

Legislation Text

File #: 2020-0197, **Version:** 1

Clerk 05/29/2020

AN ORDINANCE providing long-term financing for capital needs of the county's sewer system by authorizing the issuance of junior lien sewer revenue bonds and multi-modal limited tax general obligation bonds (payable from sewer revenues) of the county in an aggregate principal amount not to exceed \$250,000,000 to provide funds for acquiring and constructing improvements to the sewer system; providing for the form, terms and covenants of such bonds; providing for the sale of the bonds in one or more series; 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 junior lien sewer revenue bonds issued under this ordinance; and pledging the annual levy of taxes and an additional pledge of sewer revenues to pay the principal of and interest on multi-modal limited tax general obligation bonds issued under this ordinance.

PREAMBLE:

The county owns and operates facilities for the conveyance and treatment of sewage and the control of combined sewer overflows that include 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 and equipment (collectively "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 and other entities ("the Participants") obligate the county to treat and dispose of sewage collected by the Participants. The Participants must pay the costs of these services, including debt service on bonds payable from sewer revenues, including the bonds authorized by this ordinance, and other indebtedness payable from and secured by sewer revenues. Comparable rates and charges have been established for customers who deliver sewage to the System but are not subject to a contract with the county for this 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 those Participants into facilities of the System.

The county has issued the series of sewer revenue bonds with a senior lien on Revenue of the System set forth in Attachment A, Section I, to this ordinance ("Parity Bonds" as further defined herein).

The county has issued the series of limited tax general obligation bonds additionally secured by a lien on Revenue of the System junior and subordinate to the lien thereon of the Parity Bonds set forth in Attachment A, Section II, to this ordinance ("Parity Lien Obligations" as further defined herein).

The county has issued the series of sewer revenue bonds with a lien on Revenue of the System junior and subordinate to the lien thereon of the Parity Lien Obligations set forth in Attachment A, Section III, to this ordinance ("Junior Lien Obligations" as further defined herein).

The county has issued the series of limited tax general obligation bonds additionally secured by a lien on Revenue of the System junior and subordinate to the lien thereon of the Junior Lien Obligations set forth in Attachment A, Section IV, to this ordinance ("Multi-Modal LTGO/Sewer

Revenue Bonds" as further defined herein).

The county has reserved the right to issue certain revenue bonds or other revenue obligations with a lien on Revenue of the System junior and inferior to the lien thereon of the Multi-Modal LTGO/Sewer Revenue Bonds ("Future Subordinate Lien Obligations" as further defined herein).

It is deemed necessary and desirable that the county authorize the issuance and sale of its junior lien sewer revenue bonds and/or limited tax general obligation bonds additionally secured by sewer revenues (the "Bonds") to pay costs of capital improvements to the System, in accordance with the Comprehensive Plan and the Capital Improvement Budget.

Because market conditions can change quickly, it is in the best interest of the county to delegate to the county's Finance Director authority to sell the Bonds in one or more series, by competitive bid, negotiated sale or to the federal government or another purchaser, as provided in this ordinance, so long as the aggregate principal amount of the Bonds does not exceed \$250,000,000. The sale of any series of the Bonds shall be ratified and confirmed by motion of the council, as provided in this ordinance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Definitions; Interpretation.

A. **Definitions.** The following words and terms as used in this ordinance have the following meanings for all purposes of this ordinance, unless some other meaning is plainly intended.

"Accreted Value" means, for any 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 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.

"Agency Customer" means any city, town, water-sewer district or other political subdivision, person, firm, private corporation or other entity that collects sewage from customers and disposes of any portion of that sewage into the System and is not a Participant.

"Annual Debt Service" means, for the applicable obligations of the System, with respect to any calendar year, the sum of the following:

1. The interest on such designated obligations due: (a) on all interest payment dates (other than January 1) in such calendar year; and (b) on January 1 of the next succeeding calendar year, plus any Payment Agreement Payments due on such dates in respect of Payment Agreements for such designated obligations and minus any Payment Agreement Receipts due in such period in respect of Payment Agreements for such designated obligations.

- a. For purposes of calculating the amounts required to pay interest on such designated obligations, capitalized interest, accrued interest paid to the county upon the issuance of such designated obligations, and Debt Service Offsets pledged to the payment of such designated obligations will be excluded (e.g., any Debt Service Offsets shall be deducted from Annual Debt Service) and, on and after the Springing Amendment Date, interest on any Balloon Maturity Bond shall also be excluded.

- b. Prior to the Springing Amendment Date, the amount of interest deemed payable on any such designated obligations bearing interest at a variable rate will be calculated on the assumption that the interest rate on such designated obligations would be equal to the rate that is 90 percent 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, that for purposes of determining actual compliance in any past calendar year with the rate covenants made in Section 18 of this ordinance, the actual amount of interest paid on any issue of variable rate obligations will be taken into account. On and after the Springing Amendment Date, the amount of interest deemed to be payable on any on any such designated obligations bearing interest at a variable rate will

be calculated on the assumption that the interest rate on those bonds would be equal to the rate ("the assumed variable rate") that is the average of the SIFMA Municipal Swap Index over the 10 calendar years preceding the quarter in which the calculation is made; provided, that for purposes of determining actual compliance in any past calendar year with the rate covenant made in Section 18 of this ordinance, the actual amount of interest paid on any issue of variable rate obligations shall be taken into account.

2. Prior to the Springing Amendment Date, the principal due (at maturity or upon mandatory redemption prior to maturity) for such designated obligations: (a) on all principal payment dates (other than January 1) of such calendar year; and (b) on January 1 of the next succeeding calendar year. On and after the Springing Amendment Date, the principal due (at maturity or upon the mandatory redemption of Term Bonds prior to their maturity) for such designated obligations other than any Balloon Maturity Bond: (a) on all principal payment dates (other than January 1) of such calendar year; and (b) on January 1 of the next succeeding year.

3. Prior to the Springing Amendment Date, an amount for assumed payments of principal of any of such designated obligations that are Balloon Maturity Bonds calculated for the applicable calendar year by amortizing the then outstanding principal amount of such designated obligations in accordance with a maturity schedule not exceeding 30 years from the date of issuance of such Balloon Maturity Bonds and resulting in approximately level debt service based on their actual interest rates (if such designated obligations bear interest at fixed rates) or on the assumed interest rate calculated as provided in paragraph 1.b. of this definition (if such designated obligations bear interest at a variable rate). On and after the Springing Amendment Date, the Assumed Debt Service for any Balloon Maturity Bond for that calendar year.

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

Notwithstanding the foregoing, debt service on any such designated obligations 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 such designated obligations and the applicable Payment Agreement, in accordance with the requirements set forth in this ordinance and any other applicable requirements from the proceedings authorizing the issuance of such designated obligations.

On and after the Springing Amendment Date, "Assumed Amortization Period" means an assumed amortization period for a Balloon Maturity Bond as specified in a closing certificate of the Finance Director designating the Balloon Maturity Bond. An Assumed Amortization Period may not be longer than the lesser of: (a) the useful life, as of the date of designation, of the assets being financed; and (b) 75 years. The Assumed Amortization Period for a Balloon Maturity Bond applies (e.g., is not reset) until the Balloon Maturity Bond, and any Balloon Maturity Bond issued to refund that Balloon Maturity Bond, is no longer outstanding.

On and after the Springing Amendment Date, "Assumed Debt Service" for any Balloon Maturity Bond for any calendar year means an amount equals to the principal and interest that would be payable in each calendar year if that Balloon Maturity Bond were amortized over the Assumed Amortization Period on a substantially level debt service basis, calculated based on the actual interest rate on the Balloon Maturity Bond, if fixed, and based on the average of the SIFMA Municipal Swap Index over the 10 calendar years preceding the quarter in which the calculation is made, if variable.

"Balloon Maturity Bonds" means, prior to the Springing Amendment Date, any obligations of the System, the entire principal amount of which is due at maturity without serial bond payments or sinking fund redemption payments. On and after the Springing Amendment Date, "Balloon Maturity Bonds" means scheduled principal maturity of any Series of obligations of the System that the county designates in the closing certificate of the Finance Director for that Series to be a Balloon Maturity Bond for the purposes of the definition of Annual Debt Service. Any Balloon Maturity Bond includes any corresponding scheduled principal maturity of any such designated obligations issued to refund such Balloon Maturity Bond unless the Balloon

Maturity Bond designation is rescinded in a closing certificate of the Finance Director in connection with the refunding.

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

"Bond Purchase Agreement" means any bond purchase agreement for the sale of a Series of Bonds approved pursuant to Section 25.C. of this ordinance.

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

"Bondowners' Trustee" means the bank or financial institution selected by the Registered Owners of the Bonds pursuant to Section 22 of this ordinance.

"Bonds" means the \$250,000,000 aggregate principal amount of junior lien sewer revenue bonds of the county authorized to be issued under this ordinance to pay costs of acquiring and constructing improvements to the System. The Bonds may be issued in one or more Series of Junior Lien Obligations and/or may be issued in one or more Series of Multi-Modal LTGO/Sewer Revenue Bonds, as provided in this ordinance.

