

ARTICLE VI

ADDITIONAL BONDS; REFUNDING BONDS; OTHER REVENUE OBLIGATIONS

Section 6.01 Additional Bonds; Other Revenue Obligations.

(A) The Bonds issued hereunder shall be a first charge and lien upon the Revenues of the Recycling and Solid Waste Fund. Except as permitted by this Section and by Section 6.02, no additional obligations payable from the Revenues of the Recycling and Solid Waste Fund shall be hereafter issued unless the lien on Revenues securing such additional revenue obligations is expressly made a junior and subordinate lien upon Revenues and the City covenants to make rates and charges of the Recycling and Solid Waste Fund sufficient to timely pay such additional revenue obligations. Nothing in this Section shall be construed to preclude the City from applying excess Revenues to the payment of general obligations of the City as provided in Section 4.03(A) "Fifth."

(B) Except as provided in Section 6.02, no additional revenue obligations ("Additional Parity Bonds") payable from the Revenues of the Recycling and Solid Waste Fund on a parity of lien with the then-outstanding Bonds shall be hereafter issued unless the annual Revenues of the Recycling and Solid Waste Fund for each of the two (2) completed Fiscal Years immediately preceding the issuance of such Additional Parity Bonds shall have been one (1.0) times the Maximum Annual Debt Service coming due thereafter on all Bonds or other obligations (including the proposed Additional Parity Bonds) having a parity of lien upon Revenues. A finding of sufficiency of Revenues for the issuance of Additional Parity Bonds shall be shown by a City Certificate and shall be a finding of and recited in the resolution of the City authorizing such Additional Parity Bonds. For the purposes of the foregoing test, the following special provisions shall apply:

(1) If the Additional Bonds to be issued will be Variable Rate Bonds, the City shall provide a Credit Facility for liquidity by a Credit Provider whose long term debt rating by a Rating Agency is A/A2 or better if the Additional Bonds are subject to purchase mandatorily or upon tender.

(2) If the Additional Bonds to be issued will be Adjustable Rate Bonds, the City shall provide a Credit Facility for liquidity by a Credit Provider whose long term debt rating by a Rating Agency is A/A2 or better if the Additional Bonds are subject to purchase mandatorily or upon tender.

(3) If the Additional Bonds are subject to mandatory purchase or are to be purchased upon tender by the Holders thereof, any Revenues required to be segregated or set aside by the City to fulfill its purchase obligation shall be deemed additional debt service on the related series of Bonds in the amounts and at the times such amounts are required to be so set aside.

(4) If the Additional Bonds to be issued will be Temporary Bonds, the calculation of maximum annual principal and interest shall assume either:

(a) that principal and interest will be paid at the times and at the interest rate specified in the related Commitment;

or, at the election of the City,

(b) that principal and interest will be paid on a level debt service basis over a period of ten (10) years from the maturity or mandatory purchase date for the series of Temporary Bonds, and that the series of Temporary Bonds will bear interest from and after that date at the then-prevailing interest rates for recycling and solid waste facilities revenue bonds of comparable credit quality, taking into account whether such Bonds are Taxable Bonds or Tax-Exempt Bonds;

provided, that other or different assumptions may be used if necessary to obtain an investment grade credit rating for the Temporary Bonds or to maintain the credit rating(s) then in effect for the Bonds then outstanding.

(C) In addition to the requirements of subsection (B) above, the following conditions shall be met prior to the issuance of each series of Additional Bonds:

(1) The payments required to be made (at the time of the issuance of such Additional Bonds) into the various Funds and Accounts provided for in this Resolution shall have been made.

(2) The proceeds of such Additional Bonds shall be used only for the purpose of (1) making Improvements to the Recycling and Solid Waste System, and capitalizing interest or establishing reserves and paying costs of such financing, or (2) refunding (or advance refunding) Bonds or any other bonds or obligations issued to finance the Recycling and Solid Waste Fund, and capitalizing interest or making a deposit to the Reserve Account and paying the costs of such financing (provided that bonds which refund Bonds may instead derive their parity lien status from Section 6.02).

(D) The conversion of Variable Rate Bonds or Adjustable Rate Bonds to Fixed Rate Bonds shall not be treated as the issuance of Additional Bonds subject to the requirements of subsection (C) above unless the interest rate to be borne by such Bonds from and after the date of conversion will exceed the rate or maximum rate taken into account for the purposes of subsection (C), clauses (1) or (2).

Section 6.02 Refunding Bonds.

(A) The City also reserves the right and privilege of issuing Additional Bonds if and to the extent needed to refund maturing Bonds payable from Revenues of the Recycling and Solid Waste Fund in case the money in the Bond Account are insufficient to pay the same at maturity, which refunding Additional Bonds may be on a parity with other Bonds as to interest payments, but shall mature subsequent to all the Bonds which are payable from the Revenues and which are outstanding upon issuance of the refunding Additional Bonds. This Section shall not apply to Additional Bonds issued to refund Temporary Bonds.

(B) The City further reserves the right and privilege of issuing Additional Bonds payable from the Revenues of the Recycling and Solid Waste Fund to refund or advance refund all or any portion of the Bonds (or any series thereof) then outstanding if the aggregate principal and interest to become due in any Fiscal Year after the issuance of such refunding or advance refunding Additional Bonds (after deducting any principal or interest to be paid from a refunding escrow or defeasance escrow) will not be more than the principal and interest which would have been due in any future Fiscal Year if such refunding or advance refunding Additional Bonds had not been issued.

Section 6.03 Partial Parity; Other Sources.

(A) Partial Parity. Bonds or series of Bonds may have a parity of lien against Revenues as to only a portion of the principal or interest thereon or during a specified period and shall be considered “parity bonds” as to such portion or during such period.

(B) Other Sources. Bonds or series of Bonds may have a parity of lien against Revenues and shall be considered “parity bonds” even if there are sources of payment (such as (1) a Credit Facility, (2) a pledge of the full faith and credit of the City, or (3) a crossover advance refunding escrow) which are not available to pay all Bonds or series of Bonds. Such sources of payment shall be applied to the Bonds or series of Bonds to which they relate, and shall be applied as provided therefor whether before or after the application of Revenues to the payment of Bonds.

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