behalf of and for the benefit and protection of the holders and owners of all Parity Bonds may proceed, and upon the written request of the holders and owners of not less than 25% in principal amount of the Parity Bonds then outstanding shall proceed, to protect and enforce any rights of the Trustee and, to the full extent that owners or holders of Parity Bonds themselves might do, the rights of such owners and holders of Parity Bonds under the laws of the State of Washington or under the ordinances providing for the issuance of such bonds, by such suits, actions or proceedings in equity or at law, either for the specific performance of any covenant contained herein or in aid or execution of any power herein granted or for any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce the rights of the Trustee and the holders and owners of Parity Bonds. In the enforcement of any such rights under this or any other ordinance of the county, the Trustee shall be entitled to sue for, to enforce

payment of and to receive any and all amounts due from the county for principal, interest or otherwise under any of the provisions of such ordinance, with interest on overdue payments at the rate or rates set forth in such bond or bonds, together with any and all costs and expenses of collection and of all proceedings taken by the Trustee without prejudice to any other right or remedy of the Trustee or of the bondholders.

In the event that default shall be made in the payment of principal of any Parity Bond and such default shall continue for a period of 30 days, (i) so long as any of the 1999 (2nd) Bonds, 2001 Bonds, 2002A Bonds, 2002B Bonds, 2003A Bonds and 2004 Bonds remain outstanding, the Trustee shall be entitled to declare all outstanding Parity Bonds immediately due and payable and may proceed to enforce payment thereof as hereinabove provided, and (ii) after such time as no 1999 (2nd) Bonds, 2001 Bonds, 2002A Bonds, 2002B Bonds, 2003A Bonds and 2004 Bonds remain outstanding, the Trustee may not accelerate payment of any Parity Bonds but may proceed to enforce payment thereof as hereinabove provided. In the event any default shall, in the sole judgment of the Trustee, be cured and the Trustee shall furnish the county a certificate so stating, such default shall be conclusively deemed to be cured, and the county, Trustee and owners and holders of Parity Bonds shall be restored to the same rights and position they would have held if no event of default had occurred.

C. Actions in Name of Trustee. All rights of action under this ordinance or upon any of the Parity Bonds enforceable by the Trustee may be enforced by the Trustee without the possession of any of such bonds or the production thereof on the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the ratable benefit of the holders of said bonds, subject to the provisions of this ordinance.

D. Procedure by Bond Owners. No owner of any one or more of the Bonds shall have any right to institute any action, suit or proceedings at law or in equity for the enforcement of the same, unless an event of default has occurred and unless no Trustee has been appointed as herein provided, but any remedy herein authorized to be exercised by a Trustee may be exercised individually by any Bondowner, in his own name and

on his own behalf or for the benefit of all Parity Bondowners, in the event that no Trustee has been appointed, or with the consent of the Trustee if such Trustee has been appointed.

E. Application of Money Collected by Trustee. Any money collected by the Trustee at any time pursuant to this section shall be applied, first, to the payment of its charges, expenses, advances and compensation and the charges, expenses, counsel fees, disbursements and compensation of its agents and attorneys, and, second, toward payment of the amount then due and unpaid upon the Parity Bonds, ratably and without preference or priority of any kind not expressly provided in this ordinance, according to the amounts due and payable upon such bonds at the date fixed by the Trustee for the distribution of such money, upon presentation of the several bonds and upon causing such payment to be stamped thereon, if partly paid, and upon surrender thereof, if fully paid.

SECTION 20. Future Parity Bonds. The county further covenants and agrees with the owners and holders of the Parity Bonds for as long as the same are outstanding that it will not create any special fund for the payment of the principal of and interest on any revenue bonds that will rank on a parity with or have any priority over the payments out of the Revenue of the System required to be made into the Bond Fund and the accounts therein to pay or secure the payment of the outstanding Parity Bonds, except that it reserves the right for:

