CB 117121
#3

Marc Greenough/Michael van Dyck
SPU SW Bonds 2011 ORD
February 21, 2011
Version #1

ORDINANCE _____

AN ORDINANCE relating to financing the solid waste system of The City of Seattle, Washington; adopting a system or plan of additions and betterments to and extensions of the solid waste system; authorizing the issuance and sale of solid waste revenue bonds, in one or more series, for the purposes of paying all or part of the cost of carrying out that system or plan, providing a bond reserve and paying the costs of issuing and selling the bonds; authorizing the execution of certain agreements relating thereto; providing for the terms, conditions, covenants and manner of sale of the bonds; describing the lien of the bonds; creating certain accounts of the City relating to the bonds; and ratifying and confirming certain prior acts.

Passed _____, 2011

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ORDINANCE _____

AN ORDINANCE relating to financing the solid waste system of The City of Seattle, Washington; adopting a system or plan of additions and betterments to and extensions of the solid waste system; authorizing the issuance and sale of solid waste revenue bonds, in one or more series, for the purposes of paying all or part of the cost of carrying out that system or plan, providing a bond reserve and paying the costs of issuing and selling the bonds; authorizing the execution of certain agreements relating thereto; providing for the terms, conditions, covenants and manner of sale of the bonds; describing the lien of the bonds; creating certain accounts of the City relating to the bonds; and ratifying and confirming certain prior acts.

WHEREAS, The City of Seattle, Washington (the "City") owns, maintains and operates a solid waste collection and disposal system as part of Seattle Public Utilities (the "Solid Waste System"), which Solid Waste System has from time to time required various additions, improvements and extensions; and

WHEREAS, the City needs to acquire and construct certain additions and betterments to and extensions of the Solid Waste System as set forth in this ordinance (the "Plan of Additions"); and

WHEREAS, pursuant to the bond legislation described in Exhibit A the City issued its solid waste revenue bonds described in Exhibit A, and provided for the issuance of additional bonds having a lien and charge on the Net Revenue of the Solid Waste System on a parity of lien with those bonds ("Parity Bonds") upon compliance with certain conditions; and

WHEREAS, pursuant to Ordinance 121940, the City authorized the issuance and sale of solid waste revenue bonds for the purpose, among other things, of paying all or part of the costs of refunding certain of the City's solid waste revenue bonds; and

WHEREAS, the City has determined that it is in the best interest of the City to authorize the issuance and sale, subject to the provisions of this ordinance, of solid waste revenue bonds as Parity Bonds, to pay part of the cost of carrying out the Plan of Additions, to provide a bond reserve and to pay the costs of issuing and selling those bonds; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. **Definitions.** As used in this ordinance, the following words and phrases shall have the meanings set forth below.

"**Accreted Value**" means with respect to any Capital Appreciation Bonds (a) as of any Valuation Date, the amount set forth for such date in any Parity Bond Ordinance authorizing

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such Capital Appreciation Bonds and (b) as of any date other than a Valuation Date, the sum of (i) the Accreted Value on the preceding Valuation Date and (ii) the product of (A) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Accreted Value accrues during any semiannual period in equal daily amounts on the basis of a year of twelve 30-day months, times (B) the difference between the Accreted Values for such Valuation Dates.

"**Adjusted Annual Debt Service**" for any fiscal year means Annual Debt Service minus (1) an amount equal to earnings from investments in the Reserve Subaccount and (2) Annual Debt Service provided for by Parity Bond proceeds.

"**Adjusted Gross Revenue**" for any period means Gross Revenue plus withdrawals from the Rate Stabilization Account made during that period, and minus (1) earnings from investments in the Reserve Subaccount and (2) deposits into the Rate Stabilization Account made during that period.

"**Adjusted Net Revenue**" means Adjusted Gross Revenue less Maintenance and Operation Expenses.

"Annual Debt Service" for any calendar year means the sum of the amounts required in such calendar year to pay:

(a) the interest due in such calendar year on all Parity Bonds outstanding, excluding interest to be paid from the proceeds of the sale of Parity Bonds or other bonds; and

(b) the principal of all outstanding Serial Bonds due in such calendar year; and

(c) the Sinking Fund Requirement, if any, for such calendar year.

For purposes of this definition, the principal and interest portions of the Accreted Value of Capital Appreciation Bonds becoming due at maturity or by virtue of a Sinking Fund

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Requirement shall be included in the calculations of accrued and unpaid and accruing interest or principal in such manner and during such period of time as is specified in any Parity Bond Ordinance authorizing such Capital Appreciation Bonds.

For purposes of calculating and determining compliance with the Reserve Requirement, the Coverage Requirement and conditions for the issuance of Future Parity Bonds and/or entering into Parity Payment Agreements:

(i) Generally. Except as otherwise provided by subparagraph (ii) with respect to Variable Interest Rate Bonds and by subparagraph (iii) below with respect to Parity Bonds with respect to which a Payment Agreement is in force, interest on any issue of Parity Bonds shall be calculated based on the actual amount of accrued, accreted or otherwise accumulated interest that is payable in respect of that issue taken as a whole, at the rate or rates set forth in the applicable Parity Bond Ordinance;

(ii) Interest on Variable Interest Rate Bonds. The amount of interest deemed to be payable on any issue of Variable Interest Rate Bonds shall be calculated on the assumption that the interest rate on those bonds would be equal to the rate that is 90% of the average RBI during the four calendar quarters preceding the quarter in which the calculation is made;

(iii) Interest on Parity Bonds With Respect to Which a Payment Agreement is in Force. Debt service on Parity Bonds with respect to which a Payment Agreement is in force shall be based on the net economic effect on the City expected to be produced by the terms of the Parity Bonds and the terms of the Payment Agreement, including but not limited to the effects produced by the following: (A) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a Variable Interest Rate instead shall be treated as obligations bearing interest at a fixed interest rate, and (B) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a fixed interest rate instead shall be treated as obligations bearing interest at a Variable Interest Rate. Accordingly, the amount of interest deemed to be payable on any Parity Bonds with respect to which a Payment

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Agreement is in force shall be an amount equal to the amount of interest that would be payable at the rate or rates stated in those Parity Bonds plus Payment Agreement Payments minus Payment Agreement Receipts. For the purposes of calculating as nearly as practicable Payment Agreement Receipts and Payment Agreement Payments under a Payment Agreement that includes a variable rate component determined by reference to a pricing mechanism or index that is not the same as the pricing mechanism or index used to determine the variable rate interest component on the Parity Bonds to which the Payment Agreement is related, it shall be assumed that the fixed rate used in calculating Payment Agreement Payments will be equal to 105% of the fixed rate specified by the Payment Agreement and that the pricing mechanism or index specified by the Payment Agreement is the same as the pricing mechanism or index specified by the Parity Bonds. Notwithstanding the other provisions of this subparagraph (iii), the City shall not be required to (but may in its discretion) take into account in determining Annual Debt Service the effects of any Payment Agreement that has a term of ten years or less;

(iv) Parity Payment Agreements. No additional debt service shall be taken into account with respect to a Parity Payment Agreement for any period during which Payment Agreement Payments on that Parity Payment Agreement are taken into account in determining Annual Debt Service on related Parity Bonds under subparagraph (iii) of this definition. However, for any period during which Payment Agreement Payments are not taken into account in calculating Annual Debt Service on any outstanding Parity Bonds because the Parity Payment Agreement is not then related to any outstanding Parity Bonds, payments on that Parity Payment Agreement shall be taken into account by assuming:

(A) City Obligated To Make Payments Based On Fixed Rate. If the City 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, that payments by the City will be based on the assumed fixed payor rate, and that payments by the Qualified Counterparty will be based on a rate equal to the average rate determined by the variable rate

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index specified by the Parity Payment Agreement during the four calendar quarters preceding the quarter in which the calculation is made, and

(B) City Obligated To Make Payments Based On Variable Rate Index. If the City is obligated to make Payment Agreement Payments based on a variable rate index and the Qualified Counterparty is obligated to make payment based on a fixed rate, that payments by the City will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the four calendar quarters preceding the quarter in which the calculation is made, and that the Qualified Counterparty will make payments based on the fixed rate specified by the Parity Payment Agreement.

"Bond Account" means that special account known as the Solid Waste System Revenue Bond Account, created in the Solid Waste Fund by Ordinance 118975 for the payment of the principal of and interest on the Parity Bonds.

"Bond Counsel" means a firm of lawyers nationally recognized and accepted as bond counsel and so employed by the City for any purpose under this ordinance applicable to the use of that term.

"Bond Register" means the books or records maintained by the Bond Registrar for the purpose of registration of the Bonds.

"Bond Registrar" or **"Registrar"** means the Fiscal Agent of the State of Washington, or any successor bond registrar selected by the City, whose duties include the registration and authentication of the Bonds, maintenance of the Bond Register, effecting transfer of ownership of the Bonds, and paying the principal of and premium, if any, and interest on the Bonds.

"Bond Resolution" means the resolution or resolutions of the City Council adopted pursuant to this ordinance to specify certain additional provisions of each series of the Bonds and their sale.

"Bonds" means the bonds issued in one or more series from time to time pursuant to, under the authority of and for the purposes provided in this ordinance.

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"Capital Appreciation Bonds" means any Parity Bonds as to which interest is payable only at the maturity or prior redemption of such Parity Bonds. For the purpose of (a) receiving payment of the redemption premium, if any, of a Capital Appreciation Bond that is redeemed prior to maturity, or (b) computing the principal amount of Parity Bonds held by the owner of a Capital Appreciation Bond in giving to the City or the paying agent for those bonds any notice, consent, request, or demand pursuant to this ordinance or for any purpose whatsoever, the principal amount of a Capital Appreciation Bond shall be deemed to be its Accreted Value.

"CIP" means the portion or portions relating to the Solid Waste System of the "2011-2016 Capital Improvement Program" of the City as adopted by the City in Ordinance 123442, together with any previously adopted Capital Improvement Program of the City, as the CIP may be amended, updated, supplemented or replaced from time to time by ordinance.

"City" means The City of Seattle, Washington.

"City Clerk" means the City Clerk of the City, or any other officer who succeeds to substantially all of the responsibilities of that office specified in this ordinance.

"City Council" means the City Council of the City.

"Closing Date" means the date on which a series of Bonds is delivered to the initial purchaser or purchasers thereof upon payment in full therefor.

"Code" means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

"Construction Account" means the "Solid Waste Construction Account 2011" created in the Solid Waste Fund by this ordinance.

