

CITY OF SEATTLE
ORDINANCE 126224
COUNCIL BILL 119924

AN ORDINANCE relating to the solid waste system of The City of Seattle; providing for the defeasance of the claim or lien of certain of the City’s outstanding solid waste system revenue bonds and payment of the administrative costs of such defeasance; providing for and authorizing the purchase of certain obligations and for the use and application of the money derived from those investments; authorizing the execution of a defeasance trust agreement to establish a defeasance escrow; authorizing the call for redemption prior to their maturity of those outstanding bonds that are to be defeased; and ratifying and confirming certain prior acts.

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

WHEREAS, the City has previously authorized and issued, and may from time to time in the future authorize and issue, solid waste system revenue bonds having a charge and lien on the Net Revenue of the Solid Waste System prior and superior to any other charges whatsoever (“Parity Bonds”), which are designated as defeasible under this ordinance (“Defeasible Bonds”); and

WHEREAS, it is advantageous to the City and its ratepayers to provide for the application of available Net Revenue or other available funds (other than proceeds of Tax-Advantaged Bonds) to defease outstanding Defeasible Bonds whenever the Director of Finance determines that such defeasance will achieve a long-term cost savings or other benefit to the City or its ratepayers, all as permitted under chapter 39.53 RCW; and

WHEREAS, the City has determined that it is in the best interest of the City and its ratepayers to authorize, subject to the provisions of this ordinance, the Director of Finance to carry out

1 the defeasance and redemption of all or any portion of the Defeasible Bonds and to pay
2 the administrative costs of carrying out the defeasance of those Defeasible Bonds; and

3 WHEREAS, pursuant to the authority delegated in this ordinance, the Director of Finance from
4 time to time will receive, review, and adopt a plan (“Defeasance Plan”) to defease
5 selected maturities (or partial maturities) of certain series of those Defeasible Bonds,
6 which selected series and maturities (or partial maturities) will be identified in the
7 Defeasance Plan, and to carry out the defeasance and redemption of any Defeasible
8 Bonds as the Director of Finance may deem in the best interests of the City and its
9 ratepayers; NOW, THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. **Definitions.** As used in this ordinance, the following capitalized terms
12 shall have the meanings set forth below:

13 **“Acquired Obligations”** means Government Obligations maturing or having guaranteed
14 redemption prices at the option of the holder at such time or times as may be required to provide
15 funds sufficient to carry out the Defeasance Plan, and satisfying the requirements of the
16 Defeased Bond Documents relating to the Defeased Bonds included in that Defeasance Plan. For
17 purposes of this definition, eligible “Government Obligations” for inclusion in a Defeasance Plan
18 shall be determined in accordance with the applicable Defeased Bond Documents.

19 **“Bond Counsel”** means a lawyer or a firm of lawyers, selected by the City, of nationally
20 recognized standing in matters pertaining to bonds issued by states and their political
21 subdivisions.

22 **“City”** means The City of Seattle, Washington, a municipal corporation duly organized
23 and existing under the laws of the State.

1 **“City Council”** means the City Council of the City, as duly and regularly constituted
2 from time to time.

3 **“Code”** means the Internal Revenue Code of 1986, or any successor thereto, as it has
4 been and may be amended from time to time, and regulations thereunder.

5 **“Defeasance Plan”** means the plan approved by the Director of Finance pursuant to the
6 delegation set forth herein to accomplish the defeasance and redemption of the identified
7 Defeasible Bonds. Each Defeasance Plan must identify the maturities (or partial maturities) and
8 series of Defeasible Bonds to be defeased and redeemed thereby, and must provide for their
9 defeasance and/or redemption, substantially as follows, with such additional detail and
10 adjustments to be set forth in the Defeasance Trust Agreement as the Director of Finance may
11 deem necessary or desirable:

12 (a) The City shall deposit available Net Revenue of the Solid Waste System, and such
13 other money (other than proceeds of Tax-Advantaged Bonds) as may be included in the plan by
14 the Director of Finance, into a defeasance escrow or trust account held by the Defeasance
15 Trustee;