- (1) the purpose of acquiring, constructing and installing any portion of the Comprehensive Plan, or
- (2) the purpose of acquiring, constructing and installing any necessary renewals or replacements of the System, or
- (3) the purpose of refunding or purchasing and retiring at or prior to their maturity any outstanding obligations of the county payable from Revenue of the System, to issue additional or refunding bonds and to make payments into the Bond Fund out of the Revenue Fund that will be sufficient to pay the principal of and interest on said additional or refunding bonds and to maintain required reserves, which such payments out of the Revenue Fund may rank equally with the payments out of the Revenue Fund required to be made into the

Bond Fund and the accounts therein for the payment of the principal of and interest on outstanding Parity Bonds only upon compliance with the following conditions:

A. At the time of the issuance of any Future Parity Bonds there shall not be any deficiency in the Bond Fund or any account therein.

B. Each ordinance providing for the issuance of any Future Parity Bonds that are refunding bonds shall require that all money held in any fund or account of the county created for the purpose of paying the principal of and interest on the bonds being refunded either be used to pay the principal of and interest on such bonds or be transferred or paid into the Bond Fund.

C. Each ordinance providing for the issuance of Future Parity Bonds shall provide for the payment of the principal thereof and interest thereon out of the Bond Fund. The Future Parity Bonds may bear such date of issue, interest payment dates, and principal payment dates, and shall mature in such year or years as the county council may determine. Each such ordinance shall further provide that within one year following the issuance of such Future Parity Bonds (or upon the issuance of such Future Parity Bonds, if required by the terms of any agreement with a provider of Qualified Insurance or a Qualified Letter of Credit then securing any Parity Bonds) the county will pay into the Bond Reserve an amount that will be sufficient to satisfy the Reserve Requirement then applicable or provide Qualified Insurance or a Qualified Letter of Credit to satisfy such Reserve Requirement.

D.(1) At the time of the issuance of any Future Parity Bonds, the county shall have on file a certificate from a Professional Utility Consultant (the certificate may not be dated more than 90 days prior to the date of delivery of such Future Parity Bonds), showing that in his or her professional opinion the "annual income available for revenue bond debt service" for each year during the life of such Future Parity Bonds shall be at least equal to 1.25 times the amount required in each such year to pay the Annual Parity Debt Service for such year.

(2) Such "annual income available for revenue bond debt service" shall be determined as follows for

each year following the proposed date of issue of such Future Parity Bonds:

(i) The Revenue of the System shall be determined for a period of any 12 consecutive months out of the 18 months immediately preceding the delivery of the Future Parity Bonds being issued.

(ii) Such revenue shall be adjusted to give effect on a 12-month basis to the rates in effect on the date of such certificate.

(iii) If there were any Customers added to the System during such 12-month period or thereafter and prior to the date of the Professional Utility Consultant's certificate, such revenue shall be further adjusted on the basis that added Customers were Customers of the System during the entire 12-month period.

(iv) There shall be deducted from such revenue the amount expended for Operating and Maintenance Expenses during such period.

(v) For each year following the proposed date of issuance of such Future Parity Bonds the Professional Utility Consultant shall add to the annual revenue determined in the preceding four paragraphs an estimate of the income to be received in each such year from the investment of money in the Bond Fund and any account therein, and the Construction Account, which will be determined by and in the sole discretion of a firm of nationally recognized financial consultants selected by the county.

(vi) Beginning with the second year following the proposed date of issue of such Future Parity Bonds and for each year thereafter, the Professional Utility Consultant shall add to the annual revenue determined in the preceding five paragraphs his or her estimate of any additional annual revenue to be received from anticipated growth in the number of Customers within the area served by the System on the date of such certificate, after deducting therefrom any increased Operating and Maintenance Expenses estimated to be incurred as a result of such growth; provided that the Professional Utility Consultant's estimate of the number of Customers served shall not assume growth of more than 1/4 of 1% over and above the number of Customers served or estimated to be served during the preceding year.

(vii) If extensions of or additions to the System are in the process of construction at the time of such

certificate, or if the proceeds of the Future Parity Bonds being issued are to be used to acquire or construct extensions of or additions to the System, there shall be added to the annual net revenue as above determined any revenue not included in the preceding paragraphs that will be derived from such additions and extensions after deducting therefrom the estimated additional Operating and Maintenance Expenses to be incurred as a result of such additions and extensions; provided that such estimated annual revenue shall be based upon 75% of any estimated Customer growth in the four years following the first full year in which such additional revenue is to be collected and thereafter the estimated Customer growth shall not exceed 1/4 of 1% per year over and above such reduced estimate.