"Contract Resource Obligation" means an obligation of the City, designated as a Contract Resource Obligation and entered into pursuant to Section 20, to make payments for collection, transportation, treatment and disposal of solid waste, or other commodity or service related to the Solid Waste System, to another person or entity (including without limitation a separate utility system created pursuant to Section 19).

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"**Coverage Requirement**" in any fiscal year means the amount of Adjusted Net Revenue equal to at least 1.25 times Adjusted Annual Debt Service in that year on all Parity Bonds then Outstanding.

"**Director of Finance**" means the Director of the Department of Finance of the City or any other officer who succeeds to substantially all of the responsibilities of that office specified in this ordinance.

"**DTC**" means The Depository Trust Company, New York, New York, as initial Securities Depository for the Bonds.

"**Event of Default**" means an Event of Default as defined in Section 23.

"**Future Parity Bonds**" means any fixed or variable rate revenue bonds of the City (other than the Bonds) issued hereafter having a charge or lien upon the Net Revenue for payment of the principal thereof and interest thereon equal in priority to the charge or lien upon the Net Revenue for the payment of the principal of and interest on the Outstanding Parity Bonds and the Bonds. Future Parity Bonds may include Parity Payment Agreements and any other obligations issued in compliance with Section 17.

"**Government Obligations**" means those government obligations defined by RCW 39.53.010(9) as it now reads or hereafter may be amended or replaced.

"**Gross Revenue**" means (a) all income, revenues, receipts and profits derived by the City through the ownership and operation of the Solid Waste System; (b) Payment Agreement Receipts, to the extent that such receipts are not offset by Payment Agreement Payments; and (c) the investment income earned on money held in any fund or account of the City, including any bond redemption funds and the accounts therein, in connection with the ownership and operation of the Solid Waste System. Gross Revenue does not include: (A) income derived from investments irrevocably pledged to the payment of any defeased bonds payable from Gross Revenue; (B) investment income earned on money in any fund or account created or maintained solely for the purpose of complying with the arbitrage rebate provisions of the

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Code; (C) any gifts, grants, donations or other funds received by the City from any State or federal agency or other person if such gifts, grants, donations or other funds are the subject of any limitation or reservation imposed by the donor or grantor or imposed by law or administrative regulation to which the donor or grantor is subject, limiting the application of such funds in a manner inconsistent with the application of Gross Revenue hereunder; (D) the proceeds of any borrowing for capital improvements (or the refinancing thereof); (E) the earnings of any separate utility system acquired or constructed by the City pursuant to Section 19; and (F) the proceeds of any liability or other insurance, including but not limited to insurance proceeds compensating the City for the loss of a capital asset, but excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues.

"Letter of Representations" means the Blanket Issuer Letter of Representations between the City and DTC, as it may be amended from time to time.

"Maintenance and Operation Expenses" means all expenses incurred by the City in causing the Solid Waste System to be operated and maintained in good repair, working order and conditions, including without limitation: deposits, premiums, assessments or other payments for insurance (other than payments out of proceeds of Parity Bonds), if any, on the Solid Waste System; payments into pension funds; State-imposed taxes; amounts due under Contract Resource Obligations (but only at the times described in Section 20); payments made to any other person or entity for the collection, transportation, treatment or disposal of solid waste or other commodity or service related to the Solid Waste System; and payments with respect to any other expenses of the Solid Waste System that are properly treated as operation and maintenance expenses under generally accepted accounting principles. Maintenance and Operation Expenses does not include any depreciation, amortization, or taxes levied or imposed by the City or payments to the City in lieu of taxes, or capital additions or capital replacement.

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"**Maximum Annual Debt Service**" means, at the time of calculation, the maximum amount of Annual Debt Service that will become due in any calendar year on all then-outstanding Parity Bonds.

"**Mayor**" means the Mayor of the City.

"**Moody's**" means Moody's Investors Service, Inc.

"**Net Revenue**" means Gross Revenue less Maintenance and Operation Expenses.

"**Outstanding Parity Bonds**" means the then-outstanding 2007 Bonds, as described in Exhibit A.

"**Parity Bond Ordinance**" means any ordinance or resolution duly enacted by the City providing for the issuance of Parity Bonds, and any other ordinance or resolution amending or supplementing the provisions of any Parity Bond Ordinance as originally enacted or as theretofore amended or supplemented.

"**Parity Bonds**" means the Outstanding Parity Bonds, the Bonds and any Future Parity Bonds.

"**Parity Payment Agreement**" means a Payment Agreement, under which the City's obligations are expressly stated to constitute a charge and lien on the Net Revenue equal in rank with the charge and lien upon such Net Revenue required to be paid into the Bond Account to pay and secure the payment of the principal of and interest on Parity Bonds.

"**Payment Agreement**" means a written contract entered into, for the purpose of managing or reducing the City's exposure to fluctuations or levels of interest rates or for other interest rate, investment, asset or liability management purposes, by the City and a Qualified Counterparty on either a current or forward basis as authorized by any applicable laws of the State in connection with, or incidental to, the issuance, incurring or carrying of particular bonds, notes, bond anticipation notes, commercial paper or other obligations for borrowed money, or lease, installment purchase or other similar financing agreements or certificates of participation therein, that provides for an exchange of payments based on interest rates, ceilings

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or floors on such payments, options on such payments, or any combination thereof or any similar device.

"**Payment Agreement Payments**" means the amounts periodically required to be paid by the City to the Qualified Counterparty pursuant to a Payment Agreement.

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

"**Permitted Investments**" means any investments or investment agreements permitted for the investment of City funds under the laws of the State as amended from time to time.

"**Plan of Additions**" means the CIP, as it may be modified hereafter as described herein.

"**Principal and Interest Subaccount**" means the subaccount of that name created in the Bond Account by Ordinance 118975.

"**Professional Utility Consultant**" means the independent person(s) or firm(s) selected by the City having a favorable reputation for skill and experience with solid waste systems of comparable size and character to the Solid Waste System in such areas as are relevant to the purposes for which they were retained.

"**Qualified Counterparty**" means a party (other than the City or a person related to the City) who is the other party to a Payment Agreement and who is qualified to act as the other party to a Payment Agreement under any applicable laws of the State.

"**Qualified Insurance**" means any municipal bond insurance policy or surety bond issued by any insurance company licensed to conduct an insurance business in any state of the United States (or by a service corporation acting on behalf of one or more such insurance companies) which insurance company or companies, as of the time of issuance of such policy or surety bond, are rated in one of the two highest rating categories by Moody's and S&P or their comparably recognized business successors.

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"**Qualified Letter of Credit**" means any letter of credit issued by a financial institution for the account of the City on behalf of the owners of Parity Bonds, which institution maintains an office, agency or branch in the United States and as of the time of issuance of such letter of credit is rated in one of the two highest rating categories by Moody's and S&P or their comparably recognized business successors.

"**Rate Stabilization Account**" means the account of that name created in the Solid Waste Fund pursuant to Ordinance 118975.

"**Rating Agencies**" means Moody's and S&P, and their successors and any other nationally-recognized securities rating agency or agencies rating Parity Bonds at the request of the City.

"**RBI**" means *The Bond Buyer* Revenue Bond Index or comparable index, or, if no comparable index can be obtained, 80% of the interest rate for actively traded 30 year United States Treasury obligations.

"**Registered Owner**" means the person shown on the Bond Register as the Registered Owner of each Bond.

"**Reserve Requirement**" means, at any time, the lesser of (a) Maximum Annual Debt Service; or (b) the maximum amount permitted by the Code as a "reasonably required reserve or replacement fund."

"**Reserve Subaccount**" means the subaccount of that name created in the Bond Account by Ordinance 118975.

"**S&P**" means Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc.

"**Securities Depository**" means DTC or such other securities depository as the City may designate in a certificate of the City delivered to the Bond Registrar.

"**Serial Bonds**" means Parity Bonds maturing in specified years, for which no Sinking Fund Requirements are mandated.

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"**Sinking Fund Subaccount**" means any subaccount created in the Bond Account to amortize the principal or make mandatory redemptions of Term Bonds.

"**Sinking Fund Requirement**" means, for any calendar year, the principal amount and premium, if any, of Term Bonds required to be purchased, redeemed, paid at maturity or paid into any Sinking Fund Subaccount for such calendar year as established by the Parity Bond Ordinance authorizing the issuance of such Term Bonds.

"**Solid Waste Fund**" means the special fund of the City of that name heretofore created and established by the City Council.

"**Solid Waste System**" means the entire solid waste collection, transportation and disposal system of the City, created by Ordinance 90379, as amended, together with all additions thereto and betterments and extensions thereof at any time made, acquired or constructed, together with any other utility systems of the City hereafter combined with the Solid Waste System. The Solid Waste System shall not include any separate utility system acquired or constructed by the City pursuant to Section 19.

"**State**" means the State of Washington.

"**Tax Credit Subsidy**" means the tax credit payable by the United States Treasury in respect of a Tax Credit Subsidy Bond.

"**Tax Credit Subsidy Bond**" means any Parity Bond that is designated by the City as a "build America bond" or other tax credit bond, pursuant to the Code, and which is further designated as a "qualified bond" under Section 6431 of the Code, and with respect to which the City is eligible to receive a tax credit payable by the United States Treasury.

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

"**Term Bonds**" means any Parity Bonds identified as such in the Parity Bond Ordinance authorizing the issuance thereof, which Parity Bond Ordinance requires that such bonds be purchased, redeemed or paid prior to maturity in a schedule established thereby.

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"**Undertaking**" means the City's undertaking in the Bond Resolution, to the extent applicable, to provide certain disclosure as provided by Section 25.

"**Valuation Date**" means, with respect to any Capital Appreciation Bonds, the date or dates set forth in any Parity Bond Ordinance authorizing such Parity Bonds on which specific Accreted Values are assigned to the Capital Appreciation Bonds.

"**Variable Interest Rate**" means any variable interest rate or rates to be borne by any Parity Bonds. The method of computing such a variable interest rate shall be as specified in the Parity Bond Ordinance authorizing or specifying the terms of such Parity Bonds, which Parity Bond Ordinance also shall specify either (i) the particular period or periods of time or manner of determining such period or periods of time for which each value of such variable interest rate shall remain in effect or (ii) the time or times upon which any change in such variable interest rate shall become effective.