16 (b) Upon receipt of a certification or verification by a certified public accounting firm
17 or financial advisor that the amounts deposited with it will be sufficient to accomplish the
18 defeasance and redemption as described in such Defeasance Trust Agreement, the Defeasance
19 Trustee shall invest such escrow deposits in the Acquired Obligations specified therein (unless
20 directed in the Defeasance Trust Agreement to hold such deposits uninvested) and shall establish
21 a beginning cash balance; and

22 (c) As further directed in the Defeasance Trust Agreement, the Defeasance Trustee
23 shall apply the amounts received as interest on and maturing principal of such Acquired

1 Obligations (together with any cash balance in the defeasance trust account) to call, pay, and
2 redeem those Defeasible Bonds on the dates and times identified in the plan, and (if so directed)
3 to pay the administrative costs of carrying out the foregoing.

4 If the Director of Finance serves as the Defeasance Trustee, the Director of Finance shall
5 approve a written Defeasance Plan (which need not be set forth in a Defeasance Trust
6 Agreement) providing that the escrow funds are to be held separate and apart from all other
7 funds of the City and are to be applied substantially as set forth above.

8 **“Defeasance Trust Agreement”** means an escrow or trust agreement between the City
9 and a Defeasance Trustee as described in Section 3(d) of this ordinance.

10 **“Defeasance Trustee”** means the Director of Finance, or a financial institution selected
11 by the Director of Finance, serving in the capacity of Defeasance Trustee or escrow agent under
12 a Defeasance Trust Agreement.

13 **“Defeased Bond Documents”** means (a) the ordinance(s) authorizing the issuance of the
14 Defeased Bonds; (b) the authenticated bond form; and (c) the written agreement(s) setting forth
15 the terms, conditions, or covenants pursuant to which such bond was issued and sold, as set forth
16 in any one or more of the following (if any): (i) a sale resolution, (ii) a bond purchase contract
17 (as defined in the applicable authorizing ordinance), (iii) a bond indenture or a fiscal agent or
18 paying agent agreement (other than the State fiscal agency contract), and (iv) a direct purchase or
19 continuing covenant agreement.

20 **“Defeased Bonds”** means those Defeasible Bonds identified in a Defeasance Plan in
21 accordance with this ordinance.

22 **“Defeasible Bonds”** means each series of Parity Bonds that have been designated, or
23 may in the future be designated, as defeasible under this ordinance, including: (a) each series of

1 Outstanding Parity Bonds listed in Exhibit A; and (b) each series of Future Parity Bonds
2 designated by the City as Defeasible Bonds.

3 **“Director of Finance”** means the Director of the Finance Division of the Department of
4 Finance and Administrative Services of the City, or any other officer who succeeds to
5 substantially all of the responsibilities of that office.

6 **“Government Obligations”** means, unless otherwise defined in the Defeased Bond
7 Documents, any government obligation as that term is defined in RCW 39.53.010, as now in
8 effect or as may be hereafter amended.

9 **“Gross Revenue”** means (a) all income, revenues, receipts, and profits derived by the City
10 through the ownership and operation of the Solid Waste System; (b) Payment Agreement Receipts,
11 to the extent that such receipts are not offset by Payment Agreement Payments; and (c) the
12 investment income earned on money held in any fund or account of the City, including any bond
13 redemption funds and the accounts therein, in connection with the ownership and operation of the
14 Solid Waste System. Gross Revenue does not include: (a) income derived from investments
15 irrevocably pledged to the payment of any defeased bonds payable from Gross Revenue;
16 (b) investment income set aside for or earned on money in any fund or account created or
17 maintained solely for the purpose of complying with the arbitrage rebate provisions of the Code;
18 (c) any gifts, grants, donations, or other funds received by the City from any State or federal agency
19 or other person if such gifts, grants, donations, or other funds are the subject of any limitation or
20 reservation imposed by the donor or grantor or imposed by law or administrative regulation to
21 which the donor or grantor is subject, limiting the application of such funds in a manner
22 inconsistent with the application of Gross Revenue hereunder; (d) the proceeds of any borrowing
23 for capital improvements (or the refinancing thereof); (e) the proceeds of any liability or other

1 insurance, including but not limited to insurance proceeds compensating the City for the loss of a
2 capital asset, but excluding business interruption insurance or other insurance of like nature
3 insuring against the loss of revenues; and (f) the earnings of any separate utility system acquired
4 or constructed by the City in accordance with the provisions for a separate system in the Defeased
5 Bond Documents.