E. Instead of the certificate described in subsection D above, the county may elect instead to have on file a certificate of the Finance Director demonstrating that during any 12 consecutive calendar months out of the immediately preceding 18 calendar months Net Revenue was at least equal to 1.25 times the amount required to pay, in each year that such Future Parity Bonds would be outstanding, the Annual Parity Debt Service for such year.

F. For the purpose of refunding at or prior to their maturity any outstanding Parity Bonds or any bonds or other obligations of the county payable from Revenue of the System, the county may at any time issue Future Parity Bonds without complying with the provisions of subsection D or E hereof; provided, however, that the county shall not issue Future Parity Bonds for such purpose under this subsection F unless the Finance Director certifies that upon the issuance of such Future Parity Bonds that (i) total debt service required for all Parity Bonds (including the refunding bonds but not including the bonds to be refunded thereby) shall decrease, and (ii) the annual debt service for each year that any Parity Bonds (including the refunding bonds proposed to be issued) are then outstanding shall not be increased by more than \$5,000 by reason of the issuance of such Future Parity Bonds.

The principal amount of Future Parity Bonds issued pursuant to this subsection F may include amounts necessary to pay the principal of the Parity Bonds or other obligations to be refunded, interest thereon to the

date of payment or redemption thereof, any premium payable thereon upon such payment or redemption and the costs of issuance of such Future Parity Bonds, and if there shall have been provided a Payment Agreement with respect to the obligations to be refunded, may include amounts necessary to make the payment of all amounts, if any, due and payable by the county under such Payment Agreement. The proceeds of such Future Parity Bonds shall be held and applied in such manner as is provided for in the ordinance authorizing the issuance of the Parity Bonds or other obligations to be refunded, so that upon the delivery of such Future Parity Bonds, the Parity Bonds or other obligations to be refunded thereby shall be deemed to be no longer outstanding in accordance with the ordinance authorizing their issuance.

G. Nothing contained in this ordinance shall prevent the county from issuing revenue bonds that are a charge upon the Revenue of the System and money in the Revenue Fund junior or inferior to the payments required to be made therefrom into the Bond Fund and any account therein, nor shall anything herein contained prevent the county from issuing Future Parity Bonds to refund maturing Parity Bonds for the payment of which money is not otherwise available.

SECTION 21. Reimbursement Obligations. If the county elects to secure any Parity Bonds with a Credit Facility, the county may contract with the entity providing such Credit Facility that the reimbursement obligation, if any, to such entity shall be a Parity Bond.

SECTION 22. Parity Payment Agreements

A. **General.** To the extent and for the purposes permitted from time to time by Chapter 39.96 RCW, as it may be amended, and other applicable provisions of State law, the county may enter into Parity Payment Agreements, subject to the conditions set forth in this section and in other provisions of this ordinance.

B. **Manner and Schedule of Payments.** Each Parity Payment Agreement shall set forth the manner in which the Payment Agreement Payments and the Payment Agreement Receipts shall be calculated and a schedule of payment dates.

C. **Authorizing Ordinance.** Prior to entering into a Parity Payment Agreement, the county council shall

pass an ordinance authorizing such agreement and setting forth such provisions as the county deems necessary or desirable and are not inconsistent with the provisions of this ordinance.

D. Calculation of Payment Agreement Payments and Debt Service on Parity Bonds with Respect to which a Payment Agreement is in Force. It is the intent of the county, for purposes of Sections 15 or 20 of this ordinance, that debt service on Parity Bonds with respect to which a Parity Payment Agreement is in force shall be calculated to reflect the net economic effect on the county intended to be produced by the terms of such Parity Bonds and Parity Payment Agreement. In calculating such amounts, the county shall be guided by the following requirements.

