



## Legislation Details (With Text)

**File #:** 2015-0209      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 6/1/2015      **In control:** Budget and Fiscal Management Committee

**On agenda:**      **Final action:** 7/27/2015

**Enactment date:** 7/30/2015      **Enactment #:** 18089

**Title:** AN ORDINANCE relating to contracting indebtedness; providing for the issuance and sale of one or more series of limited tax general obligation bonds and bond anticipation notes of the county in the aggregate principal amount of not to exceed \$150,000,000 outstanding at any time, for the purpose of financing the Capital Improvement Program for Solid Waste Facilities and the Solid Waste Transfer and Waste Management Plan; providing for the form, terms, covenants and other provisions of the bonds and notes; providing for sale of the bonds and notes and the disposition of the proceeds of sale; establishing funds for the receipt and expenditure of bond and note proceeds and for the payment of the bonds and notes; and providing for the annual budgeting and levy of taxes to pay the principal thereof and interest thereon.

**Sponsors:** Joe McDermott

**Indexes:** Bonds, Budget, Solid Waste

**Code sections:**

**Attachments:** 1. Ordinance 18089.pdf, 2. 2015-0209 legislative review form.pdf, 3. 2015-0209 transmittal letter.doc, 4. 2015-0209 fiscal note.xlsx, 5. 2015-0209\_2015-0253\_SR\_SW\_D\_and\_Various\_Purpose\_Bonds.docx

Date	Ver.	Action By	Action	Result
7/27/2015	1	Metropolitan King County Council	Hearing Held	
7/27/2015	1	Metropolitan King County Council	Passed	Pass
7/22/2015	1	Budget and Fiscal Management Committee	Deferred	
6/1/2015	1	Metropolitan King County Council	Introduced and Referred	

Clerk 05/27/2015

AN ORDINANCE relating to contracting indebtedness; providing for the issuance and sale of one or more series of limited tax general obligation bonds and bond anticipation notes of the county in the aggregate principal amount of not to exceed \$150,000,000 outstanding at any time, for the purpose of financing the Capital Improvement Program for Solid Waste Facilities and the Solid Waste Transfer and Waste Management Plan; providing for the form, terms, covenants and other provisions of the bonds and notes; providing for sale of the bonds and

notes and the disposition of the proceeds of sale; establishing funds for the receipt and expenditure of bond and note proceeds and for the payment of the bonds and notes; and providing for the annual budgeting and levy of taxes to pay the principal thereof and interest thereon.

PREAMBLE:

The county has adopted a Capital Improvement Program for Solid Waste Facilities and a Solid Waste Transfer and Waste Management Plan. There are costs involved with carrying out both of these capital programs, and the county does not have sufficient funds readily available to accomplish the programs. It is deemed necessary and advisable that the county authorize the issuance and sale of one or more series of its limited tax general obligation bonds in an outstanding aggregate principal amount not to exceed \$150,000,000 outstanding at any time, to provide funds to pay for the cost of carrying out the Capital Improvement Program for Solid Waste Facilities and the Solid Waste Transfer and Waste Management Plan. It is also deemed necessary and advisable that the county authorize the issuance and sale of one or more series of its bond anticipation notes pending issuance of such 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.

"Beneficial Owner" means, with respect to an Obligation, the owner of the beneficial interest in that Obligation.

"Bond Fund" means the Limited Tax General Obligation Bond Redemption Fund previously created in the county treasury.

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

"Bond Registrar" means the fiscal agent of the State (as the same may be designated by the State from

time to time) for the purposes of registering and authenticating the Obligations, maintaining the Bond Register, effecting the transfer of ownership of the Obligations and paying principal of and premium, if any, and interest on the Obligations.

"Bonds" means all or a portion of the King County, Washington, Limited Tax General Obligation Bonds, [insert appropriate year and series designation], issued pursuant to this ordinance.

"Capital Improvement Program" means the solid waste facilities component of the capital improvement program of the county adopted from time to time by ordinance or motion of the council.

"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 Obligations.

"Council" means the Metropolitan King County Council.

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

"Finance Director" means the director of the finance and business operations division of the department of executive services of the county or any other county officer who succeeds to the duties now delegated to that office, or the designee of such officer.

