

# COUNTY OF YORK

## MEMORANDUM

**DATE:** August 24, 2016 (BOS Mtg. 9/6/16)

**TO:** York County Board of Supervisors

**FROM:** Neil A. Morgan, County Administrator



**SUBJECT:** Approval for Refunding of Sewer Revenue Bonds

In July the County's financial advisor, The PFM Group, advised us that market conditions are favorable for refunding three of our outstanding sewer bond debt issuances. A description of three issuances being refunded and the amounts for each are shown below:

- Bonds payable under a 1992 agreement with the United States Department of Agriculture, Farmers Home Administration that was used to finance the acquisition, construction and equipping of improvements to the County's sewer system in the Lackey area.
- 2005 Sewer System Revenue Bonds issued to refund 1999 bonds that were used to finance the costs of capital improvements and extensions to the sewer system including the Dare Road and Calthrop Neck Road projects, among others.
- 2010 Sewer System Revenue Bonds used to finance the costs of capital improvements to the sewer system including the Queens Lake, Darby Firby and Falcon/Loblolly projects, among others. This series includes some Build America Bonds that are not eligible for refunding at this time.

Series	Principal Refunded
1992	\$386,962
2005	6,075,000
2010 (partial)	965,000
Total	\$7,426,962

Given current market conditions, it is estimated that refinancing this debt will result in savings of approximately \$1.2 million over the remaining life of the series. This translates into an estimated, average annual cash flow savings between \$35 - \$50K over the next 14 years.

Should the board approve this refunding, the County will participate in VRA's fall Virginia Pooled Financing Program. The bond sale date is tentatively set for November 2<sup>nd</sup> with the closing on November 16<sup>th</sup>.

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This action represents straightforward, prudent financial management. I recommend the Board adopt proposed Resolution R16-107.

Moss/3716

Attachment:

- Proposed Resolution R16-107

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2016:

Present

Vote

Jeffrey D. Wassmer, Chairman  
Sheila S. Noll, Vice Chairman  
Walter C. Zaremba  
W. Chad Green  
Thomas G. Shepperd, Jr.

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION TO AUTHORIZE AND APPROVE THE ISSUANCE, AWARD AND SALE OF SEWER SYSTEM REVENUE REFUNDING BONDS OF THE COUNTY OF YORK, VIRGINIA, AND SETTING FORTH THE FORM, DETAILS AND PROVISIONS FOR THE PAYMENT THERE-OF

WHEREAS, the Board of Supervisors (the "Board") of the County of York, Virginia (the "County") has determined that it is necessary and desirable to issue Sewer System Revenue Refunding Bonds (collectively, the "Bond"), and to use the proceeds thereof, along with other available funds, if any (i) to refund a portion of or all of one or more outstanding Sewer System Revenue Bonds of the County (collectively, the "Prior Bonds") and (ii) to pay the costs of issuance of the Bond (collectively, the "Plan of Refunding"); and

WHEREAS, the County has applied to the Virginia Resources Authority ("VRA") for the purchase of the Bond, and VRA has indicated its willingness to purchase such Bond from the proceeds of one or more series of its Infrastructure and State Moral Obligation Revenue Bonds (Virginia Pooled Financing Program), Series 2016C (collectively, the "VRA Bonds"), in accordance with the terms of a Local Bond Sale and Financing Agreement to be dated as of September 22, 2016 (the "Financing Agreement"), between VRA and the County, or such other financing agreement that may be entered into in connection with a separate series of the Bonds; and

WHEREAS, the Financing Agreement is expected to provide that the County will select the Prior Bonds to be refunded if the refunding of such bonds achieves an aggregate net present value debt service savings of not less than 3.00% of the refunded par amount of the Prior Bonds (the "Targeted Savings"); and

WHEREAS, VRA has advised the County that the sale date of the VRA Bonds is tentatively scheduled for November 2, 2016, but may occur, subject to market conditions, at any time between October 1, 2016, and December 31, 2016 (the "VRA Sale Date"), and that VRA's objective is to pay the County a purchase price for the Bond that in VRA's judgment reflects its market value (the "Purchase Price Objective") taking into consideration the Targeted Savings, the Prior Bonds selected for refunding, and such factors as the purchase price received by VRA for the VRA Bonds, the issuance costs of the VRA Bonds (consisting of the underwriters' discount and other costs incurred by VRA) (collectively, the "VRA Costs") and other market conditions relating to the sale of the VRA Bonds; and

WHEREAS, the Bond will be issued as parity indebtedness ("Parity Indebtedness") under the Restated Master Indenture of Trust dated as of December 1, 2010 (as supplemented and amended, the "Master Indenture"), between the County and U.S. Bank National Association, as trustee (the "Trustee"). The Bond will be secured by a pledge of the net revenues (as more particularly defined in the Master Indenture, the "Net Revenues") derived by the County from the ownership and operation of its sewage disposal and sewer systems (as more particularly defined in the Master Indenture, the "System"); and