"**Variable Interest Rate Bonds**" means, for any period of time, any Parity Bonds that bear a Variable Interest Rate during that period, except that Parity Bonds shall not be treated as Variable Interest Rate Bonds if the net economic effect of interest rates on particular Parity Bonds of an issue and interest rates on other Parity Bonds of the same issue, as set forth in the applicable Parity Bond Ordinance, or the net economic effect of a Payment Agreement with respect to particular Parity Bonds, in either case is to produce obligations that bear interest at a fixed interest rate; and Parity Bonds with respect to which a Payment Agreement is in force shall be treated as Variable Interest Rate Bonds if the net economic effect of the Payment Agreement is to produce obligations that bear interest at a Variable Interest Rate.

Section 2. Adoption of Plan of Additions. The CIP constitutes a system or plan of additions and betterments to and extensions of the Solid Waste System (the "Plan of Additions"). To the extent not previously specified, adopted and ordered to be carried out by ordinance of the City, the City specifies, adopts and orders to be carried out the Plan of Additions as generally provided for in the CIP. The estimated cost of the Plan of Additions, as

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nearly as may be determined, is declared to be $188,294,134, of which approximately $54,400,000 is expected to be financed from the proceeds of the Bonds.

The Plan of Additions shall include any amendments, updates, supplements or replacements to the CIP, all of which automatically shall constitute amendments to the Plan of Additions. The Plan of Additions also may be modified, without amending the CIP, to include other improvements if the City determines by ordinance that those amendments or other improvements constitute a system or plan of additions to or betterments or extensions of the Solid Waste System.

The Plan of Additions includes the purchase and installation of all materials, supplies, appliances, equipment and facilities, the acquisition of all permits, franchises, property and property rights, other capital assets and all engineering, consulting and other professional services and studies (whether performed by the City or by other public or private entities) necessary or convenient to carry out the Plan of Additions.

Section 3. Authorization and Description of Bonds. The City shall issue and sell the Bonds in the aggregate principal amount of not to exceed $61,100,000 for the purposes of paying all or part of the cost of (i) carrying out the Plan of Additions, (ii) providing a bond reserve and (iii) issuing and selling the Bonds. The Bonds may be issued in one or more series. Each series of the Bonds shall be issued as Parity Bonds and may be combined with other Parity Bonds authorized separately.

The Bonds shall be dated and have such title, year and series or other designation as determined by the Director of Finance or as specified by the Bond Resolution; shall be in the denomination of $5,000 or any integral multiple thereof within a single maturity or such other denomination specified in the Bond Resolution; and shall be numbered separately, in the manner and with any additional designation as the Bond Registrar deems necessary for the purpose of identification. The Bonds shall mature on the dates and in the amounts and bear interest payable on the dates and at the rates specified in the Bond Resolution, except that the

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net interest cost shall not exceed a weighted average rate of ten percent per annum. The final maturity of any series of Bonds shall not exceed 40 years from the issue date for that series.

The Bonds shall be subject to optional redemption on the terms and at the times specified in the Bond Resolution, and all or some of the Bonds may be Term Bonds with mandatory redemption amounts, all as specified by the Bond Resolution. The Director of Finance also may specify in Bond closing documents the respective amounts of each maturity of the Bonds allocated to paying the costs of carrying out the Plan of Additions.

Section 4. Bond Resolution. With respect to each series of Bonds, the City Council may adopt the Bond Resolution and in that resolution may provide for the matters described in this ordinance, including the manner of sale and delivery of and payment for the Bonds and such other matters that the City Council deems necessary and appropriate to carry out the purposes of this ordinance. Once adopted, the Bond Resolution shall be deemed a part of this ordinance as if set forth herein.

For each series of Bonds, the Bond Resolution may provide for Qualified Insurance or a Qualified Letter of Credit, and conditions or covenants relating thereto, including additional terms, conditions and covenants relating to the Bonds that are required by the bond insurer or letter of credit provider and are consistent with the provisions of this ordinance, including but not limited to restrictions on investments and requirements of notice to and consent of the bond insurer or letter of credit provider.

For each series of Bonds, the Bond Resolution may approve and authorize the execution and delivery on behalf of the City of any contracts consistent with the provisions of this ordinance for which the City's approval is necessary or to which the City is a party and that are related or incidental to the initial issuance and sale of the Bonds, the establishment of the interest rate or rates on the Bonds and any redemption of the Bonds, including but not limited to Payment Agreements and similar contracts for such purposes.

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The Bond Resolution may specify that one or more series of Bonds are Tax Credit Subsidy Bonds.

The City Council may specify in the Bond Resolution the amount, if any, from the proceeds of or accrued interest on the Bonds to be deposited into specified funds, subfunds, accounts and subaccounts. In the absence of such a determination and specification in the Bond Resolution, the Director of Finance may make such determination and specification.

Section 5. Registration and Transfer or Exchange of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and recorded on the Bond Register. 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.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same series, interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Registered Owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal payment or redemption date (or other record date established by the Bond Registrar).

The City appoints DTC as initial Securities Depository for the Bonds. For so long as DTC is the Securities Depository for the Bonds, DTC or its nominee shall be deemed to be the Registered Owner of the Bonds for all purposes hereunder, and all references in this ordinance or the Bond Resolution to the Registered Owners of the Bonds shall mean DTC or its nominee and shall not mean the owners of any beneficial interests in the Bonds.

Bonds executed and delivered in fully immobilized form shall be executed and delivered in the form of one fully-registered immobilized certificate for each maturity of each series of the Bonds representing the aggregate principal amount of the Bonds of that maturity,

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which Bonds shall (except as provided below for the discontinuation or substitution of Securities Depository) be registered in the name of Cede & Co., as nominee of DTC; however, if DTC shall request that the Bonds be registered in the name of a different nominee, the Bond Registrar shall exchange all or any portion of the Bonds for an equal aggregate principal amount of Bonds registered in the name of such other nominee or nominees of DTC. No person other than DTC or its nominee shall be entitled to receive from the City or the Bond Registrar any Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof, unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the Bond Register, in connection with discontinuing the book entry system as provided below or otherwise.

So long as the Bonds are registered in the name of DTC or any nominee thereof, all payments of the principal or interest with respect to the Bonds shall be made to DTC or its nominee in immediately available funds on the dates provided for such payments under this ordinance and the Bond Resolution and at such times and in the manner provided in the Letter of Representations. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the City or the Bond Registrar with respect to the principal or interest with respect to the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds of any maturity of a series, the Bond Registrar shall not require surrender by DTC or its nominee of the Bonds so redeemed, and DTC or its nominee may retain such Bonds and make an appropriate notation thereon as to the amount of such partial redemption. DTC shall deliver to the Bond Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the Bond Registrar shall be conclusive as to the amount of the Bonds of such maturity that have been redeemed.

All transfers of beneficial ownership interests in Bonds registered in the name of DTC or its nominee shall be effected by the procedures of DTC's participants and/or indirect participants for recording and transferring the ownership of beneficial interests in bonds.

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The City and the Bond Registrar may treat DTC (or its nominee) as the sole and exclusive Registered Owner of the Bonds registered in its name for the purposes of payment of the principal of, premium, if any, or interest with respect to those Bonds, selecting Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Registered Owners under this ordinance or the Bond Resolution, registering the transfer of Bonds, obtaining any consent or other action to be taken by Registered Owners of Bonds and for all other purposes whatsoever; and the City and the Bond Registrar shall not be affected by any notice to the contrary. The City and the Bond Registrar shall not have any responsibility or obligation to any direct or indirect DTC participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other person which is not shown on the Bond Register as being a Registered Owner of Bonds, with respect to: (1) the Bonds; (2) any records maintained by DTC or any such participant; (3) the payment by DTC or any such participant of any amount in respect of the principal of, premium, if any, or interest with respect to the Bonds; (4) any notice which is permitted or required to be given to Registered Owners of Bonds under this ordinance or the Bond Resolution; (5) the selection by DTC or any such direct or indirect participant of any person to receive payment in the event of a partial redemption of the Bonds; or (6) any consent given or other action taken by DTC as Registered Owner of the Bonds.

So long as the Bonds are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Registered Owners of such Bonds under this ordinance or the Bond Resolution shall be given to DTC as provided in the Letter of Representations, in form and content satisfactory to DTC, the City and the Bond Registrar.

In connection with any notice or other communication to be provided to Registered Owners pursuant to this ordinance or the Bond Resolution by the City or the Bond Registrar with respect to any consent or other action to be taken by Registered Owners of the Bonds, DTC shall consider the date of receipt of notice requesting such consent or other action as the

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record date for such consent or other action; however, the City or the Bond Registrar may establish a special record date for such consent or other action and shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent practical.

Any successor Bond Registrar, in its written acceptance of its duties under this ordinance and the Bond Resolution, shall agree to take any actions necessary from time to time to comply with the requirements of the Letter of Representations.

The book-entry system for registration of the ownership of the Bonds in fully immobilized form may be discontinued at any time if: (1) after notice to the City and the Bond Registrar, DTC determines to resign as Securities Depository for the Bonds; or (2) after notice to DTC and the Bond Registrar, the City determines that a continuation of the system of book-entry transfers through DTC (or through a successor Securities Depository) is not in the best interests of the City. In each of such events (unless, in the case described in clause (1) above, the City appoints a successor Securities Depository), the Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the City or the Bond Registrar for the accuracy of such designation. Whenever DTC requests the City and the Bond Registrar to do so, or whenever the City requests DTC and the Bond Registrar to do so after the determination by the City to replace DTC with a successor Securities Depository, the City and the Bond Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another Securities Depository to maintain custody of certificates evidencing the Bonds.

Section 6. **Mutilated, Lost, Stolen and Destroyed Bonds.** In case any Bonds issued hereunder shall become mutilated or be destroyed, stolen or lost, the City may, if not then prohibited or otherwise required by law, cause to be executed and delivered a new Bond of like amount, series, interest rate, maturity date and tenor in exchange and substitution for and

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upon cancellation of such mutilated Bonds, or in lieu of and in substitution for such destroyed, stolen or lost Bonds, upon payment by the Registered Owner thereof of the reasonable expenses and charges of the City and the Bond Registrar in connection therewith, and in the case of a Bond destroyed, stolen or lost, the filing with the Bond Registrar of evidence satisfactory to the City that such Bond was destroyed, stolen or lost, and of the ownership thereof, and furnishing the City and the Bond Registrar with indemnity satisfactory to each of them. If the mutilated, destroyed, stolen or lost Bond already has matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Bond prior to payment. If the provisions of State law at any time differ from the provisions of this Section with respect to the requirements or procedures for replacing or otherwise handling mutilated, lost, stolen or destroyed Bonds, then the provisions of State law shall prevail.