"Government Obligations" means "government obligations" as defined in chapter 39.53 RCW, as now in existence or hereafter amended.

"Letter of Representations" means the Blanket Issuer Letter of Representations dated May 1, 1995, by and between the county and DTC, as it may be amended from time to time, and any successor or substitute letter relating to the operational procedures of the Securities Depository.

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

"Notes" means all or a portion of the King County, Washington, Limited Tax General Obligation Bond Anticipation Notes, [insert appropriate year and series designation], issued pursuant to this ordinance.

"Obligations" means the Bonds and Notes.

"Owner" means, with respect to an Obligation, without distinction, the Beneficial Owner or the Registered Owner.

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

"Record Date" means the Bond Registrar's close of business on the 15th day of the month preceding an interest payment date. With respect to redemption of an Obligation prior to its stated maturity date, Record Date means the Bond Registrar's close of business on the date on which the Bond Registrar sends the notice of redemption in accordance with Section 6 of this ordinance.

"RCW" means the Revised Code of Washington.

"Registered Owner" means, with respect to an Obligation, the person in whose name that Obligation is registered on the Bond Register.

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

"Sale Motion" means, with respect to each series of the Obligations, the motion of the council approving a bond purchase contract (if the Obligations are sold by negotiated sale) or accepting a bid (if the Obligations are sold by competitive bid) for the purchase of the Obligations and ratifying the sale of the Obligations all in accordance with Section 15 of this ordinance.

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

"Securities Depository" means DTC, any successor thereto, any substitute securities depository selected by the county that is qualified under applicable laws and regulations to provide the services proposed to be provided by it, or the nominee of any of the foregoing.

"Solid Waste Construction Fund" means the fund of that name which is further designated as King County Fund Number 00-000-3901.

"Solid Waste Plan" means the Solid Waste Transfer and Waste Management Plan as authorized by Ordinance 15979 of the county, as the same may be amended or supplemented hereafter by ordinance or motion of the council.

"State" means the State of Washington.

"Tax-Advantaged Obligations" means the Obligations of any series to which the county irrevocably elects to have Section 54AA of the Code apply or any other similar tax credit bond, pursuant to the Code, and which, if applicable, is further designated as a "qualified bond" under Section 6431 of the Code, and with respect to which the county is eligible to receive a tax credit subsidy payment.

"Tax-Exempt Obligations" means Obligations of any series, the interest on which is intended on the date of issuance to be excluded from gross income for federal income tax purposes.

"Term Obligations" means any Obligations identified as such in the Sale Motion authorizing their issuance, which Sale Motion requires that such Obligations be purchased, redeemed, or paid prior to their stated maturity dates in a schedule established thereby.

"Undertaking" means an undertaking for ongoing disclosure to be entered into by the county for each series of Obligations, if and to the extent required by Rule 15c2-12, as authorized by a Sale Motion.

## SECTION 2. **Findings.**

A. The council finds that it is in the best interest of the county and its taxpayers to issue the Obligations.

B. The council further finds that it is in the best interest of the county and its taxpayers to authorize the issuance of the Notes pending issuance of the Bonds.

## SECTION 3. **Purpose, Authorization and Description of Obligations.**

A. **Purpose and Authorization of the Obligations.** The county authorizes the issuance of the Obligations to provide part of the funds with which to carry out the Capital Improvement Program and the Solid Waste Plan, to pay costs of interest during construction and to pay the costs of issuing the Obligations.

The Bonds may be issued in one or more series in an aggregate principal amount that, together with the Notes outstanding, does not exceed \$150,000,000.

B. **Purpose and Authorization of Notes.** In anticipation of the issuance of Bonds, the county authorizes the issuance of Notes. The Notes may be issued in one or more series in an aggregate principal amount that, together with the Bonds outstanding, that does not exceed \$150,000,000 outstanding at any time. The Notes shall be dated the date of their issuance and shall not be outstanding, together with any other Notes issued to redeem the same, for longer than the time permitted by chapter 39.50 RCW. The Notes may bear a fixed rate or rates or a variable rate or rates of interest which may be based on a bank prime or the most recent prime rate of interest published in the Wall Street Journal or other index, but in any event shall not exceed a net effective interest rate of twelve percent (12%) per annum.