6 **“Maintenance and Operation Expenses”** means all expenses incurred by the City in
7 causing the Solid Waste System to be operated and maintained in good repair, working order, and
8 conditions, including without limitation: (a) deposits, premiums, assessments or other payments
9 for insurance (other than payments out of proceeds of Parity Bonds), if any, on the Solid Waste
10 System; (b) payments into pension funds; (c) State-imposed taxes; (d) amounts due under Contract
11 Resource Obligations in accordance with the provisions of the Defeased Bond Documents; (e)
12 payments made to any other person or entity for the collection, transportation, treatment, or
13 disposal of solid waste or other commodity or service related to the Solid Waste System; and (f)
14 payments with respect to any other expenses of the Solid Waste System that are properly treated
15 as operation and maintenance expenses under generally accepted accounting principles.
16 Maintenance and Operation Expenses does not include any depreciation, amortization, or other
17 similar recognitions of non-cash expense items made for accounting purposes only; taxes levied
18 or imposed by the City or payments in lieu of City taxes; payments of claims or judgments; or
19 capital additions or capital replacement.

20 **“Net Revenue”** means, for any period, Gross Revenue less Maintenance and Operation
21 Expense.

1 **“Omnibus Defeasance Ordinance”** means this ordinance (as it may be amended from
2 time to time) or any other ordinance of the City passed in the future, authorizing the defeasance
3 and redemption of Defeasible Bonds.

4 **“Outstanding Parity Bonds”** means those outstanding Parity Bonds identified in
5 Exhibit A. When used in reference to a particular date or series of Parity Bonds, Outstanding
6 Parity Bonds shall mean those Parity Bonds (including any Parity Bonds issued subsequent to the
7 date of this ordinance) that are outstanding as of that date or as of the issue date of such series.

8 **“Parity Bond Account”** means the Solid Waste System Revenue Bond Account, created
9 in the Solid Waste Fund by Ordinance 118975 for the purpose of paying and securing payment of
10 the principal of and interest on Parity Bonds.

11 **“Parity Bonds”** means solid waste system revenue obligations payable solely from the
12 Parity Bond Account having a charge and lien on the Net Revenue of the Solid Waste System
13 prior and superior to any other charges whatsoever.

14 **“Solid Waste Fund”** means the “Garbage Collection and Disposal Fund” of the City
15 created by Ordinance 90379 and subsequently renamed the “Solid Waste Fund.”

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

22 **“Tax-Advantaged Bond”** means any bond or other financial obligation issued by the
23 City, (a) the interest on which is intended on its issue date to be excludable from gross income

1 for federal income tax purposes, or (b) that is designated by the City as a tax credit bond
2 pursuant to the Code, and which is further designated as a “qualified bond” under Section 6431
3 (or substantively similar provision of the Code), and with respect to which the City is eligible to
4 claim a tax credit subsidy payment in respect of interest on the obligation.

5 Section 2. **Finding with Respect to Defeasance.** The City Council hereby finds that
6 the irrevocable deposit of money and securities with a Defeasance Trustee, verified or certified
7 as to sufficiency in accordance with a Defeasance Plan approved pursuant to this ordinance, will
8 discharge and satisfy the obligations of the City as to the Defeased Bonds identified therein,
9 including all pledges, charges, trusts, covenants, and agreements under the applicable Defeased
10 Bond Documents. Immediately upon such deposit, the Defeased Bonds identified in such
11 Defeasance Plan shall be defeased and shall no longer be deemed to be outstanding under the
12 applicable Defeased Bond Documents.

13 The City Council finds and determines that it is in the best interest of the City and its
14 taxpayers that the City carry out a Defeasance Plan approved by the Director of Finance as
15 provided for in this ordinance and hereby ratifies and approves any such Defeasance Plan.

16 Section 3. **Defeasance of the Defeased Bonds.**

17 (a) **Approval of Defeasance Plan; Appointment of Defeasance Trustee.** The
18 Director of Finance is authorized and directed to select a Defeasance Trustee and to negotiate,
19 execute, and deliver a Defeasance Trust Agreement setting forth a Defeasance Plan for each
20 series of Defeasible Bonds (or portion thereof) to be defeased and redeemed pursuant to this
21 ordinance, in accordance with subsection (d) of this section. Multiple Defeasance Plans may be
22 combined in a single Defeasance Trust Agreement. The Defeasance Plan shall be carried out, and
23 the money on deposit in the defeasance escrow shall be applied, in accordance with this

1 ordinance, the respective Defeased Bond Documents, the Defeasance Trust Agreement, and the
2 laws of the State.