Section 7. Payment of Bond Principal and Interest. Principal of, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts mailed by the Bond Registrar on the interest payment date to the Registered Owners at the addresses appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date (or other record date established in the Bond Resolution) (the "Record Date") or, at the request of the Registered Owner of $1,000,000 or more in aggregate principal amount of Bonds, by wire transfer to an account in the United States designated in writing by such Registered Owner prior to the Record Date. Principal of and premium, if any, on the Bonds shall be payable upon presentation and surrender of the Bonds to the Bond Registrar. Notwithstanding the foregoing, payment of any Bonds registered in the name of DTC or its nominee, shall be made in accordance with the Letter of Representations.

The Bonds shall be payable solely out of the Bond Account and shall not be general obligations of the City.

Section 8. Redemption and Purchase of Bonds.

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(a) Optional Redemption. All or some of the Bonds may be subject to redemption at the option of the City at the times and on the terms set forth in the Bond Resolution.

(b) Mandatory Redemption. The City shall redeem any Term Bonds, if not redeemed under the optional redemption provisions set forth in the Bond Resolution or purchased under the provisions set forth below, randomly (or in such other manner as the Bond Registrar shall determine) at par plus accrued interest on the dates and in the years and principal amounts as set forth in the Bond Resolution.

If the City redeems Term Bonds under the optional redemption provisions set forth in the Bond Resolution, purchases or defeases Term Bonds, the Term Bonds so redeemed, purchased or defeased (irrespective of their actual redemption or purchase price) shall be credited at the par amount thereof against one or more scheduled mandatory redemption amounts for those Term Bonds. The Director of Finance shall determine the manner in which the credit is to be allocated and shall notify the Bond Registrar in writing of such allocation at least 60 days prior to the earliest mandatory redemption date for that maturity of Term Bonds for which notice of redemption has not already been given. If no such determination is made, such allocation shall be on a pro rata basis unless otherwise provided in the Bond Resolution.

(c) Partial Redemption. Unless otherwise provided in the Bond Resolution, whenever less than all of the Bonds of a single maturity of a series are to be redeemed, the Bond Registrar shall select the Bonds or portions thereof to be redeemed from the Bonds of that maturity randomly, or in such other manner as the Bond Registrar shall determine, except that, for so long as the Bonds are registered in the name of DTC or its nominee, DTC shall select the Bonds or portions thereof to be redeemed in accordance with the Letter of Representations. In no event shall any Bond be outstanding in a principal amount that is not an authorized denomination.

Portions of the principal amount of any Bond, in integral amounts of $5,000, may be redeemed, unless otherwise provided in the Bond Resolution. If less than all of the principal

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amount of any Bond is redeemed, upon surrender of that Bond at either of the principal office of the Bond 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 of the denominations authorized by the Bond Resolution in the aggregate total principal amount remaining unredeemed.

(d) Purchase. The City reserves the right and option to purchase any or all of the Bonds at any time at any price acceptable to the City plus accrued interest to the date of purchase. The principal amount of Term Bonds purchased pursuant to this Section shall be credited at the par amount thereof against the next mandatory redemption requirement that is at least 60 days after the date of purchase, or as otherwise directed by the Director of Finance.

(e) Bonds to be Canceled. All Bonds purchased or redeemed under this Section shall be canceled.

Section 9. Notice of Redemption. The City shall cause notice of any intended redemption of Bonds to be given 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 of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Registered Owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed by the Bond Registrar within the same period, postage prepaid, to the Rating Agencies at their offices in New York, New York, or their successors, to any bond insurer for the Bonds, and to such other persons and with such additional information as the Director of Finance shall determine or as specified in the Bond Resolution, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

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Notwithstanding the provisions of the foregoing paragraph, in the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of Bonds by giving a notice of rescission to the affected registered owners at any time on or prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and the Bonds for which the notice of optional redemption has been rescinded shall remain outstanding.

Section 10. Failure to Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, principal, premium, if any, and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Account and the Bond has been called for payment by giving notice of that call to the Registered Owner of each of those unpaid Bonds.

Section 11. Form and Execution of Bonds. The Bonds shall be typed, photocopied, printed or lithographed on good bond paper in a form consistent with the provisions of this ordinance, the Bond Resolution and State law, shall be signed by the Mayor and Director of Finance, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in substantially the following form (with the designation, year, and series of the Bonds completed consistent with this ordinance), manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered The City of Seattle, Washington, Solid Waste Revenue Bonds, [Year], [Series], described in the Bond Ordinance.

Bond Registrar

By:_____
Authorized Signer

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

Section 12. Bond Registrar; Appointment of Other Agents. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and SMC Chapter 5.10 establishing a system of registration for the City's bonds and obligations, as that chapter now exists or may be amended.

The City reserves the right in its discretion to appoint special paying agents, registrars or trustees in connection with the payment of some or all of the principal of or interest on the Bonds. If a new Bond Registrar is appointed by the City, notice of the name and address of the new Bond Registrar shall be mailed to the Registered Owners of the Bonds. The notice may be mailed together with the next interest payment due on the Bonds, but, to the extent practicable, shall be mailed not less than 15 days prior to a maturity date of the principal of any Bond.

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

Section 13. Finding of Sufficiency of Gross Revenue. A series of Bonds will be issued only if the City finds and determines by the Bond Resolution (a) that the issuance and sale of such Bonds is in the best interest of the City and in the public interest, and (b) that the Gross Revenue, at the rates charged and to be charged from time to time by the Solid Waste System consistent with Section 16(a), will be sufficient, in the judgment of the City, to meet all Maintenance and Operation Expenses and to provide the amounts previously pledged to pay and secure the payment of the principal of and interest on all outstanding obligations that are payable out of such Gross Revenue and the principal and interest on the Bonds authorized. In making such findings and determinations, the City shall have due regard to the cost of operation and maintenance of the Solid Waste System and to any portion of the Gross Revenue pledged for the payment of any bonds, warrants or other indebtedness.

Section 14. Security for Parity Bonds.

(a) Pledge of Net Revenue. The Bonds shall be special limited obligations of the City payable from and secured solely by the Net Revenue and by money in the Bond Account, including the Reserve Subaccount. The Net Revenue is pledged to make the payments into the Bond Account and the Reserve Subaccount required by paragraphs (b) and (c) of this Section, which pledge shall constitute a lien and charge upon such Net Revenue prior and superior to all other liens and charges whatsoever.

The Bonds shall not in any manner or to any extent constitute general obligations of the City, the State or any political subdivision of the State or a lien or charge upon any general

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fund or upon any money or other property of the City, the State or any political subdivision of the State not specifically pledged thereto by this ordinance.

(b) Bond Account; Principal and Interest Subaccount. A special account of the City known as the "Bond Account" has been created and shall be maintained as a separate account within the Solid Waste Fund, for the sole purpose of paying the principal of and premium, if any, and interest on the Parity Bonds as the same shall become due. The Bond Account consists of the Principal and Interest Subaccount and the Reserve Subaccount and such additional subaccounts as the Director of Finance may deem necessary. The Parity Bonds shall be payable, principal, premium, if any, and interest, out of the Bond Account.

From and after the issuance of the Bonds, and so long thereafter as any Parity Bonds are outstanding against the Bond Account (including any Payment Agreement Payments required to be made under any Parity Payment Agreements), the Director of Finance shall set aside and pay into the Principal and Interest Subaccount on or prior to the respective dates on which the interest on or principal of and interest on the Parity Bonds shall become due and payable certain fixed amounts out of the Net Revenue sufficient to pay such interest or principal and interest as the same shall become due.

Money in the Principal and Interest Subaccount shall, to the fullest extent practicable and reasonable, be invested and reinvested at the direction of the Director of Finance solely in, and obligations deposited in such accounts shall consist of, Permitted Investments. Earnings on money and investments in the Principal and Interest Subaccount shall be deposited in and used for the purposes of that subaccount.

(c) Reserve Subaccount.

(i) Investment. The Reserve Subaccount previously has been created and maintained as a subaccount within the Bond Account for the purpose of securing the payment of the principal of and interest on all Parity Bonds outstanding (including amounts due under any Parity Payment Agreements if required under such agreement).

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Money held in the Reserve Subaccount shall, to the fullest extent practicable and reasonable, be invested and reinvested at the direction of the Director of Finance solely in, and obligations deposited in such accounts shall consist of, Permitted Investments. Earnings on money and investments in the Reserve Subaccount shall be deposited in that fund and credited against amounts required to be deposited therein until the Reserve Subaccount is fully funded, and thereafter such earnings shall be deposited in the Principal and Interest Subaccount.

(ii) Funding of Reserve Requirement.

(A) The City shall provide in the Bond Resolution with respect to the Bonds or in the Parity Bond Ordinance or resolution authorizing the issuance of any Future Parity Bonds for the deposit into the Reserve Subaccount out of the Net Revenue (or out of any other funds of the City on hand and legally available therefor, including proceeds of the Bonds or of the Future Parity Bonds being issued or any other Future Parity Bonds) of periodic payments so that by five years from the date of such Future Parity Bonds there will have been paid into the Reserve Subaccount an amount which, together with the money already on deposit therein, will be at least equal to the Reserve Requirement for all Parity Bonds outstanding at the end of that five-year period.

(B) Notwithstanding the foregoing, the Bond Resolution or any Parity Bond Ordinance may provide for the City to obtain Qualified Insurance or a Qualified Letter of Credit for specific amounts required to be paid into the Reserve Subaccount. The amount available to be drawn upon under such Qualified Insurance or Qualified Letter of Credit shall be credited against the amounts required to be maintained in the Reserve Subaccount by Section 14(c)(ii)(A).

(C) Such Qualified Letter of Credit or Qualified Insurance shall not be cancelable on less than three years' notice. If the City receives any such notice of cancellation, the City shall substitute Qualified Insurance or a Qualified Letter of Credit in the amount required pursuant to Section 14(c)(ii)(B) or in the alternative shall create a special

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account in the Solid Waste Fund and deposit therein, on or before the 25th day of each of the 36 succeeding calendar months, 1/36th of the amount sufficient, together with other money and investments on deposit in the Reserve Subaccount, to equal the Reserve Requirement on the date any such cancellation shall become effective. Such amounts shall be transferred from money in the Solid Waste Fund (after making provision for payment of Maintenance and Operation Expenses and for the required payments into the Principal and Interest Subaccount). Amounts on deposit in such special account shall not be available to pay debt service on Parity Bonds or for any other purpose of the City, and shall be transferred to the Reserve Subaccount on the effective date of any cancellation of a Qualified Letter of Credit or Qualified Insurance to make up the deficiency caused thereby.

