



SUBSTITUTE ORDINANCE NO. 27837

1 AN ORDINANCE relating to the water system of the City of Tacoma, providing
2 for the sale and issuance of water system revenue bonds in the aggregate
3 principal amount of not to exceed \$82,000,000 to provide funds to finance
4 or refinance costs of capital improvements to the water system, and
specifying the terms and covenants of the bonds.

5 WHEREAS the City of Tacoma (the "City") owns and operates a water
6 system (the "Water System") financed through the issuance of water revenue
7 bonds, and

8 WHEREAS, pursuant to Ordinance No. 26849, the City issued its
9 \$32,900,000 Water System Revenue Refunding Bonds, 2001 (the "2001
10 Bonds"), and

11 WHEREAS, pursuant to Ordinance No. 27109, the City issued its
12 \$51,380,000 Water System Revenue and Refunding Bonds, 2003 (the "2003
13 Bonds"), and

14 WHEREAS, pursuant to Ordinance No. 27405, the City issued its
15 \$46,550,000 Water System Revenue and Refunding Bonds, 2005 (the "2005
16 Bonds" and collectively with the outstanding 2001 Bonds and 2003 Bonds, the
17 "Outstanding Parity Bonds"), and

18 WHEREAS, pursuant to the ordinances authorizing the Outstanding
19 Parity Bonds, the City is authorized to issue water system revenue bonds with a
20 lien and charge on net revenue of the Water System equal to the lien and
21 charge thereon of the Outstanding Parity Bonds for purposes of the Water
22 System, if specified conditions are met and complied with at the time of the
23 issuance of those bonds, and
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WHEREAS the Outstanding Parity Bonds, together with the Public Works Trust Fund loans, are the only outstanding revenue obligations of the City pledged against the net revenue of the Water System, and

WHEREAS it is deemed necessary and advisable to acquire and construct certain additions and betterments to and extensions of the Water System, and

WHEREAS the Public Utility Board has initiated and has recommended to the City Council for its approval the issuance of water revenue bonds in one or more series (the "Bonds") to finance or refinance such capital improvements to the Water System and to pay costs of issuance, and

WHEREAS the City has determined that it is in the best interests of the City and its ratepayers to issue the Bonds to provide the funds to finance or refinance costs of capital improvements to the Water System and pay the cost of issuance and sale of the Bonds, and

WHEREAS the City has a policy of selling its bonds through competitive sale unless circumstances make it advantageous to conduct a negotiated sale, and

WHEREAS Congress enacted legislation permitting municipalities in 2009 and 2010 to issue bonds bearing interest at a taxable rate with a 35% credit returned by the Federal Government, and



1 WHEREAS, it is in the best interest of the City to sell the bonds pursuant
2 to a negotiated sale in order to provide flexibility to determine the amount of
3 bonds to be sold as taxable and those sold as tax-exempt bonds to take
4 advantage of the federal credit; Now, Therefore,

5 BE IT ORDAINED BY THE CITY OF TACOMA:

6 Section 1. Definitions. As used in this ordinance and for the purposes
7 of this ordinance the following words shall have the following meanings:

8 "Accreted Value" means either: (1) with respect to any Capital
9 Appreciation Bonds, as of the time of calculation, the sum of the amount
10 representing the initial principal amount of such Capital Appreciation Bonds as
11 set forth in the applicable Parity Bond Authorizing Ordinance plus the interest
12 accumulated, compounded and unpaid thereon as of the most recent
13 compounding date; or (2) with respect to original issue discount bonds under
14 the Code, as of the time of calculation, the amount representing the initial public
15 offering price of such original issue discount bonds plus the amount of the
16 discounted principal which has accreted since the date of issue, determined in
17 accordance with the provisions of the applicable Parity Bond Authorizing
18 Ordinance.
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21 "Annual Debt Service" means, for any fiscal year of the Water System, all
22 amounts required to be paid in respect of interest on and principal of Parity
23 Bonds (excluding interest payments capitalized by Parity Bonds and excluding
24 the accrued interest paid to the City upon the issuance of Parity Bonds) and
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1 Payment Agreement Payments in respect of Parity Payment Agreements,
2 subject to the following:

3 (1) Debt Service on Term Bonds. For purposes of calculating debt
4 service on Term Bonds, only the scheduled mandatory redemption amounts
5 payable in respect of principal of Term Bonds shall be taken into account in any
6 fiscal year prior to the Term Bond Maturity Year, and only the principal amount
7 scheduled to remain outstanding after payment of all prior mandatory
8 redemption amounts shall be taken into account in the Term Bond Maturity
9 Year;
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11 (2) Interest on Parity Bonds. For purposes of determining compliance
12 with the Coverage Requirement, the Reserve Requirement and the conditions
13 for the issuance of Future Parity Bonds or the creation of Contract Resource
14 Obligations:

15 (a) Generally. Except as otherwise provided by
16 Subparagraph (2)(b) with respect to Variable Interest Rate Bonds and by
17 Subsection 31.1 with respect to Parity Bonds with respect to which a Payment
18 Agreement is in force, interest on any issue of Parity Bonds payable in a fiscal
19 year shall be calculated based on the actual amount of accrued, accreted or
20 otherwise accumulated interest that is payable in that fiscal year in respect of
21 that issue taken as a whole, at the rate or rates set forth in the Parity Bond
22 Authorizing Ordinance;
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24 (b) Interest on Variable Interest Rate Bonds. The amount of
25 interest deemed to be payable on any issue of Variable Interest Rate Bonds
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1 shall be calculated on the assumption that the interest rate on those bonds
2 would be equal to the rate (the "assumed RBI-based rate") that is 90 percent of
3 the average Bond Buyer Revenue Bond Index or comparable index during the
4 fiscal quarter preceding the quarter in which the calculation is made; except
5 that, for purposes of determining actual compliance with the Coverage
6 Requirement under Section 19(b)(ii) in any past fiscal year, the actual amount
7 of interest paid on any issue of Variable Interest Rate Bonds shall be taken into
8 account;

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10 (c) Interest on Parity Bonds With Respect to Which a Payment
11 Agreement or Parity Payment Agreement is in Force. Debt service on Parity
12 Bonds with respect to which a Payment Agreement or Parity Payment
13 Agreement is in force shall be based on the net economic effect on the City
14 expected to be produced by the terms of the Parity Bonds and the terms of the
15 Payment Agreement, including but not limited to the effects set forth in
16 Section 31 of this ordinance.

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18 (d) Interest on Parity Bonds designated as "build America
19 bonds." The interest on Parity Bonds designated as build America Bonds,
20 including the 2009 Bonds, for purposes of calculating the Reserve
21 Requirement, shall be based on the net interest after the 35% federal credit
22 payment or such other federal credit to be received for Future Parity Bonds.
23 The owners of the 2009 Bonds shall be deemed to have consented to this
24 subsection. This subsection shall be in effect when 60% of the then current
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1 owners of Parity Bonds, including the 2009 Bonds, have consented to this
2 amendment to the definition of Annual Debt Service.

3 "Average Annual Debt Service" means the sum of the Annual Debt
4 Service for the remaining years to the last scheduled maturity of the applicable
5 issue or issues of Parity Bonds divided by the number of those years.

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

9 "Bond Fund" means that special fund of the City known as the Water
10 Revenue Bond Fund, created by Ordinance No. 25392 in the Water Division
11 Fund of the City for the payment of the principal of, mandatory sinking fund
12 payments and interest on the Parity Bonds.

13 "Bond Insurance" means any bond insurance, letter of credit, guaranty,
14 surety bond or similar credit enhancement device providing for or securing the
15 payment of all or part of the principal of and interest on any Parity Bonds.
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17 "Bond Insurer" means any provider of Bond Insurance approved by the
18 City Council by ordinance or resolution.

19 "Bond Register" means the books or records maintained by the Bond
20 Registrar on which are recorded the names and addresses of the owners of
21 each of the Bonds.
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23 "Bond Registrar" means the Fiscal Agency.
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1 "Bond Sale Resolution" means a resolution or resolutions of the City
2 Council adopted pursuant to this ordinance and confirming the sale and final
3 terms of the Bonds.

4 "Bonds" means the Water System Revenue Bonds, 2009, authorized to
5 be issued in one or more series by this ordinance.