(i) The amount of interest deemed to be payable on any Parity Bonds with respect to which a Parity Payment Agreement is in force shall be an amount equal to the amount of interest that would be payable at the rate or rates stated in those Parity Bonds plus Payment Agreement Payments minus Payment Agreement Receipts.

(ii) For any period during which Payment Agreement Payments are not taken into account in calculating interest on any outstanding Parity Bonds because the Parity Payment Agreement is not then related to any outstanding Parity Bonds, Payment Agreement Payments on that Parity Payment Agreement shall be calculated based upon the following assumptions:

(a) County Obligated to Make Payments Based on Fixed Rate. If the county is obligated to make Payment Agreement Payments based on a fixed rate and the Qualified Counterparty is obligated to make payments based on a variable rate index, payments by the county will be based on the assumed fixed payor rate, and payments by the Qualified Counterparty will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the fiscal quarter preceding the quarter in which the calculation is made; and

(b) County Obligated to Make Payments Based on Variable Rate Index. If the county is obligated to make Payment Agreement Payments based on a variable rate index and the Qualified Counterparty is obligated

to make payments based on a fixed rate, payments by the county will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the fiscal quarter preceding the quarter in which the calculation is made, and the Qualified Counterparty will make payments based on the fixed rate specified by the Parity Payment Agreement.

E. Prior Notice to Moody's and S&P. The county shall give notice to Moody's and S&P 30 days prior to the date it intends to enter into a Parity Payment Agreement.

SECTION 23. Sale of Bonds.

A. Determination by Finance Director. The Finance Director shall determine, in consultation with the county's financial advisors, whether the Bonds shall be sold in one or more series and whether each such series of the Bonds shall be sold by negotiated sale or competitive bid and by current or future delivery. The authority to sell any of the Bonds authorized hereunder shall terminate one year from the effective date of this ordinance.

B. Procedure for Negotiated Sale. If the Finance Director determines that any series of the Bonds shall be sold by negotiated sale, the Finance Director shall, in accordance with applicable county procurement procedures, solicit one or more underwriting firms with which to negotiate the sale of the Bonds. The purchase contract for any series of Bonds shall establish the date, principal amount, interest rates, maturity schedule, redemption and bond insurance provisions, and delivery date of the Bonds. The county council by a Sale Motion shall approve the bond purchase contract and ratify and confirm the terms for the series of Bonds established therein.

C. Procedure for Sale by Competitive Bid. If the Finance Director determines that any series of the Bonds shall be sold by competitive bid, bids for the purchase of such Bonds shall be received at such time or place and by such means as the Finance Director shall direct. The Finance Director is authorized to prepare a notice of sale for such Bonds, establishing in such notice the date, principal amount, interest payment dates, maturity schedule, and redemption and bond insurance provisions for such Bonds. The official notice of sale or an abridged form thereof shall be published in such newspapers or financial journals as may be deemed

desirable or appropriate by the financial advisors to the county.

Upon the date and time established for the receipt of bids for any series of the Bonds, the Finance Director or his designee shall review the bids, shall cause the bids to be mathematically verified and shall report to the county council regarding the bids received. Such bids shall then be considered and acted upon by the county council in an open public meeting. The county council reserves the right to reject any and all bids for such Bonds. The county council by a Sale Motion shall approve the sale of such Bonds and ratify and confirm the date, interest rates, maturity schedule, redemption and bond insurance provisions, and any other terms of such Bonds.

SECTION 24. Delivery of Bonds. Following the sale of any series of the Bonds, the county shall cause definitive Bonds of such series to be prepared, executed and delivered, which Bonds shall be typewritten, lithographed or printed with engraved or lithographed borders, or in such other form acceptable to DTC as initial depository for the Bonds.

If definitive Bonds are not ready for delivery by the date established for a Closing, then the Finance Director, upon the approval of the purchasers, may cause to be issued and delivered to the purchasers one or more temporary Bonds with appropriate omissions, changes and additions. Any temporary Bond or Bonds shall be entitled and subject to the same benefits and provisions of this ordinance with respect to the payment, security and obligation thereof as definitive Bonds authorized thereby. Such temporary Bond or Bonds shall be exchangeable without cost to the owners thereof for definitive Bonds when the latter are ready for delivery.