WHEREAS, the Financing Agreement will provide that the terms of the Bond may not exceed the parameters set forth below in Section 3 and the form of Financing Agreement has been filed in the County's records;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF YORK, VIRGINIA this \_\_\_ day of \_\_\_\_\_, 2016, that:

1. Authorization of Bond and Use of Proceeds. Pursuant to the Constitution and statutes of the Commonwealth of Virginia (the "Commonwealth"), including the Public Finance Act of 1991 (the "Act"), the Board hereby determines that it is in the best interest of the County to contract a debt and to issue the Bond and to award and sell the Bond to or at the direction of VRA, all pursuant to the Act and the terms of this Resolution and the Financing Agreement. The Board hereby finds that the issuance of the Bond will promote the health, safety, welfare, morals and propriety of the citizens served by the County and will promote the governmental purposes of the Act. Accordingly, the Board hereby authorizes the issuance, award and sale of the Bond in accordance with the terms of this Resolution, the Act, the Master Indenture and the Financing Agreement. The Bond shall be known as the "County of York, Virginia, Sewer System Revenue Refunding Bond, Series 2016" or such other designation as the County Administrator may approve. The Board hereby covenants that the proceeds from the issuance

and sale of the Bond shall be used, together with other available funds, if any, to pay the costs of the Plan of Refunding. The Bond shall be delivered to or upon the order of VRA upon VRA's payment of the purchase price set forth in the Financing Agreement. Subject to the County Administrator of the County's (the "County Administrator") determination of what will be in the County's best interests, the Bond may be sold to VRA in connection with any sale date of the VRA Bonds occurring prior to June 30, 2017.

2. Authorization of Financing Agreement. The form of the Financing Agreement on file with the County is hereby approved. The County Administrator or the Director of Finance of the County (the "Director of Finance") are each authorized and directed to execute the Financing Agreement in substantially such form, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing the Financing Agreement, whose approval shall be evidenced conclusively by the execution and delivery thereof.

3. Details of Bond.

- (a) The Bond, may be issued in one or more series, and the Bond of each series shall be issued as a single bond in fully registered form and shall be dated the date required by VRA, which may be prior to the date of issuance of the Bond.
- (b) The Bond shall be issued and sold to or at the direction of VRA on terms that VRA shall determine subject to VRA's Purchase Price Objective and market conditions described in the Recitals hereof; provided, however, that (i) the County shall not refund any Prior Bonds unless the Targeted Savings is achieved in the aggregate, (ii) the Bond shall be payable in principal installments ending no later than the last fiscal year in which a refunded Prior Bond matures, and (iii) the Bond shall be subject to prepayment upon the terms set forth in the Financing Agreement.
- (c) Subject to the parameters in subsection (b), the County further authorizes the Director of Finance to accept the final terms presented by VRA, including the final principal amount and the amortization schedule (including the principal installment dates and amounts) of the Bond.
- (d) The actions of the Director of Finance in determining the final terms of the Bond shall be conclusive, and no further action shall be necessary on the part of the Board.
- (e) As set forth in the Financing Agreement, the County agrees to pay such Supplemental Interest and other charges as provided therein, including such amounts as may be necessary to maintain or replen-

ish any VRA Reserve. The principal of and premium, if any, and interest on the Bond shall be payable in lawful money of the United States of America.

4. Pledge of Net Revenues and Parity Indebtedness.

- (a) The Bond shall be a limited obligation of the County and, except to the extent payable from the proceeds of the sale of the Bond or the income, if any, derived from the investment thereof, is payable exclusively from the Net Revenues of the System. The County hereby renews its pledge of the Net Revenues to pay the principal of and premium, if any, and interest on the Bond pursuant to the terms of the Master Indenture and the Financing Agreement. The Board hereby determines that the Bond shall be issued as Parity Indebtedness under the Master Indenture. The Board hereby acknowledges that as Parity Indebtedness the Bond will be secured equally and ratably with the County's outstanding Parity Indebtedness or Bonds (as defined in the Master Indenture) and any Parity Indebtedness or Bonds (as defined in the Master Indenture) issued in the future, subject to Section 2.1(b) of the Master Indenture.
- (b) Neither the Commonwealth nor any of its political subdivisions, including the County, shall be obligated to pay the principal of or premium, if any, or interest on the Bond or other costs incident to it except from the revenues and any other money or property pledged for such purpose, and neither the faith and credit nor the taxing power of the Commonwealth or any of its political subdivisions, including the County, is pledged to the payment of the principal of or premium, if any, or interest on the Bond or other costs incident to it. The issuance of the Bond does not directly, indirectly or contingently obligate the Commonwealth or any of its political subdivisions, including the County, to levy any taxes for the payment of the Bond.