6 "Build America Bonds" means any series of Parity Bonds to which the
7 City irrevocably elects to have Section 54AA of the Code apply.

8 "Capital Appreciation Bonds" means any Parity Bonds, all or a portion of
9 the interest on which is compounded and accumulated at the rates or in the
10 manner, and on the dates, set forth in the applicable Parity Bond Authorizing
11 Ordinance and is payable only upon redemption or on the maturity date of such
12 Parity Bonds. Parity Bonds that are issued as Capital Appreciation Bonds, but
13 later convert to obligations on which interest is paid periodically, shall be Capital
14 Appreciation Bonds until the conversion date and thereafter shall no longer be
15 Capital Appreciation Bonds, but shall be treated as having a principal amount
16 equal to their Accreted Value on the conversion date.
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18 "City" means the City of Tacoma, Washington.

19 "City Clerk" means the City Clerk of the City, or any other officer who
20 succeeds to substantially all of the responsibilities of that office specified in this
21 ordinance.
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23 "Code" means the Internal Revenue Code of 1986, as amended,
24 together with corresponding and applicable final, temporary or proposed
25 regulations and revenue rulings issued or amended with respect thereto by the
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1 United States Treasury Department or the Internal Revenue Service, to the
2 extent applicable to the Bonds.

3 "Commission" means the Securities and Exchange Commission.

4 "Construction Fund" means the 2009 Water Division Construction Fund,
5 created by this ordinance in the Water Division Fund.

6 "Contract Resource Obligation" means an obligation of the City,
7 designated as a Contract Resource Obligation and entered into pursuant to
8 Section 24 of this ordinance, to make payments for water supply, transmission
9 or other commodity or service to another person or entity (including, without
10 limitation, a separate utility system created pursuant to Section 23 of this
11 ordinance). The Water System has designated the Regional System as a
12 Contract Resource Obligation.
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14 "Coverage Requirement" in any fiscal year of the Water System means
15 an amount of Net Revenue of the Water System equal to at least 1.25 times the
16 Annual Debt Service that year on all Parity Bonds.
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18 "DTC" means The Depository Trust Company.

19 "Finance Director" means the Director of the Department of Finance of
20 the City, or any other officer who succeeds to substantially all of the
21 responsibilities of that office specified in this ordinance.
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23 "Fiscal Agency" means the fiscal agency of the State of Washington in
24 New York, New York, whose duties include registering and authenticating the
25 Bonds, maintaining the Bond Register, transferring ownership of the Bonds, and
26 paying the principal of and interest on the Bonds.



1 "Future Parity Bonds" means all revenue bonds and other obligations
2 (including Parity Payment Agreements) of the City issued or entered into after
3 the date of the issuance of the Bonds and then outstanding, the payment of
4 which constitutes a charge and lien on the Net Revenue of the Water System
5 equal in rank with the charge and lien upon such revenue required to be paid
6 into the Bond Fund to pay and secure the payment of the principal of and
7 interest on the Bonds and the Outstanding Parity Bonds.

8 "Government Obligations" means those government obligations defined
9 by RCW 39.53.010(9) as it now reads or hereafter may be amended or
10 replaced.
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12 "Gross Revenue of the Water System" or "Gross Revenue" means in any
13 fiscal year of the Water System all of the revenues of the Water System,
14 including, but not limited to, revenue from the sale or transmission of water; the
15 sale, lease, or furnishing of other commodities, services, properties or facilities;
16 the imposition of connection, capital improvement or other charges; utility local
17 improvement district assessments that are pledged to Parity Bonds; and
18 earnings from the investment of money in the Water Division Fund. However,
19 Gross Revenue shall not include earnings of the Regional System or any other
20 separate utility system that may be acquired or constructed by the City pursuant
21 to Section 23 hereof; principal proceeds of Parity Bonds or other borrowing;
22 grants or other capital contributions which by their terms are restricted to
23 specific projects or purposes; or earnings or proceeds from any investments in
24 a trust, defeasance or escrow fund created to defease or refund Water System
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1 obligations (until commingled with other earnings and revenues of the Water
2 System defined as Gross Revenue) or held in a special account for the purpose
3 of paying a rebate to the United States government under the Code.