"Capital Appreciation Bonds" means any obligations of the System the interest on which is compounded, accumulated and payable only upon redemption or on the maturity date of such obligations; provided, that obligations 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 such obligations no longer are Capital Appreciation Bonds, they shall be deemed outstanding in a principal amount equal to their Accreted Value.

"Capital Improvement Budget" means the capital improvement budget of the county in effect from time to time, as such budget may have been amended or supplemented. "Certificate of Authentication" means the Certificate of Authentication, set forth in Attachment B or Attachment C to this ordinance, as applicable, to be manually signed by the Registrar.

"Certificate of Award" means any certificate of award for the sale of a Series of Bonds approved

pursuant to Section 25.D. of this ordinance.

"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 purchaser of that Series of Bonds.

"Code" means the Internal Revenue Code of 1986 as in effect on the date of issuance of any such designated obligations (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Tax-Exempt Obligations, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

"Comprehensive Plan" means the county's comprehensive water pollution abatement plan authorized by RCW 35.58.200 and defined in K.C.C. 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 Ordinance 12076, Section 30, of the county.

"Council" means the Metropolitan King County Council.

"Credit Enhancement" means any letter of credit, insurance policy, surety bond, line of credit or other instrument then in effect that secures or guarantees the payment of principal of and interest on, and/or purchase price of, any Series of Bonds, including any interfund loan agreement or other self-liquidity instrument provided by the county to secure the payment of the principal or purchase price of or interest on any Series of Bonds in advance of pledged amounts becoming available for such purpose.

"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): (a) from Moody's and S&P not lower, when issued, 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; or (b) from Moody's and S&P not lower, when issued, than the credit rating of any Series of Parity Lien Obligations, to provide support for a Series of Parity Lien Obligations, and shall include any substitute therefor in accordance with the provisions of the ordinance providing for the issuance of Parity Lien Obligations supported by a Credit Facility.

"Credit Provider" means any bank, insurance company, pension fund or other financial institution that provides a Credit Enhancement for any Series of Bonds.

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

"Debt Service Offset" means receipts of the county that are: (a) legally available to pay debt service on obligations payable from Revenue of the System, including federal interest subsidy payments; and (b) pledged to the payment of obligations payable from Revenue of the System.

"Default" means any of the events or conditions set forth in Section 21 of this ordinance.

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

"Fair Market Value" means the price at which a willing buyer would purchase an investment from a willing seller in a bona fide, arm's length transaction, except for specified investments as described in Treasury Regulations §1.148-5(d)(6), including United States Treasury obligations, certificates of deposit, guaranteed investment contracts, and investments for yield-restricted defeasance escrows. Fair Market Value is generally determined on the date on which a contract to purchase or sell an investment becomes binding, and, to the extent required by the applicable regulations under the Code, the term "investment" will include a hedge.

"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.

"Future Junior Lien Obligations" means any sewer revenue bonds, warrants or other obligations that may be issued in the future with a lien on Revenue of the System equal to the lien thereon of the currently outstanding Junior Lien Obligations.

"Future Multi-Modal LTGO/Sewer Revenue Bonds" means any limited tax general obligation bonds that may be issued in the future that are additionally secured by a lien on Revenue of the System on a parity with the lien thereon of the currently outstanding Multi-Modal LTGO/Sewer Revenue Bonds.

"Future Parity Bonds" means any sewer revenue bonds, warrants or other obligations that may be issued in the future with a lien on Revenue of the System equal to the lien thereon of the currently outstanding Parity Bonds.

"Future Parity Lien Obligations" means any limited tax general obligation bonds that may be issued in the future that are additionally secured by a lien on Revenue of the System on a parity with the lien thereon of the currently outstanding Parity Lien Obligations.

"Future 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 junior and inferior to the lien thereon of the Multi-Modal LTGO/Sewer Revenue Bonds, and payable from Revenue of the System that is available after first making the payments required to be made under paragraph "First" through "Seventh" but before making the payments required to be made under paragraph "Ninth" of Section 15 of this ordinance.

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Junior Lien Bond Fund" means the "King County, Washington, Junior Lien Obligation Redemption Fund" created pursuant to Ordinance 14171, Section 5.01, of the county for the purpose of paying and securing the payment of the Junior Lien Obligations.

"Junior 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 Revenue of the System equal in rank with the charge and lien on Revenue of the System securing amounts required to be paid into the Junior Lien Bond Fund to pay and secure the payment of principal of and interest on the Junior Lien Obligations.

"Junior Lien Obligations" means the outstanding Junior Lien Obligations (which are identified as outstanding Junior Lien Obligations in Attachment A to this ordinance), any Series of Bonds issued as Junior Lien Obligations, and any Future Junior Lien Obligations.

"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.

"Liquidity Facility" means any letter of credit, line of credit, standby purchase agreement or other instrument then in effect that provides for the payment of the purchase price of any Series of Bonds upon the tender thereof if remarketing or refunding proceeds are insufficient therefor, including any interfund loan agreement or other self-liquidity instrument provided by the county to pay the principal or purchase price of or interest on any Series of Bonds in advance of pledged amounts becoming available for such purpose.

"Liquidity Provider" means any bank, insurance company, pension fund or other financial institution that provides a Liquidity Facility.

"Mode Agreement" means an agreement entered into in connection with the issuance, sale or remarketing of any Series of the Bonds setting forth the daily mode, weekly mode, commercial paper mode, term mode, index floating mode, fixed mode or other mode or modes in which such Series of Bonds will be sold or remarketed, establishing minimum and maximum rate(s), alternate rate(s) and default rate(s), providing for conversion between modes, providing for optional and mandatory tender for purchase on dates and at prices and additional provisions relating to redemption, defaults and remedies, all as set forth in the Mode Agreement. The Mode Agreement may be in the form of a continuing covenant or purchase agreement, loan agreement,

remarketing agent agreement, tender agent agreement, paying agent agreement, calculation agent agreement, Credit Enhancement, or other credit facility, liquidity or other agreement, or an annex or amendments thereto, consistent with this ordinance and approved by Sale Motion in the case of a Mode Agreement entered into in connection with the issuance of any Series of Bonds or by the Finance Director in the case of a Mode Agreement entered into in connection with any subsequent remarketing of such Series of Bonds pursuant to the authority in Section 25 of this ordinance.

"Moody's" means Moody's Investors Service, Inc., 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 that corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, then the term "Moody's" will 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.

"Multi-Modal LTGO/Sewer Revenue Bonds" means the outstanding Multi-Modal LTGO/Sewer Revenue Bonds (which are identified as outstanding Multi-Modal LTGO/Sewer Revenue Bonds in Attachment A to this ordinance), any Series of Bonds issued as Multi-Modal LTGO/Sewer Revenue Bonds, and any other Future Multi-Modal LTGO/Sewer Revenue Bonds.

"Multi-Modal LTGO/Sewer Revenue Bond Payment Agreement" means a Payment Agreement under which the county's payment obligations are expressly stated to constitute a charge and lien on Revenue of the System equal in rank with the charge and lien on Revenue of the System securing amounts required to be paid into the Multi-Modal LTGO/Sewer Revenue Bond Fund to pay and secure the payment of principal of and interest on Multi-Modal LTGO/Sewer Revenue Bonds. "Net Revenue" means Revenue of the System less Operating and Maintenance Expenses.

"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 includes payments to any private

or governmental agency for the operation or maintenance of facilities or for the disposal of sewage but excludes any allowance for depreciation.

"Owner" means, with respect to a Bond, without distinction, the Beneficial Owner or the Registered Owner.

"Parity Bond Fund" means the "Water Quality Revenue Bond Account" designated pursuant to Ordinance 12076, Section 30, of the county for the purpose of paying and securing the payment of the Parity Bonds.

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

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

"Parity Bonds" means the bonds identified as such in Attachment A, Section I, to this ordinance, together with any Future Parity Bonds. The term "Parity Bonds" includes any Parity Bond Payment Agreements and parity reimbursement agreements entered into with the provider of a Credit Facility securing any Parity Bonds.

"Parity Lien Obligation Bond Fund" means the "Water Quality Limited Tax General Obligation Bond Redemption Fund" established pursuant to Ordinance 11241, Section 8, of the county to provide for payment of 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 Revenue of the System equal in rank with the charge and lien on Revenue of the System 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 Lien Obligations" means bonds identified as such in Attachment A, Section II, to this ordinance, together with any sewer revenue bonds, warrants or other obligations that may be issued in the future with a lien on Revenue of the System equal to the lien thereon of those bonds. The term "Parity Lien Obligations" includes any Parity Lien Obligation Payment Agreements and parity reimbursement agreements entered into with the provider of a Credit Facility securing any Parity Lien Obligations.

"Participant" means each city, town, county, water-sewer district, municipal corporation, person, firm, private corporation or other entity that disposes of any portion of its sanitary sewage into the System and has entered into a Service Agreement with the county.

"Payment Agreement" means, to the extent permitted from time to time by applicable law, a written agreement entered into by the county: (a) 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; (b) 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, or asset or liability management purposes; (c) with a Qualified Counterparty; and (d) 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.

"Permitted Investments" means any investment permitted by law, but only to the extent that the same is acquired at Fair Market Value.

"Professional Utility Consultant" means a licensed professional engineer, a Certified Public Accountant,

or other independent person or firm 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 Department of Commerce 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 in effect as of the date of this ordinance.