SECTION 25. Preliminary Official Statement; Official Statement. The county hereby authorizes and directs the Finance Director: (i) to review and approve the information contained in the preliminary official statement (the "Preliminary Official Statement") prepared in connection with the sale of any series of the Bonds; and (ii) for the sole purpose of the Bond purchasers' compliance with Section (b)(1) of the Rule, to "deem final" that Preliminary Official Statement as of its date, except for the omission of information on offering prices, interest rates, selling compensation, delivery dates, bond insurance, any other terms or

provisions required by the county to be specified in a competitive bid or bond purchase contract, ratings, the identity of the Bond Purchaser, and other terms of such series of Bonds dependent on such matters. After a Preliminary Official Statement has been reviewed and approved in accordance with the provisions of this section, the county hereby authorizes distribution of the Preliminary Official Statement to prospective purchasers of such series of Bonds.

Following the sale of any series of the Bonds in accordance with Section 23 of this ordinance, the Finance Director is hereby authorized to review and approve on behalf of the county a final official statement with respect to such Bonds. The county agrees to cooperate with the purchaser of such Bonds to deliver or cause to be delivered, within seven business days from the date of the Sale Motion and in sufficient time to accompany any confirmation that requests payment from any customer of the purchaser, copies of the final official statement in sufficient quantity to comply with paragraph (b)(4) of the Rule and the rules of the Municipal Securities Rulemaking Board ("MSRB").

SECTION 26. Undertaking to Provide Ongoing Disclosure. In each Sale Motion, the county council will set forth an undertaking for ongoing disclosure with respect to each series of the Bonds, as required by Section (b)(5) of the Rule.

SECTION 27. General Authorization. The appropriate county officials, agents and representatives are hereby authorized and directed to do everything necessary for the prompt sale, issuance, execution and delivery of the Bonds, and for the proper use and application of the proceeds of the sale thereof.

SECTION 28. Investment of Funds and Accounts. Money in the Bond Fund, Bond Reserve Account, Revenue Fund and Construction Account may be invested in any investments permitted for funds of the county. Obligations purchased as an investment of money in the Revenue Fund, Bond Fund and Construction Account and accounts or subaccounts therein shall be deemed at all times to be a part of such respective fund, account or subaccount, and the income or interest earned, profits realized or losses suffered by a fund, account or subaccount due to the investment thereof shall be retained in, credited or charged, as the case may be, to such

fund or account.

In computing the amount in any fund or account under the provisions of this ordinance, obligations purchased as an investment of money therein shall be valued at the cost or market price thereof, whichever is lower, inclusive of accrued interest.

SECTION 29. Defeasance. In the event that money and/or noncallable Government Obligations maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to redeem and retire, refund or defease part or all of the Bonds in accordance with their terms, are set aside in a special account of the county to effect such redemption and retirement, and such money and the principal of and interest on such Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the Bonds so provided for, and such Bonds shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the money so set aside and pledged, and such Bonds shall be deemed not to be outstanding hereunder.

Within 30 days of the defeasance of any of the Bonds, the Bond Registrar shall provide notice of defeasance of such Bonds to the Registered Owners of the Bonds and to each NRMSIR and SID, if any, in accordance with the ongoing disclosure provisions to be adopted by the Sale Motion.

SECTION 30. Supplemental Ordinances. The county council from time to time and at any time may adopt an ordinance or ordinances supplemental to this ordinance which supplemental ordinance or ordinances thereafter shall become a part of this ordinance, for any one or more of the following purposes:

A. To add to the covenants and agreements of the county in this ordinance such other covenants and agreements thereafter to be observed, which shall not adversely affect the interests of the holders and owners of any Parity Bonds, or to surrender any right or power herein reserved to or conferred upon the county.

B. To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this ordinance or any ordinance authorizing Future Parity

Bonds in regard to matters or questions arising under such ordinances as the county council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect the interest of the holders and owners of Parity Bonds.