5. Form of Bond. The Bond shall be in substantially the form attached as Exhibit A to the Financing Agreement and on file in the County's records, with such variations, insertions or deletions as may be approved by the County Administrator or the Director of Finance. There may be endorsed on the Bond such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

6. Execution and Delivery of Bond. The Board hereby authorizes and directs the County Administrator or the Director of Finance to execute the Bond and then to deliver the Bond to or at the direction of VRA upon payment of the purchase price therefor.

7. Parity Debt Service Fund Accounts. The Board hereby authorizes the creation of a Series 2016 Bond Account in the Parity Debt Service Fund described in Section 7.1 of the Master Indenture. The Board hereby covenants that the County shall use money in the Series 2016 Bond Account to make payments on the Bond when due.

8. Tax Compliance Agreement. Such officers of the County as may be requested are authorized and directed to execute and deliver a non-arbitrage certificate and tax compliance agreement (the "Tax Compliance Agreement") in a form to be approved by the officers of the County executing such document, whose approval shall be evidenced conclusively by the execution and delivery thereof.

9. Arbitrage Covenants. The County covenants that it shall neither take nor omit to take any action the taking or omission of which will cause the VRA Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the VRA Bonds to be includable in the gross income of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of the Tax Compliance Agreement that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bond, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required, or is no longer required, to prevent interest on the VRA Bonds from being included in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from legally available funds.

10. Official Statement. The County authorizes and consents to the inclusion of necessary information with respect to the County contained in VRA's Preliminary Official Statement and VRA's Official Statement in final form, both prepared in connection with the sale of the VRA Bonds. If appropriate, such disclosure documents shall be distributed in such manner and at such times as any of them shall determine. The Director of Finance is authorized and directed to take whatever actions are necessary or appropriate to aid VRA in ensuring compliance with Securities and Exchange Commission Rule 15c2-12.

11. SNAP Investment Authorization. The Board hereby authorizes the Director of Finance to utilize the State Non-Arbitrage Program of the Commonwealth or any successor program (collectively, "SNAP") in connection with the investment of the proceeds of the Bond, if the Director of Finance determines that the utilization of SNAP is in the best interests of the County. The County acknowledges the Treasury Board of the Commonwealth is not and shall not be in any way liable to the County in connection with SNAP, except as otherwise provided in the Contract.

12. Redemption of Prior Bonds. The Director of Finance is authorized and directed to take all proper steps to call for redemption such portions of the Prior Bonds as shall be refunded on the date the Bond is issued and to prepare and deliver any such notices and correspondence necessary therefor.

13. Escrow Agreement. If needed, the County Administrator is authorized and directed to execute an escrow agreement (the "Escrow Agreement") between the County, an escrow agent (the "Escrow Agent") to be selected by the County Administrator, and such other parties as may be necessary, for purposes of providing for the redemption and defeasance of the refunded portion of the Prior Bonds. The Escrow Agreement shall be in a form approved by the County Administrator, in collaboration with the County's bond counsel, the execution thereof by the County Administrator to constitute conclusive evidence of the County Administrator's approval of the Escrow Agreement.

14. Evidence of Approval. The approval or determination of all of the details and provisions of the Bond, the Financing Agreement and all other documents executed under the authority of this Resolution shall be evidenced conclusively by the execution and delivery of the Bond, the Financing Agreement and such other document by the officer or officers authorized hereby.

15. Further Actions; Authorized Representative. The Board hereby authorizes and directs the County Administrator and the Director of Finance and such officers and agents of the County as may be designated by either of them to take such further actions as they deem necessary regarding, the issuance and sale of the Bond and the execution, delivery and performance of the Financing Agreement and closing documents and certificates. All such actions previously taken by such officers and agents are ratified and confirmed. The Board hereby designates the County Administrator and the Director of Finance of the County as the County's authorized representatives for purposes of the Financing Agreement. The authorization granted in this Resolution to the County Administrator and Director of Finance may be carried out by such other officer as any of the named officers may designate in writing. When this Resolution authorizes the County Administrator or the Director of Finance to act, it shall be sufficient for either the act.

16. Public Finance Act. The Board hereby elects pursuant to Section 15.2-2601 of the Code of Virginia of 1950, as amended, to issue the Bond under the Act without regard to the requirements, restrictions or other provisions contained in any charter or special or local act.

17. Filing of Resolution. The Board hereby directs counsel to the County to file a certified copy of this Resolution with the York County-Poquoson Circuit Court pursuant to Section 15.2-5126 of the Code of Virginia of 1950, as amended.

18. Effective Date. This Resolution shall take effect upon adoption.