"Qualified Counterparty" means, with respect to a Payment Agreement, an entity (a) 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 (b) 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 for the benefit of the Registered Owners of Parity Bonds 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, as of the time of issuance of such policy or surety bond, is then 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 Parity Bonds and maintains 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 Registered 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 Parity Bonds.

"Rate Stabilization Fund" means the fund of that name created pursuant to Ordinance 12314, Section 13.D., of the county and continued pursuant to Section 13.B. of this ordinance.

"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.

"Record Date" means, with respect to a Bond, unless otherwise provided in the Sale Motion, the Registrar's close of business on the 15th day of the month preceding an interest payment date. With respect to redemption of a Bond prior to its maturity, "Record Date" means the Registrar's close of business on the date on which the Registrar sends notice of the redemption, except as otherwise provided in the Sale Motion.

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

"Registrar" means, unless otherwise designated in the Sale Motion or Mode Agreement, 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 Bonds, maintaining the Bond Register, effecting the transfer of ownership of the Bonds and paying principal of and premium, if any, and interest on the Bonds.

"Revenue Fund" means the "Water Quality Operating Account" as designated by Ordinance 12076, Section 30, 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 System and the income from the investment of money in the Revenue Fund or any account within such fund, but shall not include: (a) any money collected pursuant to the Service Agreements applicable to administrative costs of the county other than costs of administration of the System; or

(b) any Debt Service Offsets. For certain purposes described in Section 14.B. of this ordinance, deposits from the Rate Stabilization Fund into the Revenue Fund may be included in calculations of "Revenue of the System."

"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 the motion of the council approving a contract for the initial purchase of a Series of Bonds and ratifying the initial sale of a Series of Bonds, all in accordance with Section 22 of this ordinance.

"S&P" means S&P Global Ratings and its successors and assigns, except that if that entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, then the term "S&P" will be deemed to refer to any other nationally recognized securities rating agency selected by the county.

"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.

"Senior Lien Payments" means, for any calendar year, the sum of the following:

1. Annual Debt Service for such year for the Parity Bonds and Parity Lien Obligations then outstanding; and
2. Other payments described in paragraphs "Second" through "Fifth" of Section 15 of this ordinance required to be made during such year.

"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.

"Springing Amendment Date" means the date when the requisite percentage of the owners of: (a) the Multi-Modal Limited Tax General Obligation Refunding Bonds (Payable from Sewer Revenue), Series 2017A and Series 2017B, dated October 26, 2017, authorized by Ordinance 18581 of the county; (b) the Multi-Modal

Limited Tax General Obligation Refunding Bonds and Junior Lien Refunding Bonds refunded pursuant to Ordinance 18898 of the county (including the Multi-Modal Limited Tax General Obligation Refunding Bonds (Payable from Sewer Revenues), Series 2019A and Series 2019B of the county, dated June 27, 2019); (c) the Junior Lien Variable Rate Demand Sewer Revenue Bonds, Series 2001A and Series 2001B, dated August 15, 2001, authorized by Ordinances 14171 and 14172 of the county, respectively; (d) of the Junior Lien Variable Rate Demand Sewer Revenue Bond, Series 2011, dated October 26, 2011, authorized by Ordinance 17202 of the county; and (e) the Junior Lien Variable Rate Demand Sewer Revenue Bond, Series 2012, dated December 27, 2012, authorized by Ordinance 17495 of the county have consented to the definitions of Assumed Amortization Period, Assumed Debt Service, Balloon Maturity Bonds, and Annual Debt Service set forth in this ordinance (including all springing amendments set forth herein). Such consent may be obtained before or after the effective date of this ordinance in the connection with the remarketing or refunding of one or more of the foregoing bonds, with the deemed consent of bondowners in connection with the purchase of such remarketing or refunding bonds. All Registered Owners of Bonds issued after the effective date of this ordinance are deemed to have consented to the definitions of Assumed Amortization Period, Assumed Debt Service, Balloon Maturity Bonds, and Annual Debt Service set forth in this ordinance (including all springing amendments set forth herein) by their purchase of such Bonds.

"SRF Loans" means loans to the county by the State 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 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 in effect as of the date of this ordinance.

"State" means the State of Washington.

"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 regarding certain federal tax matters executed on behalf of the county upon the issuance of each Series of Tax-Exempt Obligations.

"Tax-Exempt Obligations" means Bonds the interest on which the county intends to be excludable from gross income for federal income tax purposes and also includes taxable direct pay or other Bonds that are subject to the requirements applicable to Tax-Exempt Obligations.

"Term Bonds" means those Bonds identified as such in the Sale Motion, the principal of which is amortized by a schedule of mandatory redemptions.

"Undertaking" means an undertaking for ongoing disclosure to be entered into by the county for each Series of Bonds, if and to the extent required by Rule15c2-12.

B. Rules of Interpretation. As used in this ordinance, unless the context otherwise requires:

1. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms refer to this ordinance as a whole and not to any particular section, subsection, paragraph or clause of this ordinance.
2. Unless the context otherwise indicates, words expressed in the singular may include the plural and vice versa.
3. Any headings preceding the text of the various sections and subsections of this ordinance, and any table of contents or marginal notes appended to copies of this ordinance, are solely for convenience of reference and do not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect.
4. All references in this ordinance to "sections," "subsections," "paragraphs" and "clauses" are to the corresponding sections, subsections, paragraphs or clauses of this ordinance as originally adopted.
5. The term "including" means "including without limitation."

SECTION 2. Findings. The council finds that it is in the best interests of the county and ratepayers of the System that the county retain the flexibility to issue the Bonds in one or more Series, as Junior Lien Obligations and/or Multi-Modal LTGO/Sewer Revenue Bonds, to sell or remarket the Bonds from time to time

in the same Mode or a different Mode, and to enter into, amend, extend or replace Credit Enhancement, a Liquidity Facility, and/or agreement with Bondowners. To achieve this flexibility, the council further finds that it is in the best interests of the county and ratepayers of the System that the sale of Bonds in one or more Series, as Junior Lien Obligations and/or Multi-Modal LTGO/Sewer Revenue Bonds, as Tax-Exempt Obligations or otherwise, by competitive bid, negotiated sale, or sale to the federal government or other purchaser, for current or future delivery, be determined by the Finance Director, in consultation with the county's financial advisors.

SECTION 3. Authorization of Bonds. To provide funds to necessary to pay costs of acquiring, constructing and equipping improvements, additions or betterments to the System as set forth in the Comprehensive Plan and the Capital Improvement Budget, the county is authorized to issue one or more Series of the Bonds in the aggregate principal amount of \$PAR AMOUNT. The Bonds may be issued in one or more Series of Junior Lien Obligations and/or Multi-Modal LTGO/Sewer Revenue Bonds, as provided in Section 25.A. of this ordinance, each such Series of Junior Lien Obligations to be designated as "King County, Washington, Junior Lien Sewer Revenue Bonds" with an applicable year and Series designation, and each such Series of Multi-Modal LTGO/Sewer Revenue Bonds to be designated as "King County, Washington, Multi-Modal Limited Tax General Obligation Bonds (Payable from Sewer Revenues)" with an applicable year and Series designation. The Bonds shall be fully registered as to both principal and interest; shall be numbered separately in such manner and with any additional designation as the Registrar deems necessary for purposes of identification; and shall be in the denominations, dated the date and mature on the dates, in the years and in the amounts established as provided in Section 25 of this ordinance.

The Bonds shall bear interest (computed, unless otherwise provided in the Mode Agreement or 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 to 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 25 of this ordinance. The Accreted Values of any Bonds that are Capital Appreciation Bonds shall be set forth in the Mode Agreement or

Sale Motion.

SECTION 4. Registration, Exchange and Payments.

A. **Registrar/Bond Register.** In accordance with KCC 4.84 and except as otherwise set forth in the Mode Agreement or Sale Motion, the county adopts for the Bonds 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 Registrar shall keep, or cause to be kept, at its designated corporate trust office, sufficient books for the registration and transfer of the Bonds ("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 Bond and the principal amount and number of each of the Bonds held by each Registered Owner. The Registrar is authorized, on behalf of the county, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the county's paying agent for the Bonds and to carry out all of the Registrar's powers and duties under this ordinance.

The Registrar shall be responsible for the representations contained in its Certificate of Authentication on the Bonds. The Registrar may become the Owner of Bonds with the same rights it would have if it were not the 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 Bonds 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 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 Registrar shall be affected by any notice to the contrary. Payment of each Bond shall be made as described in Section 4.E. of this ordinance, but registration of ownership of each Bond 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 Bond to the extent of the amount or amounts so paid.

C. **Use of Depository.** Each Bond 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 Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding the accuracy of any records maintained by the Securities Depository or its participants. Neither the county nor the Registrar shall be responsible for any notice that is permitted or required to be given to the Registered Owner of any Bond registered in the name of the Securities Depository except such notice as is required to be given by the Registrar to the Securities Depository.

So long as the Bonds 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 Bond registered in the name of the Securities Depository may not be transferred except: (a) to any successor Securities Depository; (b) to any substitute Securities Depository appointed by the county; or (c) to any person if the Bond 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 (a) the Securities Depository resigns and the county does not appoint a substitute Securities Depository, or (b) the county terminates the services of the Securities Depository, the Bonds no longer shall be held in book-entry only form and the registered ownership of each Bond may be transferred to any person as provided in this ordinance or as set forth in the Mode Agreement or Sale Motion.