SECTION 31. Amending Prior Ordinance Provisions Relating to Parity Term Bonds. Upon the retirement of all sewer revenue bonds originally issued by Metro, a number of springing covenants in the county's sewer revenue bond ordinances took effect and created unintended ambiguities regarding the payment provisions for and the availability of the Reserve Account to secure the outstanding Parity Term Bonds. The county wishes to clarify (i) that payments of principal to amortize Parity Term Bonds are made from the Debt Service Account in the Bond Fund and that the Term Bond accounts in the Bond Fund are superfluous and shall be closed and (ii) that funds in the Reserve Account are available to secure the payment of amortized principal for Parity Term Bonds. Ordinances 14225, 14406, 14753 and 15385, each of which authorized currently outstanding Parity Term Bonds, permit amending or supplemental provisions without the consent of the owners of the Parity Bonds to add to the covenants and agreements of the county such other covenants and agreements that do not adversely affect the interests of the owners of any Parity Bonds and to cure ambiguities or correct defective provisions contained in such ordinances. The county council hereby finds that the following curative and corrective amendments to the provisions of such ordinances relating to Parity Term Bonds do not adversely affect the interests of the owners of any Parity Bonds.

A. Amending Definition of "Annual Parity Debt Service." Paragraphs (2) and (3) of the definition of "Annual Parity Debt Service" in Section 1 of Ordinances 14225, 14406, 14753 and 15385 are hereby amended as follow (additions are underscored and deletions are stricken):

(2) The principal due (at maturity or upon the mandatory redemption of Term Bonds prior to their maturity) for all outstanding Parity Bonds ~~other than Term Bonds~~ (i) on all Principal Payment Dates (other than January 1) of such calendar year and (ii) on January 1 of the next succeeding year.

(3) ~~The amounts required to be paid into the Bond Fund on or before (i) each Principal~~

~~Payment Date (other than January 1) of such calendar year and (ii) January 1 of the next succeeding calendar year for interest on and amortization of principal of Parity Term Bonds. For purposes of this paragraph (3), "amounts required to be paid" means the amount to be deposited or accumulated in the Term Bond Accounts on or before such dates for outstanding Parity Term Bonds irrespective of the date or dates such amount, or any portion thereof, is actually deposited into such fund or account.~~

B. Amending Term Bond Provisions. Section 10.B of Ordinance 14225 and Section 9.B of Ordinances 14406, 14753 and 15385 are hereby amended as follows (additions are underscored and deletions are stricken):

Ordinance 14225:

~~[Section 10.]~~ B. Term Bond ProvisionsAccounts. The Bonds issued as Parity Term Bonds shall be payable from the Debt Service Account as provided in subsection A above and secured by the Reserve Account, as provided in subsection C below, and the Term Bond Payment Account shall be closed. If more than the required principal amount of the Bonds issued as Parity Term Bonds is retired by purchase or optional redemption in any given year, the mandatory redemption amount in the next succeeding year or years may be reduced accordingly.

The county covenants that in the event it issues any Future Parity Bonds as Term Bonds, it will identify such Future Parity Bonds as Parity Term Bonds in the proceedings authorizing their issuance and establish a schedule of mandatory redemptions, payable from the Debt Service Account, to amortize the principal of such Parity Term Bonds prior to their maturity. After making the payments required in paragraph A above, the county shall deposit to the Term Bond Sinking Fund Account and the Term Bond Payment Account (collectively, the "Term Bond Accounts"), on or before each annual Principal Payment Date, out of the Revenue of the System, additional money that together with available income from the investment of money in the Debt Service Account and Bond Reserve Account will be sufficient to meet the requirements set forth in this Subsection 10.B. Any deposit into the Term Bond Accounts shall be applied to the Term Bond Sinking Fund Account and the Term Bond Payment Account in

proportion to the respective amounts due to be deposited therein on the particular January 1 for which such deposit is being made.