(D) If the amount in the Reserve Subaccount shall be less than the Reserve Requirement (taking into account the five year period referred to in Section 14(c)(ii)(A), the City shall transfer to the Reserve Subaccount money in an amount sufficient to restore the Reserve Subaccount to the Reserve Requirement within 12 months after the date of such deficiency. The City shall transfer such amounts from money in the Solid Waste Fund (after making provision for payment of Maintenance and Operation Expenses and for the required payments into the Principal and Interest Subaccount). If the amount in the Reserve Subaccount shall be greater than the Reserve Requirement, then and only then may the City withdraw such excess from the Reserve Subaccount and deposit such excess in the Solid Waste Fund to be used for any lawful purpose.

(iii) Use of Reserve Subaccount for Refunding Bonds. If any Parity Bonds are refunded, the money set aside in the Reserve Subaccount to secure the payment of such Parity Bonds may be used to retire such Parity Bonds or may be transferred to any Reserve Subaccount or account which may be created to secure the payment of any bonds issued to refund such Parity Bonds, as long as the money left remaining in the Reserve Subaccount is at

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least equal, together with any Qualified Insurance or Qualified Letters of Credit, to the Reserve Subaccount Requirement.

(iv) Use of Reserve Subaccount for Payment of Debt Service. If the money in the Principal and Interest Subaccount is insufficient to meet maturing installments of either interest on or principal of and interest on the Parity Bonds payable out of the Bond Account (including amounts payable under any Parity Payment Agreement), such deficiency shall be made up from the Reserve Subaccount by the withdrawal of money or proceeds of Qualified Insurance or Qualified Letters of Credit therefrom, as the case may be. Any deficiency created in the Reserve Subaccount by reason of any such withdrawal or claim against Qualified Insurance or a Qualified Letter of Credit shall then be made up out of the Net Revenue, after making necessary provision for the payments required to be made for debt service on any outstanding Parity Bonds consistent with Section 15.

(v) Withdrawals From Reserve Subaccount. Money in the Reserve Subaccount may be withdrawn by the City for any lawful purpose as long as the aggregate of any money, Qualified Insurance and Qualified Letters of Credit left remaining on deposit in the Reserve Subaccount is at least equal to the Reserve Requirement for the Parity Bonds then outstanding.

The City reserves the right to substitute Qualified Insurance or a Qualified Letter of Credit for money previously deposited in the Reserve Subaccount and to withdraw such money to the extent described in the preceding paragraph.

Any withdrawals from subaccounts within the Reserve Subaccount shall be made on a pro rata basis except when the provider of a Qualified Letter of Credit or Qualified Insurance requires all cash and investments in the Reserve Subaccount to be withdrawn before draws on the Qualified Letter of Credit or Qualified Insurance, or unless the City receives an opinion of Bond Counsel to the effect that such pro rata withdrawal is not required to maintain the

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exclusion of interest on the Parity Bonds then outstanding from gross income for federal income tax purposes.

Section 15. **Flow of Funds.** The Gross Revenue of the Solid Waste System shall be used for the following purposes only and shall be applied in the following order of priority:

(a) To pay Maintenance and Operations Expenses;

(b) To pay interest on Parity Bonds and Payment Agreement Payments when due;

(c) To pay the principal of Parity Bonds as it comes due at maturity or as the principal is required to be paid pursuant to mandatory redemption requirements applicable to Term Bonds;

(d) To make all payments required to be made into the Reserve Subaccount;

(e) To make all payments required to be made into any revenue bond, note, warrant or other revenue obligation redemption fund, debt service account or reserve account created to pay or secure the payment of the principal of and interest on any revenue bonds, notes, warrants or other obligations of the City having a lien upon the Net Revenue junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

(f) To retire by redemption or purchase any outstanding revenue bonds or other revenue obligations of the Solid Waste System, to make necessary additional betterments, improvements and repairs to or extensions and replacements of Solid Waste System, to make deposits into the Rate Stabilization Account, or for any other lawful purposes of the Solid Waste System.

The City may transfer any money from any funds or accounts of the Solid Waste System legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the Bond Account.

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Section 16. Parity Bond Covenants.

(a) Establishment and Collection of Rates and Charges. The City will establish, maintain and collect rates and charges for services and facilities provided by the Solid Waste System and will adjust those rates and charges from time to time so that:

(i) Gross Revenue will be sufficient to (A) pay all Maintenance and Operation Expenses, (B) pay when due all amounts that the City is obligated to pay into the Bond Account and the subaccounts therein, and (C) pay all taxes, assessments or other governmental charges lawfully imposed on the Solid Waste System or the revenue therefrom or payments in lieu thereof and any and all other amounts which the City may now or hereafter become obligated to pay from the Gross Revenue by law or contract; and

(ii) Adjusted Net Revenue in each fiscal year will be at least equal to the Coverage Requirement; and

(iii) Except to aid the poor or infirm, it will not furnish or supply or permit the furnishing or supplying of any service or facility in connection with the operation of the Solid Waste System free of charge to any person, firm or corporation, public or private.

The failure of the City to comply with subparagraphs (i) and (ii) of this subsection shall not be an Event of Default under this ordinance if the City promptly retains a Professional Utility Consultant to recommend to the City Council adjustments in the rates of the Solid Waste System necessary to meet the requirements of those subparagraphs and if the City Council adopts the recommended modifications within 180 days of the date the failure became known to the City Council.

(b) Maintenance and Operation of the Solid Waste System. The City will operate the properties of the Solid Waste System in an efficient manner and at a reasonable cost, and will maintain, preserve and keep, or cause to be maintained, preserved and kept, the properties of the Solid Waste System in good repair, working order and condition; and from time to time will make or cause to be made all necessary and proper repairs, renewals and

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replacements thereto so that at all times the business carried on in connection therewith will be properly and advantageously conducted.

(c) Liens Upon the Solid Waste System. Except as otherwise provided in this ordinance, the City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the Gross Revenue or any part thereof, prior or superior to the lien thereon for the payment of the Parity Bonds, and will pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Gross Revenue or any part thereof, prior or superior to, or on a parity with, the lien of the Parity Bonds, or which might impair the security of the Parity Bonds.

(d) Books and Accounts. The City will keep proper books, records and accounts with respect to the operations, income and expenditures of the Solid Waste System in accordance with generally accepted accounting practices applicable to governmental utilities and any applicable rules and regulations prescribed by the State. The City will prepare or cause to be prepared annual financial and operating statements as soon as practicable after the close of each fiscal year showing in reasonable detail the financial condition of the Solid Waste System as of the close of the previous year, and the income and expenses for such year, including the amounts paid into the Bond Account and into any and all special funds or accounts created pursuant to the provisions of this ordinance, the status of all funds and accounts as of the end of such year, and the amounts expended for maintenance, renewals, replacements and capital additions to the Solid Waste System. A copy of such annual financial statements shall be sent to any owner of Parity Bonds upon written request therefor being made to the City. The City may charge a reasonable cost for providing such financial statements.

(e) Collection of Delinquent Accounts. On at least an annual basis, the City will determine all accounts that are delinquent and will take such actions as the City determines are reasonably necessary to enforce payment of those delinquent accounts.

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(f) Maintenance of Insurance. The City at all times will carry fire and extended coverage, public liability and property damage and such other forms of insurance with responsible insurers and with policies payable to the City on such of the buildings, equipment, works, plants, facilities and properties of the Solid Waste System as are ordinarily carried by municipal or privately owned utilities engaged in the operation of the like systems, and against such claims for damages as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, or, in the City's sole discretion, it will self-insure or will participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the City, to protect the Solid Waste System against loss.

(g) Condemnation Awards and Insurance Proceeds. If the City receives any condemnation awards or proceeds of an insurance policy in connection with any loss of or damage to any property of the Solid Waste System, the City shall apply the condemnation award or insurance proceeds, in the City's sole discretion, either (i) to the cost of replacing or repairing the lost or damaged properties, (ii) to the payment, purchase or redemption of Parity Bonds, or (iii) to the cost of improvements to the Solid Waste System.

(h) Sale of System. The City will sell, transfer or otherwise dispose of all or any part of the works, plant, properties, facilities or other component of the Solid Waste System or any real or personal property comprising a part of the Solid Waste System only consistent with one or more of the following:

(i) The City in its discretion may carry out such a sale, transfer or disposition (each, as used in this paragraph (h), a "transfer") if the facilities or property transferred are not material to the operation of the Solid Waste System, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Solid Waste System or are no longer necessary, material or useful to the operation of the Solid Waste System; or

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(ii) The City in its discretion may carry out such a transfer if the aggregate depreciated cost value of the facilities or property being transferred under this subparagraph (ii) in any fiscal year comprises no more than 5% of the total assets of the Solid Waste System; or

(iii) The City in its discretion may carry out such a transfer if the proceeds from such transfer are used to acquire new useful operating facilities or properties of the Solid Waste System, or are used to retire outstanding Parity Bonds or other revenue obligations of the Solid Waste System, if, at the time of such transfer, there is on file with the City Clerk a certificate of the Director of Finance and the Director of Seattle Public Utilities demonstrating that in his or her professional opinion, upon such transfer and the use of proceeds of the transfer as proposed by the City, the remaining facilities of the Solid Waste System will retain their operational integrity and, based on the financial statements for the most recent fiscal year available, the proposed transfer would not prevent the Solid Waste System from complying with the rate covenants contained in Section 16(a) during the five fiscal years following the fiscal year in which the transfer is to occur. The Director of Finance and the Director of Seattle Public Utilities shall take into account (A) the reduction in revenue and expenses, if any, resulting from the transfer, (B) the use of any proceeds of the transfer for the redemption of Parity Bonds, (C) the Director of Finance and the Director of Seattle Public Utilities' estimate of revenue from customers anticipated to be served by any additions to and betterments and extensions of the Solid Waste System financed in part by the proposed portion of the proceeds of the transfer and (D) any other adjustment permitted in the preparation of a certificate under Section 17(a)(ii) of this ordinance. Before such a transfer, the City also must obtain confirmation from each of the Rating Agencies to the effect that the rating then in effect will not be reduced or withdrawn upon such transfer.

Section 17. Issuance of Future Parity Bonds.