D. **Registration Covenant.** The county covenants that, until all Tax-Exempt Obligations 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.

E. **Place and Medium of Payment.** Principal of and premium, if any, and interest on the Bonds are payable in lawful money of the United States of America. Principal of and premium, if any, and interest on each Bond registered in the name of the Securities Depository are payable in the manner set forth in the Letter of Representations. Unless otherwise specified in the Mode Agreement or Sale Motion, interest on each Bond 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 Registrar mailed on the interest payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. 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. Unless otherwise specified in the Mode Agreement or Sale Motion, the principal of and premium, if any, on each Bond not registered in the name of the Securities Depository are payable upon presentation and surrender of the Bond by the Registered Owner to the Registrar at maturity or upon prior redemption in full.

F. **Transfer or Exchange of Registered Ownership; Change in Denominations.** The registered ownership of any Bond may be transferred or exchanged, but no transfer or exchange of any Bond shall be valid unless it is surrendered to the 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 Registrar. Upon such surrender, the 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 Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same Series, date, maturity and interest rate, in any authorized

denomination. The Registrar shall not be obligated to exchange or transfer any Bond during the period between the Record Date and any principal payment or redemption date, or, in the case of any proposed redemption of a Bond, after mailing of the notice of the call of the Bond for redemption.

SECTION 5. Redemption Provisions; Purchase of Bonds.

A. **Optional Redemption.** All or some of a Series of Bonds 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 Mode Agreement or Sale Motion.

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

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

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

Portions of the principal amount of any Bond, in authorized denominations, may be redeemed, unless otherwise provided in the Mode Agreement or Sale Motion. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond to the Registrar, there shall be issued to the Registered Owner, without charge therefor, a new Bond (or Bonds, 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 Bonds offered to the county at any time at any price acceptable to the county plus accrued interest to the date of purchase.

SECTION 6. Notice and Effect of Redemption. Notice of redemption of each Bond registered in the name of the Securities Depository shall be given in accordance with the Letter of Representations. Unless otherwise set forth in the Mode Agreement or Sale Motion, notice of redemption of each Bond, unless waived by the Registered Owner, shall be given by the 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 Bonds 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 Bond.

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 Bond for which a notice of optional redemption has been rescinded shall remain outstanding.

Interest on each Bond 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 with the Registrar or in a trust account established to refund or defease the Bond.

SECTION 7. Form and Execution of Bonds. Bonds issued as Junior Lien Obligations shall be in substantially the form set forth in Attachment B to this ordinance. Bonds issued as Multi-Modal LTGO/Sewer Revenue Bonds shall be in substantially the form set forth in Attachment C to this ordinance. The Bonds 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 a Bond bearing a Certificate of Authentication, set forth in Attachment B or Attachment C to this ordinance, as applicable, manually signed by the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond 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 a Bond ceases to be an officer of the county authorized to sign bonds before the Bond bearing that officer's manual or facsimile signature is authenticated by the Registrar or issued or delivered by the county, that Bond 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 Bond also may be signed on behalf of the county by any person who, on the actual date of signing of the Bond, 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 Bond.

SECTION 8. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, the Registrar may authenticate and deliver a new Bond or Bonds 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 Registrar in connection therewith and upon surrender to the Registrar of the Bond so mutilated. Every mutilated Bond so surrendered shall be canceled and destroyed by the Registrar.

If any Bond is lost, stolen or destroyed, the Registrar may authenticate and deliver a new Bond or Bonds 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 Registrar in connection therewith and upon filing with the Registrar evidence satisfactory to the Registrar that such Bond was actually lost, stolen or destroyed and of registered ownership thereof, and upon furnishing the county and the Registrar with indemnity satisfactory to the Finance Director and the Registrar.

SECTION 9. **Junior Lien Bond Fund.** A special fund of the county designated the "King County, Washington, Junior Lien Obligation Redemption Fund" has heretofore been created for, and is hereby continued, along with the purpose of paying Junior Lien Obligations. The Junior Lien Bond Fund shall be held separate and apart from all other funds and accounts of the county and shall be a trust fund for the owners of Junior Lien Obligations.

The county hereby irrevocably obligates and binds itself to set aside and pay into the Junior Lien Bond Fund out of Revenue of the System amounts sufficient, together with income from the investment of money in the Junior Lien Bond Fund, and any other money on deposit in the Junior Lien Bond Fund and legally available, to pay all Bonds that are issued as Junior Lien Obligations as the same become due and payable.

Any Series of the Bonds also may be payable from and secured by Credit Enhancement or be payable from a Liquidity Facility that provides for payment of that Series of Bonds, and such Credit Enhancement or Liquidity Facility need not secure payment of any other Series of the Bonds. The county's payment obligation with respect to Bonds secured by Credit Enhancement shall be deemed satisfied if provided by draws on the Credit Enhancement.

There is hereby authorized to be created a special account in the Junior Lien Bond Fund for the Bonds.

All money required by this section to be deposited into the Junior Lien Bond Fund for the payment of principal of and interest on the Bonds that are issued as Junior Lien Obligations may be deposited into the account created for such Bonds, and the county hereby covenants to budget for each such payment of principal and interest when due. Money in the account will be treated in all respects as all other money in the Junior Lien Bond Fund, but will be accounted for separately for the purpose of calculating any Rebate Amount payable with respect to such Bonds.

Payments on account of the Bonds that are issued as Junior Lien Obligations will be made out of Revenue of the System into the applicable account in the Junior Lien Bond Fund on or before the day each payment of principal of or interest on the Bonds is due.

If any Bonds are designated as Term Bonds pursuant to Section 25 of this ordinance, there shall be set forth in the Mode Agreement or Sale Motion a mandatory redemption schedule to amortize the principal of those Term Bonds. Payments of principal of Term Bonds under any such mandatory redemption schedule shall be made from the Junior Lien Bond Fund, as provided in this section, to the extent not credited pursuant to Section 5.B. of this ordinance.

SECTION 10. Pledge of Sewer Revenues to Junior Lien Obligations. The Bonds that are issued as Junior Lien Obligations are special fund obligations payable only from amounts in deposit in the Junior Lien Bond Fund.

The amounts covenanted in this ordinance to be paid out of Revenue of the System into the Junior Lien Bond Fund and the accounts therein constitute, and the county hereby grants to the Registered Owners of the Bonds and to any Credit Provider and Liquidity Provider with respect to obligations owed to them under a related reimbursement agreement or Liquidity Facility, a lien and charge on Revenue of the System junior, subordinate and inferior to Operating and Maintenance Expenses; junior, subordinate and inferior to the lien and charge on Revenue of the System for the payments required to be made into the Parity Bond Fund and the accounts therein (and Payment Agreement Payments with respect to Parity Bond Payment Agreements, and

payments required to be made in connection with Qualified Insurance, a Qualified Letter of Credit or the Parity Bond Reserve Account as set forth in Section 15 of this ordinance); junior, subordinate and inferior to the lien and charge on Revenue of the System for the payments required to be made into the Parity Lien Obligation Bond Fund and the accounts therein (and Payment Agreement Payments with respect to Parity Lien Obligation Payment Agreements as set forth in Section 15 of this ordinance); equal to the lien and charge on Revenue of the System to pay and secure the payment of the outstanding Junior Lien Obligations and any Future Junior Lien Obligations (including Payment Agreement Payments with respect to Junior Lien Obligation Payment Agreements and to make any payments required to be made to providers of any credit enhancements or liquidity facilities for Junior Lien Obligations); and superior to all other liens and charges of any kind or nature, including, inter alia, the lien and charge on Revenue of the System to pay and secure the payment of Multi-Modal LTGO/Sewer Revenue Bonds, Future Subordinate Lien Obligations, SRF Loans and Public Works Trust Fund Loans.

The Bonds issued as Junior Lien Obligations are not a general obligation of the county. Neither the full faith and credit nor the taxing power of the county or the state of Washington or any political subdivision thereof is pledged to the payment of the Bonds issued as Junior Lien Obligations.

SECTION 11. Multi-Modal LTGO/Sewer Revenue Bond Fund. A special fund of the county designated the "King County, Washington, Multi-Modal Limited Tax General Obligation (Payable from Sewer Revenue) Bond Fund" has heretofore been created for the purpose of paying Multi-Modal LTGO/Sewer Revenue Bonds. The Multi-Modal LTGO/Sewer Revenue Bond Fund shall be held separate and apart from all other funds and accounts of the county and shall be a trust fund for the owners of Multi-Modal LTGO/Sewer Revenue Bonds.

The county hereby irrevocably obligates and binds itself to set aside and pay into the Multi-Modal LTGO/Sewer Revenue Bond Fund, from the sources described in Sections 12 and 13 of this ordinance, on or prior to the respective dates the same become due (and if such payment is made on the due date, such payment

must be made in immediately available funds): (a) such amounts as are required to pay the interest scheduled to become due on the Bonds that are issued as Multi-Modal LTGO/Sewer Revenue Bonds; and (b) such amounts with respect to the Bonds that are issued as Multi-Modal LTGO/Sewer Revenue Bonds as are required to pay maturing principal, to make any required sinking fund payments and to redeem such Bonds in accordance with any mandatory redemption provisions, and the county hereby covenants to budget for each such payment of principal and interest when due.