(1) Term Bond Sinking Fund Account. A Term Bond Sinking Fund Account has been established in the Bond Fund by Metro Council Resolution No. 3864 for the purpose of separately accounting for the payments made into the Bond Fund to retire the Term Bonds of Series A through I inclusive. The additional money required by this subparagraph B.1 to be deposited in the Term Bond Sinking Fund Account shall, together with income from the investment of money in such account, be sufficient to retire by purchase or by redemption pursuant to call Term Bonds of Series A through I inclusive on or before the dates and in at least the principal amounts set forth in the respective resolutions authorizing the bonds of each of such series; provided that, if more than the required amount shall be deposited in any given year, the amount to be deposited in the next succeeding year or years may be reduced accordingly. The amount so paid into the Term Bond Sinking Fund Account shall be used for the sole purpose of retiring at maturity or by purchase or redemption prior to maturity Term Bonds of Series A through I inclusive.

(2) Term Bond Payment Account. A Term Bond Payment Account has been heretofore established in the Bond Fund by Metro Council Resolution No. 4075 for the amortization of any Term Bonds of Series M or any Parity Term Bonds issued thereafter. The money required by this subparagraph B.2 to be deposited in the Term Bond Payment Account shall, together with income from the investment of money in such account, be sufficient to retire by purchase or by redemption pursuant to call the Series V Term Bonds, the Series Z Term Bonds, any of the Bonds that may be Term Bonds, and any future Parity Term Bonds on or before such payment dates and in at least such principal amounts as shall be set forth in the resolution or motion authorizing, or the notice of bond sale for, such bonds. The amounts so paid into the Term Bond Payment Account shall be used for the sole purpose of purchasing or redeeming the Series V Term Bonds, the Series Z Term Bonds, any Bonds that are Term

~~Bonds and any future Parity Term Bonds on or before their respective scheduled payment dates, provided that, if more than the required principal amount of such Parity Term Bonds shall be retired by such purchase or redemption in any given year, the amount required to be purchased or redeemed in the next succeeding year or years may be reduced accordingly.~~

~~If the original purchaser of the Bonds designates any Bonds as Term Bonds pursuant to Section 25 hereof and the Official Notice of Bond Sale, there is hereby authorized to be created a special subaccount for the Bonds within the Term Bond Payment Account. All money required by this Section 10.B.2 to be deposited into the Term Bond Payment Account for the purchase or redemption of Bonds that are Term Bonds shall be deposited into such subaccount within the Term Bond Payment Account. Money in such subaccount shall be treated in all respects as all other money in the Term Bond Payment Account, but shall be accounted for separately for the purpose of calculating amounts required to be paid to the federal government pursuant to Section 19 of this ordinance.~~

Ordinances 14406, 14753 and 15385:

[Section 9] B. Term Bond ProvisionsPayment Account. A Term Bond Payment Account has heretofore been established in the Bond Fund for the amortization of Parity Term Bonds. The Bonds issued as Parity Term Bonds shall be payable from the Debt Service Account as provided in subsection A above and secured by the Reserve Account, as provided in subsection C below, and the Term Bond Payment Account shall be closed. If more than the required principal amount of the Bonds issued as Parity Term Bonds is retired by purchase or optional redemption in any given year, the mandatory redemption amount in the next succeeding year or years may be reduced accordingly.

The county covenants that in the event it issues any Future Parity Bonds as Term Bonds, it will identify such Future Parity Bonds as Parity Term Bonds in the proceedings authorizing their issuance and establish a schedule of mandatory redemptions, payable from the Debt Service Account, to amortize the principal of such Parity Term Bonds prior to their maturity. After making the payments required in

~~paragraph A above, the county shall deposit to the Term Bond Payment Account, on or before each annual Principal Payment Date, out of the Revenue of the System, additional money that together with available income from the investment of money in the Debt Service Account and Bond Reserve Account will be sufficient to retire by purchase or by redemption pursuant to call any Parity Term Bonds on or before such payment dates and in at least such principal amounts as shall be set forth in the ordinance, resolution or motion authorizing, or the notice of bond sale for, such bonds. The amounts so paid into the Term Bond Payment Account shall be used for the sole purpose of purchasing or redeeming Parity Term Bonds on or before their respective scheduled payment dates, provided that, if more than the required principal amount of such Parity Term Bonds shall be retired by such purchase or redemption in any given year, the amount required to be purchased or redeemed in the next succeeding year or years may be reduced accordingly.~~