C. **Description.** Each series of the Obligations shall be fully registered as to both principal and interest; shall be in the denomination of \$5,000 or any integral multiple thereof within a single series, maturity and interest rate; 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 the date and mature on the dates, in the years and in the amounts established as provided in Section 15 of this ordinance.

The Obligations shall bear interest (computed, unless otherwise provided in the Sale Motion, on the basis of a 360-day year of twelve 30-day months) from their dated 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 15 of this ordinance and ratified and confirmed by a Sale Motion.

The Obligations may be issued as Tax-Exempt Obligations, taxable obligations, Tax-Advantaged Obligations, or any combination thereof, all as set forth in a Sale Motion.

The Bonds shall be designated "King County, Washington, Limited Tax General Obligation Bonds, [appropriate year and series designation]." The Notes shall be designated "King County, Washington, Limited

Tax General Obligation Bond Anticipation Notes [appropriate year and series designation]."

**SECTION 4. Registration, Exchange and Payments.**

A. **Bond Registrar/Bond Register.** In accordance with KCC 4.84, the county adopts for the Obligations the system of registration specified and approved by the Washington State Finance Committee, which utilizes the fiscal agent of the State as registrar, authenticating agent, paying agent and transfer agent ("the Bond Registrar"). The Bond Registrar shall keep, or cause to be kept, at its designated corporate trust office, sufficient books for the registration and transfer of the Obligations ("the Bond Register"), which shall be open to inspection by the county at all times. The Bond Register shall contain the name and mailing address of the Registered Owner of each Obligation and the principal amount and number of each of the Obligations held by each Registered Owner. The Bond Registrar is authorized, on behalf of the county, to authenticate and deliver Obligations transferred or exchanged in accordance with the provisions of the Obligations and this ordinance, to serve as the county's paying agent for the Obligations and to carry out all of the Bond Registrar's powers and duties under this ordinance.

The Bond Registrar shall be responsible for the representations contained in its Certificate of Authentication on the Obligations. The Bond Registrar may become the Owner of Obligations 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 members of, or in any other capacity with respect to, any committee formed to protect the rights of Owners.

B. **Registered Ownership.** The Obligations shall be issued only in registered form as to both principal and interest and shall be recorded on the Bond Register. The county and the Bond Registrar, each in its discretion, may deem and treat the Registered Owner of each Obligation 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 each Obligation shall be made as described in Section 4.E. of this ordinance, but registration of ownership of each Obligation may be transferred as provided herein. All payments made as described in

Section 4.E. of this ordinance shall be valid and shall satisfy and discharge the liability of the county upon such Obligation to the extent of the amount or amounts so paid.

C. **Use of Depository.** The Obligations initially shall be registered in the name of Cede & Co., as the nominee of DTC. Each Obligation registered in the name of the Securities Depository shall be held fully immobilized in book-entry only form by the Securities Depository in accordance with the provisions of the Letter of Representations. Neither the county nor the Bond Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding accuracy of any records maintained by the Securities Depository or its participants. Neither the county nor the Bond Registrar shall be responsible for any notice that is permitted or required to be given to a Registered Owner except such notice as is required to be given by the Bond Registrar to the Securities Depository.

For so long as the Obligations are registered in the name of the Securities Depository, the Securities Depository shall be deemed to be the Registered Owner for all purposes hereunder, and all references to Registered Owners shall mean the Securities Depository and shall not mean the Beneficial Owners. Registered ownership of any Obligation registered in the name of the Securities Depository may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the county; or (iii) to any person if the Obligation is no longer to be held by a Securities Depository.

Upon the resignation of the Securities Depository, or upon a termination of the services of the Securities Depository by the county, the county may appoint a substitute Securities Depository. If (i) the Securities Depository resigns and the county does not appoint a substitute Securities Depository, or (ii) the county terminates the services of the Securities Depository, the Obligations no longer shall be held in book-entry only form and the registered ownership of each Obligation may be transferred to any person as provided in this ordinance.

D. **Registration Covenant.** The county covenants that, until all Obligations have been surrendered and canceled, it will maintain a system for recording the ownership of each Obligation that complies with the

provisions of Section 149 of the Code.