Any Series of the Bonds also may be payable from and secured by Credit Enhancement or be payable from a Liquidity Facility that provides for the payment of only that Series of Bonds, and such Credit Enhancement or Liquidity Facility need not secure payment of any other Series of the Bonds. The county's payment obligation with respect to Bonds secured by Credit Enhancement shall be deemed satisfied if provided by draws on the Credit Enhancement.

If any Bonds that are issued as Multi-Modal LTGO/Sewer Revenue Bonds are designated as Term Bonds pursuant to Section 25 of this ordinance, there shall be set forth in the Mode Agreement or Sale Motion for that Series of Bonds a mandatory redemption schedule to amortize the principal of those Term Bonds. Payments of principal of Term Bonds under any such mandatory redemption schedule shall be made from the Multi-Modal LTGO/Sewer Revenue Bond Fund, as provided in this section, to the extent not credited pursuant to Section 5.B. of this ordinance.

SECTION 12. Pledge of Sewer Revenues to Multi-Modal LTGO/Sewer Revenue Bonds. The Bonds that are issued as Multi-Modal LTGO/Sewer Revenue Bonds also are payable from and secured by a pledge of Revenue of the System. The county hereby irrevocably obligates and binds itself to set aside and pay into the Multi-Modal LTGO/Sewer Revenue Bond Fund out of Revenue of the System, on or prior to the respective dates the same become due, the amounts required by Section 11 of this ordinance.

The amounts covenanted in this ordinance to be paid out of Revenue of the System into the Multi-Modal LTGO/Sewer Revenue Bond Fund constitute, and the county hereby grants to the Registered Owners of

the Bonds and to any Credit Provider and Liquidity Provider with respect to obligations owed to them under a related reimbursement agreement or Liquidity Facility, a lien and charge on Revenue of the System junior, subordinate and inferior to Operating and Maintenance Expenses; junior, subordinate and inferior to the lien and charge on Revenue of the System for the payments required to be made into the Parity Bond Fund and the accounts therein (and Payment Agreement Payments with respect to Parity Bond Payment Agreements, and payments required to be made in connection with Qualified Insurance, a Qualified Letter of Credit or the Parity Bond Reserve Account as set forth in Section 15 of this ordinance); junior, subordinate and inferior to the lien and charge on Revenue of the System for the payments required to be made into the Parity Lien Obligation Bond Fund and the accounts therein (and Payment Agreement Payments with respect to Parity Lien Obligation Payment Agreements as set forth in Section 15 of this ordinance); junior, subordinate and inferior to the lien and charge on Revenue of the System to pay and secure the payment of any Junior Lien Obligations (and Payment Agreement Payments with respect to Junior Lien Obligation Payment Agreements and required payments to providers of credit enhancement or liquidity facilities for Junior Lien Obligations as set forth in Section 15 of this ordinance); equal to the lien and charge on Revenue of the System to pay and secure the payment of any Outstanding Multi-Modal LTGO/Sewer Revenue Bonds and any Future Multi-Modal LTGO/Sewer Revenue Bonds (and Payment Agreement Payments with respect to Multi-Modal LTGO/Sewer Revenue Bond Payment Agreements and required payments to providers of credit enhancement or liquidity facilities for Multi-Modal LTGO/Sewer Revenue Bonds); and superior to all other liens and charges of any kind or nature, including, inter alia, the lien and charge on Revenue of the System to pay and secure the payment of any Future Subordinate Lien Obligations, SRF Loans and Public Works Trust Fund Loans.

SECTION 13. Pledge of Taxation and Credit to Multi-Modal LTGO/Sewer Revenue Bonds. The county hereby irrevocably covenants and agrees for as long as any Bonds that are issued as Multi-Modal LTGO/Sewer Revenue Bonds are outstanding and unpaid, that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the county subject to taxation in an amount that will be

sufficient, together with all other revenues and money of the county legally available for such purposes, to make the payments into the Multi-Modal LTGO/Sewer Revenue Bond Fund required by Section 11 of this ordinance as the same become due. All of the taxes so collected will be paid into the Multi-Modal LTGO/Sewer Revenue Bond Fund no later than the date those funds are required for the payments required by Section 11 of this ordinance.

The county hereby irrevocably pledges that the annual tax herein authorized to be levied for the payment of such amounts shall be within and a part of the tax levy permitted to counties without a vote of the people, and that a sufficient portion of the taxes to be levied and collected annually by the county prior to the full payment of the amounts required by Section 11 of this ordinance will be and is hereby irrevocably set aside and pledged for the payment of the amounts required by Section 11 of this ordinance.

The full faith, credit and resources of the county are hereby irrevocably pledged for the annual levy and collection of those taxes and for the prompt payment of the amounts required by Section 11 of this ordinance as the same become due.

SECTION 14. Revenue Fund; Rate Stabilization Fund.

A. **Revenue Fund.** A special fund of the county known as the "Water Quality Operating Account" has heretofore been created and is hereby continued. All 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.

B. **Rate Stabilization Fund.** In anticipation of increases in revenue requirements of the System, a special fund of the county designated as the "Sewer Rate Stabilization Fund" has heretofore been established and is hereby continued. The county may from time to time appropriate or budget amounts in the Revenue Fund for deposit in the Rate Stabilization Fund, as provided in Section 15 of this ordinance, 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, including calculations of "Net

Revenue" and "Revenue of the System" for the purposes of satisfying requirements of Sections 18 and 23 of this ordinance.

For any fiscal year: (a) amounts withdrawn from the Revenue Fund and deposited into the Rate Stabilization Fund for that fiscal year must be subtracted from Net Revenue for that fiscal year; and (b) amounts withdrawn from the Rate Stabilization Fund and deposited in the Revenue Fund for that fiscal year may be added to Revenue of the System for that fiscal year.

SECTION 15. Sewer Revenue Priorities of Payment. So long as any Bonds are outstanding, all 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 Parity Bond Fund to provide for the payment of principal of and interest on Parity Bonds as the same become due and payable and to make any Payment Agreement Payments with respect to any Parity Bond 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 Parity Bond Reserve Account (including making deposits into such 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;

Sixth, to make all required payments of principal of and interest on the Junior Lien Obligations as the same become due and payable, to make all Payment Agreement Payments with respect to any Junior Lien Obligation Payment Agreements, and to make any payments required to be made to providers of any credit

enhancements or liquidity facilities (including the county) for Junior Lien Obligations;

Seventh, to make all required payments of principal of and interest on the Multi-Modal LTGO/Sewer Revenue Bonds as the same become due and payable, to make all Payment Agreement Payments for any Multi-Modal LTGO/Sewer Revenue Bond Payment Agreements, and to make any payments required to be made to providers of credit enhancements or liquidity facilities (including the county) for any Multi-Modal LTGO/Sewer Revenue Bonds;

Eighth, to make all required payments of principal of and interest on any Future Subordinate Lien Obligations as the same become due and payable;

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

Tenth, to make all required payments of principal of and interest due on the SRF Loans and the Public Works Trust Fund 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 (a) to make necessary improvements, additions and repairs to and extensions and replacements of the System, (b) to purchase or redeem and retire outstanding sewer revenue bonds of the county, (c) to make deposits into the Rate Stabilization Fund, or (d) for any other lawful purposes of the county related to the System in the order and priority as determined by the county.

SECTION 16. Construction Account.

A. 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 this ordinance, there is hereby established for the Bonds a special subaccount within the Construction Account (the "Construction Subaccount"). Money in the Construction Subaccount will be held and applied to pay costs of

acquiring, constructing and equipping improvements, additions or betterments to the System as set forth in the Comprehensive Plan and the Capital Improvement Budget and all costs incidental thereto, including 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 Junior Lien Bond Fund, money in the Construction Subaccount may be transferred to such fund in any amounts necessary to pay principal of and interest on the Bonds.

B. The amount allocated by the Finance Director to pay the costs of issuing the Bonds will be deposited in the appropriate fund or account of the county (as determined by the Finance Director) and used for such purpose.

C. The balance of the proceeds of the Bonds will be deposited in the Construction Subaccount as provided in subsection A. of this section and applied as provided in subsection A. of this section.

SECTION 17. Due Regard for Expenses and Sewer Revenues Pledged. The council hereby declares that, in fixing the amounts to be paid into the Junior Lien Bond Fund and Multi-Modal LTGO/Sewer Revenue Bond Fund out of Revenue of the System, it has exercised due regard for the Operating and Maintenance Expenses and has not obligated the county to set aside in the Junior Lien Bond Fund and Multi-Modal LTGO/Sewer Revenue Bond Fund a greater amount of Revenue of the System than in its judgment will be available over and above the Operating and Maintenance Expenses and Revenue of the System previously pledged.

SECTION 18. Rate Covenants.

A. **General Rate Covenant.** The county will establish, maintain and collect rates and charges for sewage disposal service for each calendar year that are fair and nondiscriminatory and adequate to provide the county with Revenue of the System sufficient: (a) to pay all Operating and Maintenance Expenses during that calendar year; (b) to pay punctually all amounts described in paragraphs "Second" through "Tenth" in Section 15 of this ordinance due during that calendar year; and (c) to pay any and all amounts that the county is now or

may hereafter become obligated by law or contract to pay during that calendar year from the Revenue of the System.