(a) General. Except as provided in Section 17(b) for the issuance of refunding Parity Bonds, Future Parity Bonds may be issued (and Parity Payment Agreements may be

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entered into), from time to time in one or more series for any lawful purpose of the Solid Waste System, only if at the time of the delivery of each series of Future Parity Bonds to the initial purchasers thereof (or on the effective date of the Parity Payment Agreement):

(i) There is no deficiency in the Bond Account or in any of the accounts therein and provision has been made to meet the Reserve Requirement for all Parity Bonds then outstanding plus such proposed series of Future Parity Bonds; and

(ii) There shall have been filed with the City either:

(A) A certificate of both the Director of Finance and the Director of Seattle Public Utilities demonstrating that during any 12 consecutive calendar months out of the immediately preceding 24 calendar months Adjusted Net Revenue was at least equal to the Coverage Requirement of all Parity Bonds plus the Future Parity Bonds proposed to be issued (and assuming that the debt service of the proposed Future Parity Bonds for that 12 month period was the average Annual Debt Service for those proposed bonds); or

(B) a certificate of both the Director of Finance and the Director of Seattle Public Utilities (or any officer who succeeds to substantially all of the responsibilities of either office) that in their opinion the Adjusted Net Revenue for the five fiscal years next following the earlier of (i) the end of the period during which interest on those Future Parity Bonds is to be capitalized or, if no interest is capitalized, the fiscal year in which the Future Parity Bonds are issued, or (ii) the date on which the substantially all new facilities financed with those Future Parity Bonds are expected to commence operations, such Adjusted Net Revenue further adjusted as provided in paragraphs (I) through (IV) below, will be at least equal to the Coverage Requirement. That certificate may take into account the following adjustments.

(I) Any changes in rates in effect and being charged, or rates expected to be charged in accordance with a program of specific rates, rate levels or increases in overall rate revenue approved by ordinance or resolution;

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(II) Net revenue from customers of the Solid Waste System who have become customers during the 12 consecutive month period or thereafter, and their estimate of net revenue from any customers to be connected to the Solid Waste System who have paid the required connection charges, adjusted to reflect one year's net revenue from those customers;

(III) Their estimate of net revenue from customers anticipated to be served by facilities or improvements financed in substantial part by those Future Parity Bonds (or additional Parity Bonds expected to be issued during the five-year period); and

(IV) Net revenue from any person, firm, corporation or municipal corporation under any executed contract for solid waste disposal or other utility service, which revenue was not included in the historical Net Revenue of the Solid Waste System.

(b) Issuance of Refunding Parity Bonds.

(i) Without complying with the provisions of Section 17(a), the City may at any time and from time to time issue one or more series of refunding Parity Bonds, but only if there shall have been filed with the City a certificate of the Director of Finance stating that immediately after the issuance of such refunding Parity Bonds the Annual Debt Service in any calendar year that Parity Bonds (other than such refunding Parity Bonds) are then outstanding shall not be increased by more than $5,000 by reason of the issuance of such refunding Parity Bonds.

(ii) Parity Bonds of any one or more series or one or more maturities within a series may be refunded by a single series of refunding Parity Bonds, which Parity Bonds to be refunded shall be specified in the Parity Bond Ordinance providing for the issuance of the refunding Parity Bonds, and the principal amount of such refunding Parity Bonds may include amounts necessary to pay the principal of the Parity Bonds to be refunded, interest thereon to the date of payment or redemption thereof, any premium payable thereon upon such payment

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or redemption, the costs of issuance of such refunding Parity Bonds and an amount, if any, required to fund the Reserve Requirement. The proceeds of the refunding Parity Bonds shall be held and applied in such manner as is provided in the Parity Bond Ordinance providing for the issuance of such refunding Parity Bonds, so that upon the delivery of such refunding Parity Bonds the Parity Bonds to be refunded thereby shall be deemed to be no longer outstanding in accordance with the provisions of the Parity Bond Ordinance providing for the issuance of those bonds.

(iii) Refunding Parity Bonds may also be issued upon compliance with the provisions of Section 17(a).

(iv) Nothing contained in this ordinance shall prohibit or prevent, or be deemed or construed to prohibit or prevent, the City from issuing refunding Parity Bonds to fund or refund maturing Parity Bonds of the City for the payment of which money is not otherwise available without complying with this Section 17.

(c) No Limitation on Junior Lien Bonds. Nothing in this ordinance shall prevent the City from issuing revenue bonds or other obligations having a lien and charge on the Net Revenue subordinate to the lien and charge of the Parity Bonds.

Section 18. Rate Stabilization Account. There has been created in the Solid Waste Fund a separate account known as the Rate Stabilization Account. The City may at any time, as determined by the City and as consistent with Section 15, deposit in the Rate Stabilization Account Gross Revenue and any other money received by the Solid Waste System and available to be used therefor. The City may withdraw any or all of the money from the Rate Stabilization Account for inclusion in the Adjusted Gross Revenue for any fiscal year of the City. Such deposits or withdrawals may be made up to and including the date 90 days after the end of the fiscal year for which the deposit or withdrawal will be included as Adjusted Gross Revenue.

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No deposit of Gross Revenue shall be made into the Rate Stabilization Account to the extent that such deposit would prevent the City from meeting the Coverage Requirement in the relevant fiscal year.

Section 19. Separate Utility Systems. The City may create, acquire, construct, finance, own and operate one or more additional systems for solid waste collection, transportation, treatment or disposal, or other commodity or service related to the Solid Waste System. The revenue of that separate utility system shall not be included in the Gross Revenue of the Solid Waste System and may be pledged to the payment of revenue obligations issued to purchase, construct, condemn or otherwise acquire or expand the separate utility system. Neither the Gross Revenue nor the Net Revenue of the Solid Waste System shall be pledged by the City to the payment of any obligations of a separate utility system except (1) as a Contract Resource Obligation upon compliance with Section 20 and/or (2), with respect to the Net Revenue, on a basis subordinate to the lien of the Parity Bonds on that Net Revenue.

Section 20. Contract Resource Obligations. The City may at any time enter into one or more Contract Resource Obligations for the acquisition, from facilities to be constructed, of solid waste collection, transportation, treatment or disposal, or other commodity or service relating to the Solid Waste System. The City may determine that, and may agree under a Contract Resource Obligation to provide that, all payments under that Contract Resource Obligation (including payments prior to the time that the solid waste collection, transportation, treatment or disposal or other commodity or service is being provided, or during a suspension or after termination of commodity or service) shall be Maintenance and Operation Expenses if the following requirements are met at the time such a Contract Resource Obligation is entered into:

(a) No event of default under a Parity Bond Ordinance has occurred and is continuing.

(b) There shall be on file a certificate of a Professional Utility Consultant stating that (i) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the commodities provided or

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services rendered; (ii) the source of any new commodities or services, and any facilities to be constructed to provide the commodities or services, are sound from a solid waste collection, transportation, treatment and disposal, or other commodity or service planning standpoint, are technically and economically feasible in accordance with prudent utility practice, and are likely to provide commodities or services no later than a date set forth in the Professional Utility Consultant's certification; and (iii) the Adjusted Net Revenue (further adjusted by the Professional Utility Consultant's estimate of the payments to be made in accordance with the Contract Resource Obligation) for the five fiscal years following the year in which the Contract Resource Obligation is incurred, as such Adjusted Net Revenue is estimated by the Professional Utility Consultant in accordance with the provisions of and adjustments permitted in Section 17(a)(ii), will be at least equal to the Coverage Requirement.

Payments required to be made under Contract Resource Obligations shall not be subject to acceleration. Nothing in this Section shall be deemed to prevent the City from entering into other agreements for the acquisition of solid waste collection, transportation, treatment or disposal, or other commodity or service, from existing facilities and from treating those payments as Maintenance and Operation Expenses. Nothing in this Section shall be deemed to prevent the City from entering into other agreements for the acquisition of solid waste collection, transportation, treatment or disposal, or other commodity or service, from facilities to be constructed and from agreeing to make payments with respect thereto, such payments constituting a lien and charge on Net Revenue subordinate to that of Parity Bonds.

Section 21. Refunding or Defeasance of Bonds. The Bonds are hereby designated "Refundable Bonds" for purposes of Ordinance 121940. The City may issue refunding bonds pursuant to the laws of the State or use money available from any other lawful source to pay when due the principal of and premium, if any, and interest on the Bonds, or any portion thereof included in a refunding or defeasance plan, and to redeem and retire, release, refund or defease those Bonds (the "defeased Bonds") and to pay the costs of such refunding or defeasance. If money and/or Government Obligations sufficient in amount, together with known earned income from the investments thereof, to redeem and retire, release, refund or defease the defeased Bonds in accordance with their terms, are set aside in a special trust fund

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or escrow account irrevocably pledged to that redemption, retirement or defeasance (the "trust account"), then all right and interest of the Registered Owners of the defeased Bonds in the covenants of this ordinance and in the Net Revenue and the funds and accounts pledged to the payment of the defeased Bonds, other than the right to receive the funds so set aside and pledged, thereafter shall cease and become void. Such Registered Owners thereafter shall have the right to receive payment of the principal of and interest or redemption price on the defeased Bonds from the trust account. The City shall include in the refunding or defeasance plan such provisions as the City deems necessary for the random selection of any defeased Bonds that constitute less than all of a particular maturity of the Bonds, for notice of the defeasance to be given to the Registered Owners of the defeased Bonds and to such other persons as the City shall determine, and for any required replacement of Bond certificates for defeased Bonds.

After the establishing and full funding of such a trust account, the defeased Bonds shall be deemed no longer outstanding, and the City may then apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine, subject only to the rights of the owners of any other Parity Bonds.

If the refunding or defeasance plan provides that the defeased Bonds or the refunding bonds to be issued be secured by money and/or Government Obligations pending the prior redemption of the defeased Bonds and if such refunding or defeasance plan also provides that certain money and/or Government Obligations are pledged irrevocably for the prior redemption of the defeased Bonds included in that refunding or defeasance plan, then only the debt service on the Bonds which are not defeased Bonds and the refunding bonds, the payment of which is not so secured by the refunding plan, shall be included in the computation of the Coverage Requirement for the issuance of Future Parity Bonds, and the annual computation of the Coverage Requirement for determining compliance with the rate covenants.

Section 22. Amendments.