E. **Place and Medium of Payment.** Principal of and premium, if any, and interest on the Obligations are payable in lawful money of the United States of America. Principal of and premium, if any, and interest on each Obligation registered in the name of the Securities Depository are payable in the manner set forth in the Letter of Representations. Interest on each Obligation not registered in the name of the Securities Depository is payable by electronic transfer on the interest payment date, or by check or draft of the Bond Registrar mailed on the interest payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. However, the county is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received on or prior to the Record Date and at the sole expense of the Registered Owner. Principal of and premium, if any, on each Obligation not registered in the name of the Securities Depository are payable upon presentation and surrender of the Obligation by the Registered Owner to the Bond Registrar.

F. **Transfer or Exchange of Registered Ownership; Change in Denominations.** The registered ownership of any Obligation may be transferred or exchanged, but no transfer of any Obligation shall be valid unless it is surrendered to the Bond Registrar with the assignment form appearing on such Obligation 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 Obligation and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Obligation (or Obligations, 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 Obligation, in exchange for such surrendered and cancelled Obligation. Any Obligation may be surrendered to the Bond Registrar and exchanged, without charge, for an equal aggregate principal amount of Obligations of the same series, date, maturity and interest rate, in any authorized denomination. The Bond Registrar shall not be

obligated to exchange or transfer any Obligation during the 15 days preceding any principal payment or redemption date, or, in the case of any proposed redemption of an Obligation, after mailing of notice of the call of the Obligation for redemption.

**SECTION 5. Redemption Provisions; Purchase of Obligations.**

A. **Optional Redemption.** All or some of the Obligations may be subject to redemption prior to their stated maturity dates at the option of the county at the times and on the terms set forth in the Sale Motion.

B. **Mandatory Redemption.** The county shall redeem any Term Obligations, if not redeemed under the optional redemption provisions set forth in the Sale Motion or purchased under the provisions set forth herein, randomly (or in such other manner as set forth in the applicable Sale Motion or as the Bond Registrar shall determine) at par plus accrued interest on the dates and in the years and principal amounts as set forth in the Sale Motion.

If the county redeems Term Obligations under the optional redemption provisions set forth in the Sale Motion or purchases or defeases Term Obligations, the Term Obligations so redeemed, purchased or defeased (irrespective of their redemption or purchase prices) shall, unless otherwise provided in the Sale Motion, be credited against one or more scheduled mandatory redemption amounts for those Term Obligations. The county shall determine the manner in which the credit is to be allocated and shall notify the Bond Registrar in writing of its allocation at least 60 days prior to the earliest mandatory redemption date for the maturity of Term Obligations for which notice of redemption has not already been given.

C. **Partial Redemption.** Whenever less than all of the Obligations of a single maturity of a series are to be redeemed, the Securities Depository shall select the Obligations registered in the name of the Securities Depository to be redeemed in accordance with the Letter of Representations, and the Bond Registrar shall select all other Obligations to be redeemed randomly, or in such other manner set forth in the Sale Motion or as the Bond Registrar shall determine.

Portions of the principal amount of any Obligation, in integral amounts of \$5,000, may be redeemed,

unless otherwise provided in the Sale Motion. If less than all of the principal amount of any Obligation is redeemed, upon surrender of that Obligation to the Bond Registrar, there shall be issued to the Registered Owner, without charge therefor, a new Obligation (or Obligations, at the option of the Registered Owner) of the same series, maturity and interest rate in any authorized denomination in the aggregate total principal amount remaining outstanding.

D. **Purchase.** The county reserves the right and option to purchase any or all of the Obligations in the open market or offered to the county at any time at any price acceptable to the county plus accrued interest to the date of purchase.

E. **Obligations to be Canceled.** All Obligations purchased or redeemed under this section shall be canceled.

**SECTION 6. Notice and Effect of Redemption.** Notice of redemption of each Obligation registered in the name of the Securities Depository shall be given in accordance with the Letter of Representations. Notice of redemption of each other Obligation, unless waived by the Registered Owner, shall be given by the Bond Registrar not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentences shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by any Owner. Notice of redemption shall also be mailed or sent electronically within the same period to the MSRB, to any nationally recognized rating agency then maintaining a rating on the Obligations at the request of the county, and to such other persons and with such additional information as the Finance Director shall determine, but such further notice shall not be a condition precedent to the redemption of any Obligation.