B. **Coverage Covenant.** Subject to the provisions of subsection C. of this section, the county will 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, Parity Bond Fund, Parity Lien Obligation Bond Fund, Junior Lien Bond Fund, Multi-Modal LTGO/Sewer Revenue Bond Fund and Construction Account will provide in each calendar year Net Revenue, after deducting therefrom amounts required in such year to pay Annual Debt Service on Parity Bonds and Parity Lien Obligations, in an amount equal to at least 1.10 times the amounts required to pay Annual Debt Service for all Junior Lien Obligations and Multi-Modal LTGO/Sewer Revenue Bonds for that year.

C. **Rate Stabilization Fund.** In determining compliance with the requirements of this section, Revenue of the System and Net Revenue shall be calculated by taking into account deposits and withdrawals from the Rate Stabilization Fund as provided in Section 14.B. of this ordinance.

SECTION 19. **Certain Other Covenants of the County Regarding the Bonds.** The county hereby covenants with the Registered Owner of each of the Bonds, as follows:

A. **Maintain in Good Order.** The county will 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 will cause the System 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 will 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 will be properly and advantageously conducted.

B. **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.

C. **Annual Audit.** The county will 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 is not made for twelve months after the close of any fiscal year of the county, by a Certified Public Accountant. The county will furnish the audit to the Owner of any Bond upon written request therefor.

D. **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 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 institute or continue a self-insurance program for any or all of the aforementioned risks.

E. **Construction.** The county will 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.

F. **Collection of Revenue.** The county will operate and maintain the System and conduct its affairs so as to entitle it at all times to receive and enforce payment to it of sewage disposal charges payable (a) pursuant to the ordinance or ordinances establishing a tariff of rates and charges for sewage disposal services and (b) 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 Registered Owners of the 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 that 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 council declares that the health, safety or welfare of the people within the metropolitan area require such action.

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

H. **Due Authorization.** 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 Bonds and in this ordinance and the consummation by it of all other transactions necessary to effectuate this ordinance in connection with the issuance of Bonds, and such authorizations and approvals are in full force and effect and have not been amended, modified or supplemented in any material respect.

I. **Binding Obligation.** This ordinance constitutes a legal, valid and binding obligation of the county.

J. **No Conflict.** 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 may be provided by this ordinance.

K. **Performance under Ordinance.** None of the proceeds of the Bonds will be used for any purpose other than as provided in this ordinance, and except as otherwise expressly provided herein, 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 Bonds.

L. **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 applicable debt service funds of a sum sufficient to pay the principal of and interest on all outstanding Parity Bonds, Parity Lien Obligations, Junior Lien Obligations and Multi-Modal LTGO/Sewer Revenue 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 the county has first complied with any applicable covenants of the Parity Bonds and Parity Lien Obligations.

SECTION 20. Tax Covenants. The county will take all actions necessary to assure the exclusion of interest on any Tax-Exempt Obligations from the gross income of the Owners of such Tax-Exempt Obligations to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of such Tax-Exempt Obligations, including but not limited to the following:

A. **Private Activity Bond Limitation.** The county will assure that the proceeds of the Tax-Exempt Obligations are not so used as to cause the Tax-Exempt Obligations to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code, as applicable.

B. **Limitations on Disposition of Project.** The county will not sell or otherwise transfer or dispose of (a) any personal property components of the project financed or refinanced with Tax-Exempt Obligations other than in the ordinary course of an established government program under Treasury Regulation 1.141-2(d) (4) or (b) any real property components of the project financed or refinanced with Tax-Exempt Obligations, unless it has received an opinion of nationally recognized bond counsel to the effect that such disposition will not adversely affect the treatment of interest on the Tax-Exempt Obligations as excludable from gross income for federal income tax purposes.

C. **Federal Guarantee Prohibition.** The county will not take any action or permit or suffer any

action to be taken if the result of such action would be to cause any of the Tax-Exempt Obligations to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. **Rebate Requirement.** The county will take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Tax-Exempt Obligations.

E. **No Arbitrage.** The county will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Tax-Exempt Obligations which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Tax-Exempt Obligations would have caused the Tax-Exempt Obligations to be "arbitrage bonds" within the meaning of Section 148 of the Code, as applicable.

F. **Registration Covenant.** The county will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code until all Tax-Exempt Obligations have been surrendered and canceled.

G. **Record Retention.** The county will retain its records of all accounting and monitoring it carries out with respect to the Tax-Exempt Obligations for at least three years after the Tax-Exempt Obligations mature or are redeemed (whichever is earlier); however, if the Tax-Exempt Obligations are redeemed and refunded, the county will retain its records of accounting and monitoring at least three years after the earlier of the maturity or redemption of the obligations that refunded the Tax-Exempt Obligations.

H. **Compliance with Tax Certificate.** The county will comply with the provisions of the Tax Certificate with respect to the Tax-Exempt Obligations, which are incorporated herein as if fully set forth herein. In the event of any conflict between this Section and the Tax Certificate, the provisions of the Tax Certificate will prevail. Additional tax covenants as necessary or desirable for any Series of Bonds may be set forth in the Sale Motion or Tax Certificate for that Series of Bonds.

The covenants of this Section will survive payment in full or defeasance of the Tax-Exempt Obligations.

SECTION 21. Defaults. The county hereby finds and determines that the failure or refusal of the county or any of its officers to perform the covenants and obligations of this ordinance will endanger the operation of the System and the application of Revenue of the System and such other money, funds and securities to the purposes herein set forth. Any one or more of the following will constitute a Default under this ordinance:

A. The county fails to make payment of the principal of any Bond when the same becomes due and payable, whether by maturity or scheduled redemption prior to maturity;

B. The county fails to make payment of the interest on any Bond when the same becomes due and payable;

C. The county defaults in the observance or performance of any other covenant, condition or agreement on the part of the county contained in this ordinance, and such default has continued for a period of 30 days; or

D. The county: (a) admits in writing its inability to pay its debts generally as they become due; (b) files a petition in bankruptcy or seeking a composition of indebtedness under any state or federal bankruptcy or insolvency law; (c) makes an assignment for the benefit of its creditors; (d) consents to the appointment of a receiver for the whole or any substantial part of the System; or (e) consents to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the county or of the whole or any substantial part of the System.

SECTION 22. Remedies.

A. **Control by Credit Provider.** Upon the occurrence and continuation of a Default described in Section 21.A. through D. of this ordinance, each Credit Provider will be entitled to exercise, on behalf of the Registered Owners of any Bonds secured by Credit Enhancement provided by the Credit Provider, any of the remedies provided to the Registered Owners of such Bonds under this section and, for so long as the Credit Provider is not in default of its obligations under the Credit Enhancement, the Credit Provider will be the only

person entitled to exercise the remedies provided under this section with respect to such Bonds.

B. **Appointment of Bondowners' Trustee.** Upon the occurrence of a Default and so long as such Default is not remedied, and subject to the rights of any Credit Provider as provided in subsection A. of this section, a Bondowners' Trustee may be appointed for the Registered Owners of the Bonds by the Registered Owners of a majority in principal amount of the Bonds then outstanding by an instrument or concurrent instruments in writing signed and acknowledged by such Registered Owners or by their attorneys-in-fact duly authorized and delivered to the Bondowners' Trustee, notification thereof having been given to the county. Any Bondowners' Trustee appointed under the provisions of this section must be a bank or trust company organized under the laws of a state or a national banking association. The fees and expenses of the Bondowners' Trustee must be borne by the Registered Owners of the Bonds and not by the county. The bank or trust company acting as the Bondowners' Trustee may be removed at any time, and a successor Bondowners' Trustee may be appointed, by the Registered Owners of a majority in principal amount of the Bonds then outstanding, by an instrument or concurrent instruments in writing signed and acknowledged by such Registered Owners or by their attorneys-in-fact duly authorized. The Bondowners' Trustee may resign upon 60 days' notice and a new Bondowners' Trustee appointed by the Registered Owners of a majority in principal amount of the Bonds then outstanding; provided, that no such resignation or removal will be effective until a successor Bondowners' Trustee has been appointed and has delivered to the county and the Registered Owners of the Bonds then outstanding a written instrument of acceptance of the duties and responsibilities of the Bondowners' Trustee under this ordinance.

The Bondowners' Trustee appointed in the manner herein provided, and each successor thereto, is hereby declared to be a trustee for the Registered Owners of all the Bonds then outstanding and is empowered to exercise all the rights and powers herein conferred on the Bondowners' Trustee.