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(a) Amendments Without Parity Bond Owners' Consent. The City Council from time to time and at any time may pass a resolution or resolutions, or ordinance or ordinances, supplemental hereto, which resolution or resolutions, ordinance or ordinances thereafter shall become a part of this ordinance, for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City contained in this ordinance other covenants and agreements thereafter to be observed which shall not adversely affect the interests of the owners of any Parity Bonds then outstanding, or to surrender any right or power herein reserved to or conferred upon the City.

(ii) 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 City Council may deem necessary or desirable and not inconsistent with this ordinance and which shall not adversely affect the interests of owners of any Parity Bonds then outstanding in any material respect.

(iii) To make such changes as are necessary to permit the Bonds to be held in registered certificate form or in fully immobilized form by a Securities Depository other than DTC.

Any such supplemental resolution or ordinance of the City may be passed without the consent of the owners of any Parity Bonds at any time outstanding, notwithstanding any of the provisions of Section 22(b), but only upon receipt by the City of an opinion of Bond Counsel to the effect that the amendment is permitted by the terms of this ordinance. The City shall deliver a copy of any such supplemental resolution or ordinance to the Rating Agencies prior to its passage by the City.

(b) Amendments With Parity Bond Owners' Consent. The City Council may, with the consent of the registered owners of not less than 60% in aggregate principal amount of the Parity Bonds then outstanding, pass a resolution or resolutions or ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or

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eliminating any of the provisions of this ordinance or of any supplemental resolution or ordinance, except no such supplemental resolution or ordinance shall:

(i) Extend the fixed maturity of any Parity Bonds, or reduce the rate of interest thereon, or extend the times of payment of interest from their respective due dates, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the registered owner of each Parity Bond so affected; or

(ii) Reduce the aforesaid percentage of registered owners required to approve any such supplemental resolution or ordinance, without the consent of the registered owners of all of the Parity Bonds then outstanding.

For purposes of determining whether the registered owners of the requisite percentage of principal amount of Parity Bonds have consented to any amendment to this ordinance, the Accreted Value of Capital Appreciation Bonds shall be deemed to be the principal amount thereof.

It shall not be necessary for the consent of registered owners under this paragraph (b) to approve the particular form of any proposed supplemental ordinance or resolution, but it shall be sufficient if such consent shall approve the substance thereof.

(c) Effect of Amendment. Upon the passage of any supplemental resolution or ordinance pursuant to the provisions of this Section, this ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the City under this ordinance shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modification and amendments, and all the terms and conditions of any such supplemental resolution or ordinance shall be deemed to be a part of the terms and conditions of this ordinance for any and all purposes.

(d) Notation on Bonds. Parity Bonds executed and delivered after the execution of any supplemental resolution or ordinance passed pursuant to the provisions of this Section may have a notation as to any matter provided for in such supplemental resolution or ordinance, and

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if such supplemental resolution or ordinance shall so provide, new bonds modified to conform, in the opinion of the Director of Finance, to any modification of this ordinance contained in any such supplemental resolution or ordinance may be prepared by the City and delivered without cost to the owners of any affected Parity Bonds then outstanding, upon surrender for cancellation of such bonds in equal aggregate principal amounts.

(e) Amendments Relating to Tax Credit Subsidy Bonds. The Registered Owners from time to time of the outstanding Bonds, by taking and holding the same, shall be deemed to have consented to the adoption by the City of any supplemental resolution or ordinance passed pursuant to the provisions of this Section for any one or more of the following purposes:

(i) When calculating "Annual Debt Service," to permit or require Tax Credit Subsidies expected to be received by the City in any period to be credited against amounts required to be paid in respect of interest on the Parity Bonds in that period; and

(ii) To permit or require Tax Credit Subsidies to be deposited into the Principal and Interest Subaccount and credited against the Net Revenue otherwise required to be deposited into the Principal and Interest Subaccount.

Section 23. Defaults and Remedies.

(a) Events of Default. The following shall constitute "Events of Default" with respect to the Bonds:

(i) If a default is made in the payment of the principal of or interest on any of the Bonds when the same shall become due and payable; or

(ii) If the City defaults in the observance and performance of any other of the covenants, conditions and agreements on the part of the City set forth in this ordinance or in any Parity Bond Ordinance (except as otherwise provided herein or in such Parity Bond Ordinance) and such default or defaults have continued for a period of six months after they have received from the Bond Owners' Trustee (as defined below) or from the registered owners of not less than 25% in principal amount of the Parity Bonds, a written notice specifying and

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demanding the cure of such default. However, if the default in the observance and performance of any other of the covenants, conditions and agreements is one which cannot be completely remedied within the six months after written notice has been given, it shall not be an Event of Default with respect to the Bonds as long as the City has taken active steps within the six months after written notice has been given to remedy the default and is diligently pursuing such remedy.

(b) Bond Owners' Trustee. So long as such Event of Default has not been remedied, a Bond Owners' trustee (the "Bond Owners' Trustee") may be appointed by the registered owners of 25% in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such registered owners of the Parity Bonds or by their attorneys-in-fact duly authorized and delivered to such Bond Owners' Trustee, notification thereof being given to the City. That appointment shall become effective immediately upon acceptance thereof by the Bond Owners' Trustee. Any Bond Owners' Trustee appointed under the provisions of this Section shall be a bank or trust company organized under the laws of the State of Washington or the State of New York or a national banking association. The bank or trust company acting as Bond Owners' Trustee may be removed at any time, and a successor Bond Owners' Trustee may be appointed, by the registered owners of a majority in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such registered owners or by their attorneys-in-fact duly authorized. The Bond Owners' Trustee may require such security and indemnity as may be reasonable against the costs, expenses and liabilities that may be incurred in the performance of its duties.

In the event that any Event of Default in the sole judgment of the Bond Owners' Trustee is cured and the Bond Owners' Trustee furnishes to the City a certificate so stating, that Event of Default shall be conclusively deemed to be cured and the City, the Bond Owners' Trustee

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and the registered owners of the Parity Bonds shall be restored to the same rights and position which they would have held if no Event of Default had occurred.

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

(c) Suits at Law or in Equity. Upon the happening of an Event of Default and during the continuance thereof, the Bond Owners' Trustee may, and upon the written request of the registered owners of not less than 25% in principal amount of the Parity Bonds outstanding shall, take such steps and institute such suits, actions or other proceedings, all as it may deem appropriate for the protection and enforcement of the rights of the registered owners of the Parity Bonds, to collect any amounts due and owing to or from the City, or to obtain other appropriate relief, and may enforce the specific performance of any covenant, agreement or condition contained in this ordinance or in any of the Parity Bonds.

Nothing contained in this Section shall, in any event or under any circumstance, be deemed to authorize the acceleration of maturity of principal on the Parity Bonds, and the remedy of acceleration is expressly denied to the registered owners of the Parity Bonds under any circumstances including, without limitation, upon the occurrence and continuance of an Event of Default.

Any action, suit or other proceedings instituted by the Bond Owners' Trustee hereunder shall be brought in its name as trustee for the registered owners of the Parity Bonds and all such rights of action upon or under any of the Parity Bonds or the provisions of this ordinance may be enforced by the Bond Owners' Trustee without the possession of any of those Parity Bonds and without the production of the same at any trial or proceedings relative thereto except where otherwise required by law. Any such suit, action or proceeding instituted by the Bond Owners' Trustee shall be brought for the ratable benefit of all of the registered owners of those Parity

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Bonds, subject to the provisions of this ordinance. The respective registered owners of the Parity Bonds, by taking and holding the same, shall be conclusively deemed irrevocably to appoint the Bond Owners' Trustee the true and lawful trustee of the respective registered owners of those Parity Bonds, with authority to institute any such action, suit or proceeding; to receive as trustee and deposit in trust any sums becoming distributable on account of those Parity Bonds; to execute any paper or documents for the receipt of money; and to do all acts with respect thereto that the registered owner himself or herself might have done in person. Nothing herein shall be deemed to authorize or empower the Bond Owners' Trustee to consent to accept or adopt, on behalf of any registered owner of the Parity Bonds, any plan of reorganization or adjustment affecting the Parity Bonds or any right of any registered owner thereof, or to authorize or empower the Bond Owners' Trustee to vote the claims of the registered owners thereof in any receivership, insolvency, liquidation, bankruptcy, reorganization or other proceeding to which the City is a party.

(d) Application of Money Collected by Bond Owners' Trustee. Any money collected by the Bond Owners' Trustee at any time pursuant to this Section shall be applied in the following order of priority:

(i) first, to the payment of the charges, expenses, advances and compensation of the Bond Owners' Trustee and the charges, expenses, counsel fees, disbursements and compensation of its agents and attorneys; and

(ii) second, to the payment to the persons entitled thereto of all installments of interest then due on the Parity Bonds in the order of maturity of such installments and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference; and

(iii) third, to the payment to the persons entitled thereto of the unpaid principal amounts of any Parity Bonds which shall have become due (other than Parity Bonds

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previously called for redemption for the payment of which money is held pursuant to the provisions hereto), whether at maturity or by proceedings for redemption or otherwise, in the order of their due dates and, if the amount available shall not be sufficient to pay in full the principal amounts due on the same date, then to the payment thereof ratably, according to the principal amounts due thereon to the persons entitled thereto, without any discrimination or preference.

(e) Duties and Obligations of Bond Owners' Trustee. The Bond Owners' Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. During an Event of Default, the Bond Owners' Trustee shall exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. The Bond Owners' Trustee shall have no liability for any act or omission to act hereunder except for the Bond Owners' Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Bond Owners' Trustee shall be determined solely by the express provisions of this ordinance, and no implied powers, duties or obligations of the Bond Owners' Trustee shall be read into this ordinance.

The Bond Owners' Trustee shall not be required to expend or risk its own funds or otherwise incur individual liability in the performance of any of its duties or in the exercise of any of its rights or powers as the Bond Owners' Trustee, except as may result from its own negligent action, its own negligent failure to act or its own willful misconduct.

The Bond Owners' Trustee shall not be bound to recognize any person as a registered owner of any Parity Bond until his or her title thereto, if disputed, has been established to its reasonable satisfaction.

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

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

(f) Suits by Individual Parity Bond Owners Restricted. No owner of any one or more Parity Bonds shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of same unless:

(i) an Event of Default has happened and is continuing; and

(ii) a Bond Owners' Trustee has been appointed; and

(iii) such owner previously shall have given to the Bond Owners' Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted; and

(iv) the registered owners of 25% in principal amount of the Parity Bonds, after the occurrence of such Event of Default, have made written request of the Bond Owners' Trustee and have afforded the Bond Owners' Trustee a reasonable opportunity to institute such suit, action or proceeding; and

(v) there have been offered to the Bond Owners' Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and

(vi) the Bond Owners' Trustee has refused or neglected to comply with such request within a reasonable time.

