Legislation Details (With Text)

File #:	2022-0413 **Version:** 2		
Type:	Ordinance	**Status:**	Passed
File created:	10/18/2022	**In control:**	Committee of the Whole
On agenda:		**Final action:**	12/13/2022
Enactment date:	12/22/2022	**Enactment #:**	19562

Title: AN ORDINANCE relating to the sale of environmental attributes held by the county; authorizing the King County executive to enter into a new short-term agreement in substantially the same form as the current agreement approved under Ordinance 17022 for the sale of emissions credits, also known as environmental attributes, to Puget Sound Energy, that are associated with the beneficial use of gas derived from landfill gas produced by the Cedar Hills regional landfill.

Sponsors: Rod Dembowski

Indexes: Agreement, Cedar Hills, Energy, environment, Executive, Landfills, Puget Sound

Code sections:

Attachments: 1. Ordinance 19562, 2. A. Purchase and Sale Agreement Between Puget Sound Energy and King County, December 7, 2022, 3. A. Purchase and Sale Agreement Between Puget Sound Energy and King County, 4. 2022-0413 Legislative Review Form, 5. 2022-0413 Cedar Hills Transmittal Letter, 6. 2022-0413 Copy of Fiscal Note, 7. 2022-0413 with track changes Transmittal Letter Attachment, 8. 2022-0413 Redline of Existing Agreement to Proposed Agreement, 9. 2022-0413_SR_PSA KC and PSE for CH Env Att_final, 10. 2022-0413_AMD3 bar, 11. 2022-0413_Revised SR_PSA KC and PSE for CH Env Att

Date	Ver.	Action By	Action	Result
12/13/2022	2	Metropolitan King County Council	Passed	Pass
12/7/2022	1	Committee of the Whole	Recommended Do Pass Substitute	Pass
11/15/2022	1	Metropolitan King County Council	Re-referred	
10/18/2022	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE relating to the sale of environmental attributes held by the county; authorizing the King County executive to enter into a new short-term agreement in substantially the same form as the current agreement approved under Ordinance 17022 for the sale of emissions credits, also known as environmental attributes, to Puget Sound Energy, that are associated with the beneficial use of gas derived from landfill gas produced by the Cedar Hills regional landfill.

STATEMENT OF FACTS:

1. The solid waste division of the department of natural resources and parks operates the Cedar Hills regional landfill, accepting municipal solid waste from unincorporated King County and thirty-seven cities.

2. As authorized by Ordinance 15872, the solid waste division contracted with Bio Energy (Washington), LLC, to build a landfill gas purification facility, purchase landfill gas produced at the Cedar Hills regional landfill and purify the landfill gas to a product gas quality that meets natural gas pipeline quality standards. The contract, the Amended and Restated Project Development and Gas Sales Agreement, was signed on February 29, 2008. The contract continues until 2030 and allows up to two additional five-year extensions.

3. Bio Energy (Washington), LLC, subsequently entered into a contract with Puget Sound Energy to sell the purified landfill gas, referred to as product gas, to Puget Sound Energy. The county is not a party to that contract, the Cedar Hills - Pipeline Quality Gas Purchase and Sale Agreement, dated October 9, 2008.

4. The landfill gas generated from decomposing waste buried in the Cedar Hills regional landfill is classified as a "renewable resource" as defined in RCW 19.285.030(21) of chapter 19.285 RCW, the Energy Independence Act. Given this status as a renewable resource, the landfill gas has associated environmental attributes, which are a form of intangible property that has economic value.

5. Under 4.13 of the Amended and Restated Project Development and Gas Sales Agreement, the solid waste division owns and retains any and all rights to any emissions credits, also referred to as environmental attributes, attributable to the landfill gas produced by the landfill.

6. K.C.C. 4.56.250 exempts the sale of emissions credits, offsets or allowances, or renewable energy certificates, credits, benefits, environmental air quality credits and similar rights, title or interests held by the county from the notice and sale to the highest bidder requirements of

K.C.C. chapter 4.56 when unique circumstances are present. Under that provision, such sales may be made in the best interests of the public to a person or entity through a direct agreement negotiated by the county executive and approved by the county council.

7. Ordinance 17022 authorized the King County executive to sell environmental attributes, referred to as emissions credits, to Puget Sound Energy. A contract between King County and Puget Sound Energy was executed on February 11, 2011, for an initial term of eleven years ending at the end of the calendar year of the eleventh anniversary of the execution of the agreement. Consultants' reports at the time supported the division's conclusions that the proposed sale of the rights to emission credits to Puget Sound Energy presented the unique circumstances that there had been no directly comparable sale of rights to emissions credits and that there was not then a market for selling rights to emissions credits alone, without the gas.

8. In 2019, King County sent a Notice of Termination of Purchase and Sale Agreement at End of Initial Term ("the termination notice") to Puget Sound Energy, to terminate the contract authorized by Ordinance 17022 on December 31, 2022.

9. After sending the termination notice, the county sued Puget Sound Energy in 2020 over the interpretation of the payment terms in the existing contract, which resulted in a settlement agreement.

10. The termination notice stated the expectation that a new contract between King County and Puget Sound Energy could potentially be negotiated. Executive staff believe that King County could negotiate a future environmental attribute contract with Puget Sound Energy that would provide greater public benefit.

11. King County has retained third-party support to assist with the negotiation of a future environmental attribute contract. To establish the best value for solid waste division ratepayers, the division seeks additional time to negotiate a longer-term contract while maintaining the

current revenue from the sale of the environmental attributes to Puget Sound Energy.

12. This ordinance seeks authorization for the executive to enter a new short-term agreement with Puget Sound Energy, which is in substantially the same form as the current contract. However, the new agreement, Attachment A to this ordinance, will have a term of only six months and have an effective, starting date of January 1, 2023.

13. Executive staff have concluded that the unique circumstances present in 2011 for the original agreement are still present to justify the proposed short-term contract, stating that for at least the next six months there are no viable options for King County to sell the environmental attributes to an entity that does not also purchase the processed gas.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The King County council hereby finds that an extension of six months, at the discretion of the executive, for a direct negotiated sale of environmental attributes, referred to as emissions credits, and related rights attributable to or generated or otherwise provided in connection with the beneficial use of landfill gas produced by the Cedar Hills regional landfill to Puget Sound Energy is in the best interests of the public.

SECTION 2. The executive is hereby authorized to execute a new short-term agreement with Puget Sound Energy substantially in the form of Attachment A to this ordinance.