C. **Legal Action by Bondowners' Trustee.** Subject to the rights of the Credit Provider, if any, as provided in subsection A. of this section, upon the happening of a Default and during the continuation thereof,

the Bondowners' Trustee may, and upon the written request of the Registered Owners of not less than 25 percent in principal amount of the Bonds then outstanding must, take such steps and institute such suits, actions or other proceedings as it may deem appropriate for the protection and enforcement of the rights of such Registered Owners to collect any amounts due and owing to or from the county, or to obtain other appropriate relief, and may enforce the specific performance of any covenant, agreement or condition contained in this ordinance or in the Bonds. Any action, suit or other proceedings instituted by the Bondowners' Trustee hereunder will be brought in its name as trustee for the Registered Owners of all Bonds, and all such rights of action upon or under any of the Bonds or the provisions of this ordinance may be enforced by the Bondowners' Trustee without the possession of any of the Bonds, and without the production of the same at any trial or proceedings relating thereto except where otherwise required by law. Any such suit or proceeding instituted by the Bondowners' Trustee will be brought for the ratable benefit of all of the Registered Owners of the Bonds, subject to the provisions of this ordinance. The respective Registered Owners of the Bonds, by taking and holding the same, will be conclusively deemed irrevocably to have appointed the Bondowners' Trustee the true and lawful trustee of the respective Registered Owners of the Bonds, with authority to institute any such action, suit or proceeding; to receive as trustee and deposit in trust any sums that become distributable on account of the Bonds; to execute any paper or documents for the receipt of such money; and to do all acts with respect thereto that such registered owners themselves might have done. Nothing herein will be deemed to authorize or empower the Bondowners' Trustee to consent to accept or adopt, on behalf of any Registered Owner of the Bonds, any plan of reorganization or adjustment affecting such Bonds or any right of any Registered Owner thereof, or to authorize or empower the Bondowners' Trustee to vote the claims of the Registered Owners thereof in any receivership, insolvency, liquidation, bankruptcy, reorganization or other proceeding to which the county is a party.

D. Restrictions on Legal Action by Individual Owners. Subject to the rights of the Credit Provider, if any, as provided in subsection A. of this section, no Registered Owner of any Bonds has any right to

institute any action, suit or proceedings at law or in equity for the enforcement of the same unless:

1. a Default has happened and is continuing; and
2. a Bondowners' Trustee has been appointed as herein provided; and
3. such Registered Owner previously has given to the Bondowners' Trustee written notice of the Default as to which such suit, action or proceeding is to be instituted; and
4. Registered Owners of not less than 25 percent in principal amount of the Bonds then outstanding, after the occurrence of such Default, have made written request of the Bondowners' Trustee and have afforded the Bondowners' Trustee a reasonable opportunity to institute such suit, action or proceedings; and
5. the Bondowners' Trustee has been offered security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and
6. the Bondowners' Trustee has refused or neglected to comply with such request within a reasonable time.

Notwithstanding any other provision of this ordinance, each Registered Owner of the Bonds will have the absolute and unconditional right to receive payment of principal of and premium, if any, and interest on such Bonds on and after the due date thereof, and to institute suit for the enforcement of any such payment.

E. **Waivers of Default; Remedies not Exclusive.** The remedies herein conferred upon or reserved to the Registered Owners of the Bonds and to the Bondowners' Trustee are not intended to be exclusive of any other remedy or remedies, and each and every such remedy will be cumulative and will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. The privileges herein granted may be exercised from time to time and continued so long as and as often as the occasion therefor may arise.

Subject to the rights of the Credit Provider, if any, as provided in subsection A. of this section, the Bondowners' Trustee may waive any past Default and its consequences, except a default in the payment of the

principal of or premium, if any, or interest on any of the Bonds. No such waiver will extend to or affect any subsequent Default or impair any rights or remedies consequent thereon. No delay or omission of the Credit Provider or the Bondowners' Trustee to exercise any right or power accruing upon any Default will impair any such right or power or be construed to be a waiver of any such Default or acquiescence therein.

SECTION 23. Additional Obligations of the System.

A. **Senior Lien Obligations.** The county reserves the right to issue additional Parity Bonds and Parity Lien Obligations on the applicable terms and conditions set forth in the ordinances authorizing issuance of the Parity Bonds and Parity Lien Obligations then outstanding.

B. **Future Junior Lien Obligations; Future Multi-Modal LTGO/Sewer Revenue Bonds.** The county reserves the right to issue Future Junior Lien Obligations and Future Multi-Modal LTGO/Sewer Revenue Bonds, but only if such Future Junior Lien Obligations and Future Multi-Modal LTGO/Sewer Revenue Bonds are issued (a) for the purpose of refunding any Junior Lien Obligations or Multi-Modal LTGO/Sewer Revenue Bonds then outstanding or (b) for any lawful purpose of the county related to the System and the following conditions are met:

1. At the time of issuing such Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds, there is no default in the payment of the principal of or interest on any Parity Bonds, Parity Lien Obligations, Junior Lien Obligations, Multi-Modal LTGO/Sewer Revenue Bonds, Future Subordinate Lien Obligations, SRF Loans or Public Works Trust Fund Loans.

2. The county has on file one of the following certificates:

a. A certificate of the Finance Director showing that Net Revenue in any 12 consecutive months out of the most recent 18 months preceding the issuance of such Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds, based on financial statements of the System prepared by the county and after deducting therefrom the Senior Lien Payments required in each calendar year during the life of such Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds,

will be at least equal to 1.10 times the Annual Debt Service for the proposed Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds and all Junior Lien Obligations and Multi-Modal LTGO/Sewer Revenue Bonds then outstanding in each year during the life of such Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds; or

b. A certificate from a Professional Utility Consultant (which certificate may not be dated more than 90 days prior to the date of delivery of such Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds) showing that in the Professional Utility Consultant's professional opinion the Net Revenue, estimated on the basis of all factors as he or she may consider reasonable, for each of the five calendar years following the year in which such Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds are to be issued, after deducting therefrom Senior Lien Payments for each such year, will be at least equal to 1.10 times the Annual Debt Service for the proposed Future Junior Lien Obligations or Future Multi-Modal LTGO/Sewer Revenue Bonds and all Junior Lien Obligations and Multi-Modal LTGO/Sewer Revenue Bonds then outstanding in each of those five years.

C. **Inferior Lien Obligations.** Nothing contained in this ordinance prevents the county from issuing revenue bonds, notes or other obligations that are a charge on Revenue of the System junior or inferior to the payments required to be made therefrom into the Junior Lien Bond Fund to pay and secure the payment of any Junior Lien Obligations, and nothing contained in this ordinance prevents the county from issuing revenue bonds, notes or other obligations that are a charge on Revenue of the System junior or inferior to the payments required to be made therefrom into the Multi-Modal LTGO/Sewer Revenue Bond Fund to pay and secure the payment of any Multi-Modal LTGO/Sewer Revenue Bonds.

SECTION 24. 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 Payment Agreements with respect to any Series of the Bonds, subject to the conditions set forth in this section and in

other provisions of this ordinance.

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

C. **Authorizing Ordinance.** Prior to entering into a Payment Agreement, the council must adopt 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 Bonds with Respect to which a Payment Agreement is in Force.** It is the intent of the county, for purposes of Section 18 or 23 of this ordinance, that debt service on Bonds with respect to which a Payment Agreement is in force will be calculated to reflect the net economic effect on the county intended to be produced by the terms of such Bonds and the Payment Agreement. In calculating such amounts, the county will be guided by the following requirements:

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

2. For any period during which Payment Agreement Payments are not taken into account in calculating interest on any outstanding Bonds because the Payment Agreement is not then related to any outstanding Bonds, Payment Agreement Payments on that Payment Agreement will 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 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 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 Payment Agreement.

E. **Prior Notice to Rating Agencies.** The county will give notice to Moody's and S&P 30 days prior to the date it intends to enter into a Junior Lien Obligation Payment Agreement or Multi-Modal LTGO/Sewer Revenue Bond Payment Agreement.

SECTION 25. Sale and Remarketing of Bonds.

A. **Determination by Finance Director.** The Finance Director shall determine, in consultation with the county's financial advisors, whether each Series of Bonds will be issued as Junior Lien Obligations or Multi-Modal LTGO/Sewer Revenue Bonds, the principal amount of each Series of Bonds, whether each Series of Bonds will be structured as Tax-Exempt Obligations or otherwise, whether a Series of Bonds will be sold separately or combined with one or more other Series of the county's bonds and whether each Series of Bonds will be sold by negotiated sale, competitive bid, or to the federal government or other purchaser, and for current or future delivery. The Finance Director is authorized to designate any or all of the Bonds as "green bonds" or any similar designation indicating the purpose for which the proceeds of the Bonds are to be used. The authority to sell (e.g., enter into a purchase contract, accept a bid for or enter into a loan or other agreement for) in connection with the initial issuance of any Series of Bonds authorized hereunder will terminate December 31, 2022, but the authority to remarket any Series of Bonds authorized hereunder and all other provisions of this ordinance will remain in full force and effect.

B. **Satisfaction of Conditions.** The Finance Director will provide or cause to be provided by a Professional Utility Consultant any certifications required to satisfy the conditions established in the ordinances of the county for the issuance of the Bonds as Junior Lien Obligations or Multi-Modal LTGO/Sewer Revenue Bonds, as applicable. In the Sale Motion or a closing certificate, the Finance Director shall certify to any required findings regarding the satisfaction of such conditions applicable to that Series of Bonds.