3 (b) **Acquisition of Acquired Obligations.** To the extent practicable and desirable,
4 the Defeasance Plan shall provide for the Defeasance Trustee's purchase of Acquired
5 Obligations, bearing such interest and maturing as to principal and interest in such amounts and
6 at such times so as to provide, together with a beginning cash balance, if necessary, for the
7 timely payment of the amounts required to be paid by the Defeasance Plan. The Acquired
8 Obligations shall be listed and more particularly described in a schedule attached to the
9 Defeasance Trust Agreement, but are subject to substitution as set forth in subsection (c) of this
10 section.

11 (c) **Substitution of Acquired Obligations.** The City reserves the right at any time to
12 substitute cash or other Government Obligations (as defined in the applicable Defeased Bond
13 Documents) for the Acquired Obligations if the City obtains a verification by a nationally
14 recognized independent certified public accounting firm reasonably acceptable to the Defeasance
15 Trustee confirming that the payments of principal of and interest on the substitute obligations, if
16 paid when due, together with the cash to be held by the Defeasance Trustee, will be sufficient to
17 carry out the Defeasance Plan. If the applicable Series of Defeased Bonds were issued as Tax-
18 Advantaged Bonds, then prior to such substitution, the City must also obtain an opinion from
19 Bond Counsel to the effect that the disposition and substitution or purchase of such securities
20 will not cause adverse federal tax consequences as to any such Defeased Bonds that were issued
21 as Tax-Advantaged Bonds (except to the extent that the City has opted to forego any available
22 tax credit subsidy payment in connection with the original defeasance) and that such disposition
23 and substitution or purchase is in compliance with the applicable statutes and regulations. Any

1 surplus money resulting from the sale, transfer, other disposition, or redemption of the Acquired
2 Obligations and the substitutions therefor shall be released from the trust estate and may be used
3 for any lawful City purpose.

4 (d) **Defeasance Trust Agreement.** The Director of Finance is authorized to execute
5 one or more Defeasance Trust Agreements with one or more Defeasance Trustees, setting forth
6 the duties, obligations, and responsibilities of the Defeasance Trustee in connection with carrying
7 out the applicable Defeasance Plan. Each Defeasance Trust Agreement and Defeasance Plan
8 must, among other things: (1) identify the Defeasible Bonds to be defeased and redeemed
9 thereby; (2) contain the elements set forth in the definition of Defeasance Plan set forth in this
10 ordinance, including authorizing and directing the Defeasance Trustee to use the money
11 deposited with it to purchase the Acquired Obligations (or substitute obligations) and to apply
12 such money along with the maturing principal of and interest on such obligations to make the
13 payments required to be made by the Defeasance Plan; and (3) provide for the giving of notices
14 of defeasance and redemption, as required under the Defeased Bond Documents. The Defeasance
15 Trust Agreement may additionally provide for the payment of the costs of administering the
16 Defeasance Plan (including without limitation, all necessary and proper fees, compensation, and
17 expenses of the Defeasance Trustee and all other costs incidental to the setting up of the escrow
18 to accomplish the Defeasance Plan), and for such other related matters as the Director of Finance
19 may deem necessary or expedient.

20 Section 4. **Redemption of the Defeased Bonds.** The Director of Finance is
21 authorized on behalf of the City to take such actions as may be necessary or convenient to call
22 the Defeased Bonds for redemption. Such call for redemption of the Defeased Bonds shall
23 identify the Defeased Bonds, redemption dates, and redemption prices (expressed as a percentage

1 of the stated principal amount) and shall be irrevocable after the effective date of the Defeasance
2 Trust Agreement. The dates on which the Defeased Bonds are to be called for redemption shall
3 be, in the judgment of the Director of Finance, the earliest practical dates on which those
4 Defeased Bonds may be called for redemption following the effective date of the Defeasance
5 Trust Agreement. The proper City officials are authorized and directed to give or cause to be
6 given such notices as required, at the times and in the manner required pursuant to the Defeased
7 Bond Documents, in order to carry out the Defeasance Plan.