In the case of an optional redemption, the notice of redemption may state that the county retains the right to rescind the redemption notice and the redemption by giving a notice of rescission to the affected Registered Owners at any time on or prior to the date fixed for redemption. Any notice of optional redemption

that is so rescinded shall be of no effect, and each Obligation for which a notice of optional redemption has been rescinded shall remain outstanding.

Interest on each Obligation called for redemption shall cease to accrue on the date fixed for redemption, unless either the notice of optional redemption is rescinded as set forth above, or money sufficient to effect such redemption is not on deposit in the Bond Fund or in a trust account established to refund or defease the Obligation.

**SECTION 7. Failure To Pay Obligations.** If the principal or redemption price of any Obligation is not paid when that Obligation is properly presented at its maturity or date fixed for redemption, the county shall be obligated to pay interest on the Obligation at the same rate provided in the Obligation from and after its maturity or date fixed for redemption until the Obligation, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Fund and the Obligation has been called for payment by giving notice of that call to the Registered Owner thereof.

**SECTION 8. Form and Execution of Obligations.** The Obligations shall be prepared in a form consistent with the provisions of this ordinance and State law and shall be signed by the county executive and the clerk of the council, either or both of whose signatures may be manual or in facsimile, and the seal of the county or a facsimile reproduction thereof shall be impressed or printed thereon.

Only an Obligation bearing a Certificate of Authentication in the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate of Authentication. This [Bond][Note] is one of the fully registered King County, Washington, Limited Tax General Obligation [Bonds][Bond Anticipation Notes], [appropriate year and series designation], described in the Bond Ordinance." The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Obligation so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

If any officer whose manual or facsimile signature appears on an Obligation ceases to be an officer of

the county authorized to sign bonds before the Obligation bearing his or her manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the county, that Obligation nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the county as though that person had continued to be an officer of the county authorized to sign bonds. Any Obligation also may be signed on behalf of the county by any person who, on the actual date of signing of the Obligation, is an officer of the county authorized to sign bonds, although he or she did not hold the required office on the dated date of the Obligation.

**SECTION 9. Mutilated, Lost, Stolen or Destroyed Obligations.** If any Obligation becomes mutilated, the Bond Registrar may authenticate and deliver a new Obligation or Obligations of like amount, date, series, interest rate and tenor to the Registered Owner thereof upon the Registered 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 Obligation so mutilated. Every mutilated Obligation so surrendered shall be canceled and destroyed by the Bond Registrar.

If any Obligation is lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new Obligation or Obligations of like amount, date, series, interest rate and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the county and the Bond Registrar in connection therewith and upon filing with the Bond Registrar evidence satisfactory to the Bond Registrar that such Obligation was actually lost, stolen or destroyed and of registered ownership thereof, and upon furnishing the county and the Bond Registrar with indemnity satisfactory to the Finance Director and the Bond Registrar.

**SECTION 10. Bond Fund.**

A. **Bond Fund and Accounts Therein.** There previously has been created in the county treasury a fund known as the "Limited Tax General Obligation Bond Redemption Fund." Except as provided in subsection C. of this section, all money credited to the Bond Fund is pledged and ordered to be used for the sole purpose of paying the principal of and premium, if any, and interest on the Obligations. The Finance Director

shall have authority to create one or more accounts or sub-funds within the Bond Fund as he or she deems necessary with respect to the Obligations.

B. **Payments to the Bond Registrar; Investments.** Money on deposit in the Bond Fund shall be transmitted to the Bond Registrar at such times and in such amounts as shall be necessary to pay when due the principal of and premium, if any, and interest on the Obligations. Money in the Bond Fund shall be invested in any legal investments of the county maturing in such amounts and at such times as the Finance Director may determine so that payments required to be made from the Bond Fund may be made when due.

C. **Using Bond Fund Money to Pay Rebate.** Notwithstanding any provisions of this ordinance regarding the use of money deposited in the Bond Fund, such money may be withdrawn from the Bond Fund as necessary to pay the Rebate Amount.