C. **Procedure for Negotiated Sale.** If the Finance Director determines that any Series of the Bonds will be sold by negotiated sale, the Finance Director shall, in accordance with applicable county procurement procedures, solicit one or more underwriting firms or other financial institutions with which to negotiate the sale of the Bonds. The purchase contract for each Series of the Bonds shall designate any Term Bonds and shall specify the year and Series designation, date, principal amount, interest payment dates, interest rates, price, maturity schedule and redemption and bond insurance provisions of such Series of Bonds subject to the parameters set forth in subsection F of this section. The purchase contract shall not be executed and delivered unless and until the council by a Sale Motion approves the purchase contract and ratifies and confirms the terms for the Series of Bonds established therein.

D. **Procedure for Sale by Competitive Bid.** If the Finance Director determines that any Series of the Bonds will be sold by competitive bid, bids for the purchase of such Series of Bonds 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 sale for such Bonds, establishing in such notice the year and Series designation, date, principal amount, interest payment dates, maturity schedule and optional redemption and bond insurance provisions of such Series of Bonds. The official notice of 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 Bonds, the Finance Director or the Finance Director's designee will review the bids, cause the bids to be mathematically verified and accept the winning bid, upon approval of the council by Sale Motion, by executing the Certificate of Award, which

shall designate any Term Bonds. The county reserves the right to reject any and all bids for such Bonds, acting through the Finance Director.

E. **Other Sales.** If the Finance Director determines that any Series of Bonds will be sold to the federal government or other purchaser to evidence a loan from that purchaser, the Finance Director will negotiate the sale of such Bonds and the terms of any loan or other agreement with the purchaser, for approval by Sale Motion. The Sale Motion for such Series of Bonds will identify the year and any applicable Series designation, date, principal amounts and maturity dates, interest rates and interest payment dates, redemption and/or purchase provisions and delivery date for such Series of Bonds.

F. **Multi-Modal Bonds; Remarketing.** The Finance Director is authorized to determine that any Series of the Bonds will be issued with interest to be borne in a daily mode, weekly mode, commercial paper mode, term mode, index floating mode, fixed mode or other mode, subject to minimum rate(s), maximum rate(s), alternate rate(s) and default rate(s), conversion between modes, optional and mandatory tender for purchase on dates and at prices and additional provisions relating to defaults and remedies, all as set forth in proceedings of the county authorized under this ordinance. In connection with the sale, remarketing of or any mode conversion of any Series of the Bonds following the initial issuance of such Series of Bonds, the Finance Director is authorized, in the Finance Director's discretion, without further action by the council, as necessary and desirable to effect such sale, remarketing or conversion: (a) to issue requests for proposals for purchasers, remarketing agents, tender agents, paying agents, calculation agents, Credit Providers, or Liquidity Providers, and to execute and deliver agreements based on responses received to such requests, including the Mode Agreement, any amendments to the Mode Agreement, any continuing covenant or purchase agreements, remarketing agent agreements, tender agent agreements, paying agent agreements, calculation agent agreements, Credit Enhancement and amendments to, extensions, replacements and terminations thereof, Liquidity Facilities and amendments to, extensions, replacements and terminations thereof, reimbursement agreements and other agreements evidencing the county's obligations under any such agreements and any

certifications or documentation in connection therewith; (b) to appoint or replace the Registrar or Securities Depository; (c) to cause the interest rate mode of any Series of the Bonds to be established or converted in accordance with the Mode Agreement, or amendments to the Mode Agreement; and (d) to establish such funds and accounts as are necessary and desirable in connection with such sale or remarketing in or conversion to such interest rate mode.

SECTION 26. Delivery of Bonds. Following the sale of each Series of the Bonds, the county will cause definitive Bonds 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 Bonds, as applicable, with the approving legal opinion of municipal bond counsel regarding the Bonds.

SECTION 27. Preliminary Official Statement; Official Statement. The county authorizes and directs the Finance Director: (a) to review and approve the information contained in one or more preliminary official statements or reoffering memoranda (each, a "Preliminary Official Statement") prepared in connection with any sale or remarketing of any Series of the Bonds; and (b) for the sole purpose of the Bond 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 Bonds.

Following the sale or remarketing of each Series of the Bonds in accordance with Section 25 of this ordinance, the Finance Director is hereby authorized to review and approve on behalf of the county each final official statement or reoffering memoranda with respect to such Series of Bonds. The county shall cooperate with the purchaser of each Series of Bonds to deliver or cause to be delivered, within seven business days (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 Bonds in sufficient quantity to comply with paragraph (b)(4) of Rule 15c2-12 and the rules of the MSRB.

SECTION 28. 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 the applicable Series of the Bonds.

SECTION 29. 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, and remarketing of the Bonds, and for the proper use and application of the proceeds of the sale and remarketing thereof.

SECTION 30. Investment of Funds and Accounts. Money in the Revenue Fund, Junior Lien Bond Fund and Multi-Modal LTGO/Sewer Revenue Bond Fund may be invested in any Permitted Investments. Obligations purchased as an investment of money in the Revenue Fund, Junior Lien Bond Fund and Multi-Modal LTGO/Sewer Revenue Bond Fund and accounts therein will be deemed at all times to be a part of such respective fund or account, and the income or interest earned, profits realized or losses suffered by a fund or account due to the investment thereof will be retained in, credited or charged, as the case may be, to such fund or account.

SECTION 31. Refunding or Defeasance of Bonds. 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: (a) paying when due the principal of and interest on any or all of the Bonds (the "Defeased Bonds"); (b) redeeming the Defeased Bonds prior to their maturity; and (c) 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 Bonds in accordance with their terms, then all right and interest of the Owners of the Defeased

Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the Defeased Bonds shall cease and become void. Thereafter, the Registered Owners of Defeased Bonds shall have the right to receive payment of the principal of and premium, if any, and interest on the Defeased Bonds solely from the trust account and the Defeased Bonds 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 Bonds 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 Bonds for any partial refunding or defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Bonds.

SECTION 32. Supplemental Ordinances.

A. **Without Owner Consent.** The council from time to time and at any time may adopt an ordinance or ordinances supplemental to this ordinance, without the consent of Registered Owners of any of the Bonds, for any one or more of the following purposes:

1. To add to the covenants and agreements of the county in this ordinance such other covenants and agreements thereafter to be observed that will not adversely affect the interests of the Registered Owners of any Bonds, or to surrender any right or power herein reserved to or conferred upon the county;
2. 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 this ordinance as the council may deem necessary or desirable and not inconsistent with this ordinance and that will not adversely affect the interest of the Registered Owners of any Bonds;
3. To modify, alter, amend, supplement or restate this ordinance in any and all respects necessary, desirable or appropriate in connection with the delivery of Credit Enhancement or a Liquidity Facility (other than modifying notice provisions to Registered Owners of the Bonds);
4. To modify, alter, amend, supplement or restate this ordinance in any and all respects

necessary, desirable or appropriate to satisfy the requirements of any rating agency to obtain or maintain a rating on the Bonds as the county deems necessary, provided that such action does not impair the security hereof or materially adversely affect the interests of the Registered Owners of the Bonds; or

5. For any purpose, on any date all Bonds are subject to mandatory or optional tender for purchase, in each case after written notice of such amendment has been given by first class mail to each Registered Owner of the Bonds not less than 30 days prior to such purchase date.

B. With Owner Consent.

1. With the consent of the Registered Owners of not less than a majority in aggregate principal amount of the Junior Lien Obligations and Multi-Modal LTGO/Sewer Revenue Bonds then outstanding, the council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this ordinance, except as described in subsection B.2. or B.4. of this section.

2. No supplemental ordinance entered into pursuant to this subsection B. may:

a. Extend the fixed maturity of any Bonds, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, or amend provisions governing the mandatory or optional tender for purchase or redemption of Bonds, without the consent of the Registered Owner of each Bond so affected; or

b. Reduce the aforesaid percentage of Registered Owners of Junior Lien Obligations and Multi-Modal LTGO/Sewer Revenue Bonds required to approve any such supplemental ordinance, without the consent of the Registered Owners of all Bonds then outstanding.

3. It is not necessary for the consent of the Registered Owners of Junior Lien Obligations and Multi-Modal LTGO/Sewer Revenue Bonds under this subsection B. to approve the particular form of any proposed supplemental ordinance, but it is sufficient if such consent approves the substance thereof.

4. Notwithstanding any provision of this subsection B. to the contrary, the Credit Provider, if any, will be entitled to consent, on behalf of the Registered Owners of any Junior Lien Obligations or Multi-Modal LTGO/Sewer Revenue Bonds secured by Credit Enhancement provided by such Credit Provider, for so long as the Credit Provider is not in default of its obligations under the Credit Enhancement, to the adoption by the council of any ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this ordinance.

C. **Consent of Credit Provider and Liquidity Provider.** Any amendment or supplement to this ordinance requires the prior written consent of any Credit Provider and Liquidity Provider if the rights of such Credit Provider or Liquidity Provider, as the case may be, will be adversely affected thereby, for so long as the Credit Provider or Liquidity Provider, as applicable, is not in default of its obligations.

SECTION 33. Ordinance a Contract; Severability. The covenants contained in this ordinance constitute a contract between the county and: (a) the Registered Owner of each Bond; (b) the Qualified Counterparty to any Payment Agreement entered into with respect to any Bonds; and (c) any Credit Provider or Liquidity Provider with respect to any Bonds. 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 Bonds.

SECTION 34. Effective Date. This ordinance shall be effective 10 days after its enactment, in accordance with Article II of the county charter.