~~If the original purchaser of any series of the Bonds designates any Bonds as Term Bonds pursuant to Section 24 hereof, there is hereby authorized to be created a special subaccount for such series of Bonds within the Term Bond Payment Account. All money required by this Section 9.B to be deposited into the Term Bond Payment Account for the purchase or redemption of such series of Bonds that are Term Bonds shall be deposited into such subaccount within the Term Bond Payment Account. Money in such subaccount shall be treated in all respects as all other money in the Term Bond Payment Account, but shall be accounted for separately for the purpose of calculating amounts required to be paid to the federal government pursuant to Section 19 of this ordinance.~~

C. Amending Bond Reserve Account Provision. The third paragraph of Section 10.C of Ordinance 14225 and of Section 9.C of Ordinances 14406, 14753 and 15385 is hereby amended as follows (additions are underscored and deletions are stricken):

In the event there shall be a deficiency in the Debt Service Account to make any payment meet ~~maturing installments~~ of either principal of or interest on any Parity Bonds, such deficiency shall be

made up from the Bond Reserve Account by the withdrawal of money therefrom and by the sale or redemption of obligations held in the Bond Reserve Account, if necessary, in such amounts as will provide cash in the Bond Reserve Account sufficient to make up any such deficiency, and if a deficiency still exists immediately prior to an interest payment date and after the withdrawal of cash, the county shall then draw from any Qualified Letter of Credit, Qualified Insurance, or other equivalent credit facility in sufficient amount to make up the deficiency. Such draw shall be made at such times and under such conditions as the agreement for such Qualified Letter of Credit or such Qualified Insurance shall provide. If more than one Qualified Letter of Credit or Qualified Insurance is available, draws shall be made ratably thereon to make up the deficiency. Any deficiency created in the Bond Reserve Account by reason of any such withdrawal shall then be made up from the Revenue of the System that shall be first available after making the payments required to be made under paragraph "FIRST" through "FOURTH" of Section [13/12] hereof.

D. Amending Revenue Fund Provisions. The descriptions of the priority of payments from the Revenue Fund set forth in Section 13 of Ordinance 14225 and Section 12 of Ordinances 14406, 14753 and 15385 are hereby amended by deleting the superfluous reference to deposits for the amortization of Parity Term Bonds, as follows (deletions are stricken):

[Section 13/12] Sewer Revenue Priorities of Payment. So long as any Bond shall be outstanding, the Revenue of the System shall be deposited into the Revenue Fund and used and applied in the following order of priority:

First, to pay all Operating and Maintenance Expenses;

Second, to make all required payments of principal and interest on Parity Bonds as the same shall become due and payable and, when the provisions of Section 24 hereof become effective, to make any Payment Agreement Payments with respect to any Parity Payment Agreements;

Third, to make required deposits for the amortization of Parity Term Bonds;

E. Amending Payment Default Provision. Section 21.A(i) of Ordinance 14225 and Sections 20.A(i) of Ordinances 14406, 14753 and 15385 are hereby amended as follows (deletions are stricken):

Ordinance 14225:

[Section 21.A] (i) default in the payment of principal of or interest on any Parity Bonds when the same shall become due ~~or in the deposit of amounts into the Term Bond Accounts by the required dates for such deposits, and in the case of payment of interest or deposits into the Term Bond Sinking Fund Account such default continues for a period of thirty days; or~~

Ordinances 14406, 14753 and 15385:

[Section 20.A] (i) default in the payment of principal of or interest on any Parity Bonds when the same shall become due ~~or default in the deposit of amounts into the Term Bond Payment Account by the required dates for such deposits; or~~

SECTION 32. Ordinance a Contract; Severability. The covenants contained in this ordinance shall constitute a contract between the county and (i) the owners of each and every Bond, (ii) the Qualified Counterparty to any Parity Payment Agreement entered into with respect to any Bonds, and (iii) the provider of any Credit Facility, Qualified Insurance or Qualified Letter of Credit with respect to any Bonds. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the county 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 ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

SECTION 33. Effective Date. This ordinance shall be effective 10 days after its enactment, in accordance with Article II of the county charter.