**SECTION 11. Pledge of General Taxation and Credit.** For so long as any of the Obligations is outstanding, the county irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of the electors of the county on all of the taxable property within the county in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal of and interest on the Obligations, and the full faith, credit, and resources of the county are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

**SECTION 12. Covenants and Warranties.** The county makes the following covenants and warranties:

A. The county has full legal right power and authority to adopt this ordinance, to sell, issue and deliver the Obligations as provided herein, and to carry out and consummate all other transactions contemplated by this ordinance.

B. By all necessary official action prior to or concurrently herewith, the county has duly authorized and approved the execution and delivery of, and the performance by the county of its obligations contained in, the Obligations and in this ordinance and the consummation by it of all other transactions necessary to

effectuate this ordinance in connection with the issuance of the Obligations, and such authorizations and approvals are in full force and effect and have not been amended, modified or supplemented in any material respect.

C. This ordinance constitutes a legal, valid and binding obligation of the county.

D. The Obligations, when issued, sold, authenticated and delivered will constitute the legal, valid and binding general obligations of the county.

E. The county's adoption of this ordinance and its compliance with the provisions contained herein will not conflict with or constitute a breach of or default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, ordinance, motion, agreement or other instrument to which the county is a party or to which the county or any of its property or assets are otherwise subject, nor will any such adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the county or under the terms of any such law, regulation or instrument, except as permitted by this ordinance.

F. The county finds and covenants that the Obligations are issued within all statutory and constitutional debt limitations applicable to the county.

G. None of the proceeds of the Obligations will be used for any purpose other than as provided in this ordinance, and the county shall not suffer any amendment or supplement to this ordinance, or any departure from the due performance of the obligations of the county hereunder, that might materially adversely affect the rights of the Registered Owners from time to time of the Obligations.

**SECTION 13. Tax Matters.** The county covenants that it will take all actions necessary to prevent interest on the Tax-Exempt Obligations from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Tax-Exempt Obligations or other funds of the county treated as proceeds of the Tax-Exempt Obligations at any time during the term of the Tax-Exempt Obligations that will cause interest on the Tax-Exempt Obligations to be included in gross income

for federal income tax purposes. The county also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to the Tax-Exempt Obligations, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Tax-Exempt Obligations, including the calculation and payment of any penalties that the county has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Tax-Exempt Obligations from being included in gross income for federal income tax purposes.

**SECTION 14. Disposition of Proceeds of Obligations.** The proceeds of the Obligations shall be deposited as follows:

- A. The amount equal to any interest accruing on the Obligations from their dated date to the date of their Closing shall be deposited in the Interest Account in the Bond Fund.
- B. The amount necessary to redeem outstanding Obligations designated for redemption shall be deposited in the appropriate account or accounts of the Bond Fund (as determined by the Finance Director).
- C. The balance of the proceeds of the Obligations shall be deposited in the Solid Waste Construction Fund and used to pay all or a portion of the Capital Improvement Program and the Solid Waste Plan, including the costs of issuance of the Obligations.

**SECTION 15. Sale of Obligations.**

A. **Determination by Finance Director.** The Finance Director shall determine, in consultation with the county's financial advisors, whether the Obligations shall be sold by negotiated sale or competitive bid. The authority to sell any of the Obligations authorized hereunder will terminate two years from the effective date of this ordinance.

B. **Procedure for Negotiated Sale.** If the Finance Director determines that any series of the Obligations will 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

Obligations. The purchase contract for each series of the Obligations shall establish the year and series designation, date, principal amount, interest payment dates, interest rates, maturity schedule and redemption provisions of the Obligations, so long as the aggregate principal amount of all Obligations outstanding following the issuance of such Obligations does not exceed \$150,000,000. The bond purchase contract shall not be executed and delivered unless and until the council by a Sale Motion approves the bond purchase contract and ratifies and confirms the terms for the series of Obligations established therein.

C. **Procedure for Sale by Competitive Bid.** If the Finance Director determines that any series of the Obligations will be sold by competitive bid, bids for the purchase of such Obligations will be received at such time or place and by such means as the Finance Director directs. The Finance Director is authorized to prepare an official notice of bond sale for such Obligations to be sold by competitive bid, establishing in such notice the year and series designation, date, principal amount, interest payment dates, maturity schedule and optional redemption provisions of the Obligations, so long as the aggregate principal amount of all Obligations outstanding following the issuance of such Obligations does not exceed \$150,000,000. The official notice of bond sale or an abridged form thereof may be published in such newspapers or financial journals as the county's financial advisors deem desirable or appropriate.