4 "Independent Consulting Engineer" means either (1) an independent
5 licensed professional engineer experienced in the design, construction or
6 operation or the development of rates and charges of municipal utilities of
7 comparable size and character to the Water System; or (2) an independent
8 certified public accountant or other professional consultant experienced in the
9 development of rates and charges for municipal utilities of comparable size and
10 character to the Water System.
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12 "Letter of Representations" means the Blanket Letter of Representations
13 from the City to DTC in the form on file with the Finance Director.

14 "Maximum Annual Debt Service" means at the time of calculation, the
15 maximum amount of Annual Debt Service that will mature or come due in the
16 current year or any future year on the Parity Bonds.
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18 "MSRB" means the Municipal Securities Rulemaking Board or any
19 successor to its functions.

20 "Net Revenue of the Water System" or "Net Revenue" means the Gross
21 Revenue minus: (1) Operation and Maintenance Expenses; (2) deposits into
22 the Rate Stabilization Account; and (3) proceeds from the sale of property of the
23 Water System, and plus withdrawals from the Rate Stabilization Account.
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25 "Operation and Maintenance Expenses" means all expenses incurred by
26 the City in causing the Water System of the City to be operated and maintained



1 in good repair, working order and condition, including, without limitation:
2 deposits, premiums, assessments, or other payments for insurance, if any, on
3 the Water System; payments into pension funds; State-imposed taxes; amounts
4 due under Contract Resource Obligations, including Regional Supply System
5 Costs, but only at the times described in Section 24 of this ordinance; payments
6 made to any other person or entity for the receipt of water supply or
7 transmission or other right, commodity or service; payments made to any other
8 person or entity that are required in connection with the operation of the Water
9 System or the acquisition or transmission of water and that are not subordinate
10 to the lien of the Parity Bonds; and payments with respect to any other
11 expenses of the Water System that are properly treated as operation and
12 maintenance expenses under generally accepted accounting principles
13 applicable to municipal corporations. Operation and Maintenance Expenses
14 does not include any depreciation or taxes levied or imposed by the City,
15 Payment Agreement Payments, or payments to the City in lieu of taxes, or
16 capital additions or capital replacements to the Water System.

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19 "Outstanding Parity Bonds" means the 2001 Bonds, 2003 Bonds, and
20 2005 Bonds.

21 "Parity Bonds" means the Outstanding Parity Bonds, the Bonds and any
22 Future Parity Bonds.

23 "Parity Bond Authorizing Ordinance" means the ordinance and/or
24 resolution of the City that authorizes the issuance and sale and establishes the
25 terms of a particular issue of Parity Bonds.
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1 “Parity Payment Agreement” means a Payment Agreement under which
2 the City’s payment obligations are expressly stated to constitute a charge and
3 lien on the Net Revenue of the Water System equal in rank with the charge and
4 lien upon such revenue required to be paid into the Bond Fund to pay and
5 secure the payment of the principal of and interest on Parity Bonds.

6 “Payment Agreement” means a written agreement, for the purpose of
7 managing or reducing the City’s exposure to fluctuations or levels of interest
8 rates, currencies or commodities, or for other interest rate, investment, asset or
9 liability management purposes, entered into on either a current or forward basis
10 by the City and a Qualified Counterparty, all as authorized by any applicable
11 laws of the State.
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13 “Payment Agreement Payments” means the amounts periodically
14 required to be paid by the City to the Qualified Counterparty pursuant to a
15 Payment Agreement.
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17 “Payment Agreement Receipts” means the amounts periodically required
18 to be paid by the Qualified Counterparty to the City pursuant to a Payment
19 Agreement.
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21 “Plan of Additions” means the system or plan of additions to and
22 betterments and extensions of the Water System described in Section 2 of this
23 ordinance, as such plan of additions may be amended, updated, supplemented,
24 or replaced consistent with the Water Comprehensive Plan.
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1 "Principal and Interest Account" means the account of that name created
2 in the Bond Fund for the payment of the principal of and interest and mandatory
3 redemption requirements, if any, on the Parity Bonds.

4 "Public Utility Board" means the board of that name created under
5 Section 4.8 of the Tacoma City Charter.