No owner of any Parity Bond shall have any right in any manner whatever by his or her action to affect or impair the obligation of the City to pay from the Net Revenue the principal of and interest on the Parity Bonds to the respective owners thereof when due.

(g) Failure to Comply With Undertaking. Notwithstanding anything in this Section to the contrary, the failure of the City or any obligated person to comply with any Undertaking adopted by the Bond Resolution pursuant to Section 25 shall not constitute an Event of Default hereunder, and the sole remedy of any holder of a Bond shall be to seek an

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order of specific performance from an appropriate court to compel the City to comply with the Undertaking.

Section 24. Preservation of Tax Exemption for Interest on Tax-Exempt Bonds. The City covenants that it will take all actions consistent with the terms of the Bonds, this ordinance and the Bond Resolution, reasonably within its power and necessary to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds, which will cause interest on the Tax-Exempt Bonds to be included in gross income for federal income tax purposes.

Section 25. Continuing Disclosure. The City shall undertake to provide for the benefit of holders of the Bonds, to the extent applicable, disclosure of certain financial information and operating data of the type included in the final official statement for the Bonds, as well as disclosure of certain events respecting the Bonds, in the manner and to the extent required by United States Securities and Exchange Commission Rule 15c2-12(b)(5). The particular terms of the Undertaking shall be set forth in the Bond Resolution.

Section 26. Construction Account; Deposit of Proceeds. An account to be known as the Solid Waste Construction Account, 2011 (the "Construction Account") is created in the Solid Waste Fund. The principal proceeds of the sale of the Bonds remaining after the deposit of accrued interest on the Bonds, if any, into the Principal and Interest Subaccount and the deposit of any proceeds as determined by the Bond Resolution into the Reserve Subaccount, shall be deposited into the Construction Account, unless otherwise specified in the Bond Resolution or directed by the Director of Finance, to be used for the purpose of paying part of the costs of carrying out the Plan of Additions and to pay for the costs of issuance of the Bonds. Until needed to pay such costs, the City may invest principal proceeds and interest thereon temporarily in any legal investment, and the investment earnings may, as determined by the

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Director of Finance, be retained in the Construction Account and be spent for the purposes of that fund or deposited in the Parity Bond Account.

Section 27. **Sale of Bonds.** The Director of Finance may provide for the sale of each series of Bonds (or any portion thereof) by public sale or by a negotiated sale with an underwriter or other financial institution chosen through a selection process acceptable to the Director of Finance. The Director of Finance is authorized to specify a date and time of sale of the Bonds, to give notice of that sale, to determine any bid requirements and criteria for determining the award of the bid, to provide for the use of an electronic bidding mechanism, and to specify other matters in his or her determination necessary, appropriate, or desirable to carry out the sale of the Bonds. The terms of that sale shall be consistent with this ordinance and the Bond Resolution and shall be confirmed by the Bond Resolution. The Bonds shall be delivered to the purchasers as provided in the Bond Resolution immediately upon payment to the City of the purchase price plus accrued interest, if any, to the Closing Date in immediately available federal funds in Seattle, Washington, at the City's expense or at another time or place upon which the Director of Finance and the purchaser may mutually agree at the purchaser's expense.

If one or more series of Bonds are sold and issued as Tax Credit Subsidy Bonds, the Director of Finance is hereby authorized on behalf of the City to take such actions and enter into such agreements as are necessary or appropriate for the City to receive from the United States Treasury the applicable Tax Credit Subsidies.

CUSIP numbers will be printed on the Bonds if requested by the purchasers, but neither failure to print CUSIP numbers on any Bond nor error with respect thereto shall constitute cause for a failure or refusal by the purchasers to accept delivery of and pay for the Bonds in accordance with the purchase offer. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid by the City, but the fee of the CUSIP Service Bureau for the assignment of those numbers shall be the responsibility of and shall be paid by the purchasers.

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The City will cause the Bonds to be typed, photocopied, printed or lithographed, sealed and executed and will furnish the approving legal opinion of Bond Counsel, the opinion also being printed on each Bond unless the Bond is typed or photocopied.

Section 28. General Authorization. The Mayor and the Director of Finance of the City and each of the other appropriate officers of the City are each authorized and directed to do everything as in their judgment may be necessary, appropriate or desirable in order to carry out the terms and provisions of, and complete the transactions contemplated by, this ordinance. In particular, and without limitation, the Director of Finance may, in his or her discretion and without further action by the City Council, (i) issue requests for proposals for underwriting or financing facilities and execute engagement letters with underwriters, bond insurers or other financial institutions based on responses to such requests, (ii) deem final and approve the distribution of any preliminary official statement or official statement relating to the Bonds, (iii) comply with any continuing disclosure requirements applicable to the Bonds and (iv) change the Bond Registrar or any securities depository appointed for the Bonds.

Section 29. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 30. Ratification of Prior Acts. Any action taken consistent with the authority of this ordinance, after its passage but prior to the effective date, is ratified, approved and confirmed.

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Section 31. Headings. The section headings in this ordinance are used for convenience only and shall not constitute a substantive portion of this ordinance.

Section 32. Effective Date. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2011, and signed by me in open session in authentication of its passage this _____ day of _____, 2011.

_____
President _____ of the City Council

Approved by me this _____ day of _____, 2011.

_____
Michael McGinn, Mayor

Filed by me this _____ day of _____, 2011.

_____
City Clerk

(SEAL)

Attachment:
Exhibit A: CITY OF SEATTLE Outstanding Solid Waste Parity Bonds

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EXHIBIT A

CITY OF SEATTLE

Outstanding Solid Waste Parity Bonds

Issue Name	Dated Date	Original Par Amount	Outstanding Balance 2/21/2011	Bond Legislation
Solid Waste Revenue and Refunding Bonds, 2007 (the "2007 Bonds")	12/12/2007	$82,175,000	$76,415,000	Ordinance 121940, Ordinance 122498, and Resolution 31032

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Form revised: December 14, 2010

FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
SPU/FAS	Craig Omoto (5-0025) and Michael Van Dyck (4-8347)	Karen Grove (4-5805)

Legislation Title: AN ORDINANCE relating to financing the solid waste system of The City of Seattle, Washington; adopting a system or plan of additions and betterments to and extensions of the solid waste system; authorizing the issuance and sale of solid waste revenue bonds, in one or more series, for the purposes of paying all or part of the cost of carrying out that system or plan, providing a bond reserve and paying the costs of issuing and selling the bonds; authorizing the execution of certain agreements relating thereto; providing for the terms, conditions, covenants and manner of sale of the bonds; describing the lien of the bonds; creating certain accounts of the City relating to the bonds; and ratifying and confirming certain prior acts.

Summary and background of the Legislation:
This legislation provides the legal authorization to issue up to $61.1 million of Solid Waste System revenue bonds, as was assumed in Seattle Public Utilities' 2011-2016 Adopted Capital Improvement Program (CIP).

The bond proceeds, combined with internally generated funds, will support Seattle Public Utilities' capital program over the next two years. The bond proceeds will be used to make a $54.4 million deposit to the construction fund to support approximately $23.9 million in 2011 spending, $14.5 million in 2012 spending, and $16.0 million in 2013 spending. The remaining proceeds will be used for a debt service reserve fund of approximately $4.3 million, $1.8 million in issuance costs, and $0.6 million toward backfilling insurance policies on existing bonds, for a total bond size of $61.1 million. The bond sizing is based on the adopted budget and rates, planned cash flow and cash contribution targets.

The proposed issue is for 30-year, fixed-rate bonds. Beginning in 2012, semi-annual interest payments will be made in February and August, and principal payments will be made in August. Accrued interest on the bonds in 2011 is estimated to be $1.8 million. Beginning in 2012, annual debt service will be approximately $4.3 million, and is projected to continue at this level for the 30-year term.

Major projects supported by the bond issue include:

- South Transfer Station rebuild
- North Transfer Station rebuild
- Historic South Park Landfill site health and environmental remediation
- Customer Contact and Billing upgrades
- Technology improvements
- Heavy equipment purchases

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Debt financing for all new and continuing projects listed above has been assumed in Seattle Public Utilities' Solid Waste Fund 2011-2016 Adopted CIP. Debt financing of the Solid Waste System's capital program is routinely administered and complies with the City Council's budget direction.

Please check any of the following that apply:

____ **This legislation creates, funds, or anticipates a new CIP Project.**
(Please note whether the current CIP is being amended through this legislation, or provide the Ordinance or Council Bill number of the separate legislation that has amended/is amending the CIP.)

____ **This legislation does not have any financial implications.**
(Stop here and delete the remainder of this document prior to saving and printing.)

__X__ **This legislation has financial implications.** (Please complete all relevant sections that follow.)

Bond Financing Required:
If the project or program requires financing, please list type of financing, amount, interest rate, term and annual debt service or payment amount. Please include issuance costs of 3% in listed amount.

Type	Amount	Assumed Interest Rate	Term	Timing	Expected Annual Debt Service/Payment
TOTAL	$61.1 million	5.75%	30	6/2011	$4.3 million

Bond Notes:
The 2011 Adopted Budget and 2012 Endorsed Budget include appropriations for expected annual debt service. Adopted 2011-2012 solid waste rates were set to include this spending.

What is the financial cost of not implementing the legislation? N/A.

Does this legislation affect any departments besides the originating department? No.

What are the possible alternatives to the legislation that could achieve the same or similar objectives? None.

Is the legislation subject to public hearing requirements? No.

Other Issues: (Include long-term implications of the legislation.) None.

List attachments to the fiscal note below: None.

DNS CITY CLERK

City of Seattle
Office of the Mayor

March 1, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill for your consideration. This legislation authorizes the issuance of up to $61.1 million of Seattle Public Utility Solid Waste System revenue bonds, as was assumed in the 2011 Adopted Budget, the 2011-2016 Adopted Capital Improvement Program, and adopted 2011-2012 solid waste rates.

The Solid Waste System revenue bonds will be used for a variety of projects in Seattle Public Utilities' 2011-2016 Adopted Capital Improvement Program including work relating to the reconstruction of the North and South Transfer Stations.

Thank you for your consideration of this legislation. Should you have questions, please contact Michael van Dyck at 684-8347 or Craig Omoto at 615-0025.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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