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

**SECTION 16. Delivery of Obligations.** Following the sale of each series of the Obligations, the county will cause definitive Obligations to be prepared, executed and delivered in accordance with the

provisions of this ordinance and in a form acceptable to DTC as initial depository for the Obligations, with the approving legal opinion of municipal bond counsel regarding the Obligations.

**SECTION 17. Preliminary Official Statement.** The county authorizes and directs the Finance Director: (i) to review and approve the information contained in one or more preliminary official statements (each, a "Preliminary Official Statement") prepared in connection with the sale of each series of the Obligations; and (ii) for the sole purpose of the Obligation purchasers' compliance with paragraph (b)(1) of Rule 15c2-12, to deem final that Preliminary Official Statement as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. After each Preliminary Official Statement has been reviewed and approved in accordance with the provisions of this section, the county hereby authorizes distribution of such Preliminary Official Statement to prospective purchasers of such series of Obligations.

**SECTION 18. Official Statement.** Following the sale of each series of the Obligations in accordance with Section 15 of this ordinance, the Finance Director is hereby authorized to review and approve on behalf of the county each final official statement with respect to such series of Obligations. The county shall cooperate with the purchaser of each series of Obligations to deliver or cause to be delivered, within seven business days after the date of the Sale Motion (or within such other period as may be required by applicable law) and in sufficient time to accompany any confirmation that requests payment from any customer of the purchaser, copies of the final official statement pertaining to such Obligations in sufficient quantity to comply with paragraph (b)(4) of Rule 15c2-12 and the rules of the MSRB.

**SECTION 19. Undertaking to Provide Ongoing Disclosure.** If and to the extent required by paragraph (b)(5) of Rule 15c2-12, each Sale Motion will authorize an Undertaking for each series of the Obligations.

**SECTION 20. 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 Obligations, and for the proper use and application of the proceeds of the sale thereof.

**SECTION 21. Refunding or Defeasance of Obligations.** The county may issue refunding obligations pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include: (i) paying when due the principal of and interest on any or all of the Obligations ("the defeased Obligations"); (ii) redeeming the defeased Obligations prior to their maturity; and (iii) paying the costs of the refunding or defeasance. If the county sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance ("the trust account"), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the defeased Obligations in accordance with their terms, then all right and interest of the Owners of the defeased Obligations in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Obligations shall cease and become void. Thereafter, the Registered Owners of defeased Obligations shall have the right to receive payment of the principal of and premium, if any, and interest on the defeased Obligations solely from the trust account and the defeased Obligations shall be deemed no longer outstanding. In that event, the county may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the defeased Obligations to any lawful purpose.

Unless otherwise specified by the county in a refunding or defeasance plan, notice of refunding or defeasance shall be given, and selection of Obligations for any partial refunding or defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Obligations.

**SECTION 22. Supplemental Ordinances.** The 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 will become a part of this ordinance, without the consent of owners of any of the Obligations, 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, 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 in regard to matters or questions arising under such ordinances as the council may deem necessary or desirable and not inconsistent with such ordinances.

**SECTION 23. Ordinance a Contract; Severability.** The covenants contained in this ordinance shall constitute a contract between the county and the Registered Owner of each Obligation. If any court of competent jurisdiction determines that any covenant or agreement provided in this ordinance to be performed on the part of the county is contrary to law, then such covenant or agreement 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 Obligations.

**SECTION 24. Complete Alternative.** This ordinance shall be deemed to provide a complete, additional and alternative method for the performance of those subjects authorized hereby and shall be regarded as supplemental and additional to powers conferred by other county ordinances. Whenever Obligations are issued and sold in conformance with this ordinance, such issuance and sale need not comply with contrary requirements of any other county ordinance applicable to the issuance and sale of bonds or other obligations.

**SECTION 25. Effective Date.** This ordinance shall be effective 10 days after its enactment, in accordance with Article II of the county charter.