8 Section 5. **Outstanding Parity Bonds Declared Defeasible.** All outstanding Parity
9 Bonds that have previously been, or may in the future be, designated as “Refundable Bonds”
10 under Ordinance 125461, passed by the City Council on November 20, 2017, and signed by the
11 Mayor on November 22, 2017 (“Omnibus Refunding Ordinance”), as it may be amended from
12 time to time, are declared to be Defeasible Bonds under this ordinance.

13 Section 6. **General Authorization.** In addition to the specific authorizations in this
14 ordinance, the Mayor and the Director of Finance, and each of the other appropriate officers of
15 the City, are each authorized and directed to do everything as in their judgment may be
16 necessary, appropriate, or desirable in order to carry out the terms and provisions of, and
17 complete the transactions contemplated by, this ordinance.

18 Section 7. **Severability.** The provisions of this ordinance are declared to be separate
19 and severable. If a court of competent jurisdiction, all appeals having been exhausted or all
20 appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as
21 to any person or circumstance, such offending provision shall, if feasible, be deemed to be
22 modified to be within the limits of enforceability or validity. However, if the offending provision
23 cannot be so modified, it shall be null and void with respect to the particular person or

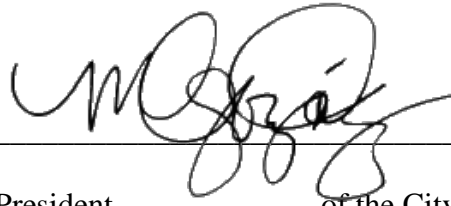
1 circumstance, and all other provisions of this ordinance in all other respects, and the offending
2 provision with respect to all other persons and all other circumstances, shall remain valid and
3 enforceable.

4 Section 8. **Ratification of Prior Acts.** Any action taken consistent with the authority
5 of this ordinance, after its passage but prior to its effective date, is ratified, approved, and
6 confirmed.

7 Section 9. **Section Headings.** Section headings in this ordinance are used for
8 convenience only and shall not constitute a substantive portion of this ordinance.

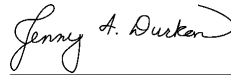
1 Section 10. **Effective Date.** This ordinance shall take effect and be in force 30 days
2 after its approval by the Mayor, but if not approved and returned by the Mayor within ten days
3 after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 23rd day of November, 2020,
5 and signed by me in open session in authentication of its passage this 23rd day of
6 November, 2020.

7 

8 President _____ of the City Council

9 Approved by me this 1st day of December, 2020.

10 

11 Jenny A. Durkan, Mayor

12 Filed by me this 1st day of December, 2020.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)

16 Attachments:
17 Exhibit A – Outstanding Solid Waste System Parity Bonds

1

EXHIBIT A

2

CITY OF SEATTLE

3

OUTSTANDING SOLID WASTE SYSTEM PARITY BONDS

Issue Name	Dated Date	Original Par Amount	Bond Legislation		
			New Money Ord.	Refunding Ord.	Bond Sale Res.
Solid Waste Revenue and Refunding Bonds, 2007	12/12/2007	\$82,175,000	Ord. 122498	Ord. 121940 (as amended by Ord. 122498)	Res. 31032
Solid Waste Revenue Bonds, 2011	6/22/2011	\$45,750,000	Ord. 123576	—	Res. 31301
Solid Waste Revenue and Refunding Bonds, 2014	6/12/2014	\$95,350,000	Ord. 123576 and Ord. 124046	Ord. 121940 (as amended by Ord. 122498)	Res. 31528
Solid Waste Revenue Bonds, 2015	6/25/2015	\$35,830,000	Ord. 124629	—	Res. 31589
Solid Waste System Improvement and Refunding Revenue Bonds, 2016	6/30/2016	\$35,335,000	Ord. 124913	Ord. 124915 (amending and restating Ord. 121940)	Res. 31677

4


Passed on November 23, 2020, Presented to Mayor November 24 - CB 119924


Final Audit Report

2020-11-24

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"Passed on November 23, 2020, Presented to Mayor November 24 - CB 119924" History

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