6 "Public Works Trust Fund Loans" means loans to the City by the State of
7 Washington under the Public Works Trust Fund loan program, which loans are
8 secured by a junior lien pledge of Net Revenue.

9 "Qualified Counterparty" means a party (other than the City or a party
10 related to the City) who is the other party to a Payment Agreement and (1)(a)
11 whose senior debt obligations are rated in one of the three highest rating
12 categories of each of the Rating Agencies (without regard to any gradations
13 within a rating category) or (b) whose obligations under the Payment
14 Agreement are guaranteed for the entire term of the Payment Agreement by a
15 bond insurer or other institution which has been assigned a credit rating in one
16 of the two highest rating categories of each of the Rating Agencies, and (2) who
17 is otherwise qualified to act as the other party to a Payment Agreement under
18 any applicable laws of the State.
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21 "Rate Stabilization Account" means the account of that name created in
22 the Water Division Fund for the purposes described in this ordinance.

23 "Rating Agencies" means Moody's Investors Service and Standard &
24 Poor's Ratings Services and their successors, and any other nationally
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1 recognized securities rating agency or agencies rating Parity Bonds at the
2 request of the City.

3 "Regional Supply System Costs" means with respect to each month all
4 costs attributable to the Regional System, to the extent not paid from the
5 proceeds of Parity Bonds or other sources, resulting from the ownership,
6 operation, maintenance, and termination of, and repair, renewals,
7 replacements, additions, improvements, betterments, and modifications to the
8 Regional System, including, without limitation: (1) operating expenses; (2) the
9 amount required to be paid into the bond fund for Regional System bonds;
10 (3) any amount that the City may be required during such month to pay for the
11 prevention or correction of any unusual loss or damage or for renewals,
12 replacements, repairs, additions, improvements, betterments, and modifications
13 that are necessary to keep the Regional System in good operating condition, to
14 improve the operation thereof or to prevent a loss; and (4) all other charges or
15 obligations against the revenues of the Regional System.
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18 "Regional System" means the Regional Water Supply System,
19 comprised of certain property and facilities to obtain and receive deliveries of
20 water for the participants from the exercise by the City of the Second Diversion
21 Water Right from the Green River and granted by the State of Washington
22 Department of Ecology, which property and facilities include: (1) a Main Branch
23 pipeline to Tacoma with a 72 MGD nominal capacity; (2) headworks
24 improvements associated with the second diversion water right; (3) related
25 fisheries and environmental enhancements; (4) improvements and additions to
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1 the Howard Hanson Dam to raise the summer storage pool to elevation of
2 1,167 feet in phase I to provide an additional 20,000 acre feet of water storage,
3 together with improvements and additions related to accommodating fish
4 passage; and (5) additional related water treatment facilities; and as the same
5 will be added to, improved, and extended.

6 "Reserve Account" means the account of that name created in the Bond
7 Fund for the purpose of securing the payment of the principal of and interest on
8 the Parity Bonds.

9 "Reserve Insurance" means any bond insurance, letter of credit,
10 guaranty, surety bond, or similar credit enhancement device obtained by the
11 City equal to part or all of the Reserve Requirement for any Parity Bonds which
12 is issued by an institution which has been assigned a credit rating at the time of
13 issuance of the device in one of the two highest rating categories of each of the
14 Rating Agencies.

15 "Reserve Requirement" means as of any date the lesser of Maximum
16 Annual Debt Service or 125 percent of average Annual Debt Service on all the
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1 outstanding Parity Bonds. Once the 2001 Bonds are no longer outstanding, the
2 Reserve Requirement for a series of Parity Bonds shall not exceed 10 percent
3 of the net proceeds of such Bonds.

4 "Rule" means the Commission's Rule 15c2-12 under the Securities
5 Exchange Act of 1934, as amended and as the same may be amended from
6 time to time.

7 "State" means the State of Washington.

8 "State Auditor" means the office of the Auditor of the State or such other
9 department or office of the State authorized and directed by State law to make
10 audits.
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12 "Term Bond Maturity Year" means any calendar year in which Term
13 Bonds are scheduled to mature.

14 "Term Bonds" means those Bonds designated as such in the Bond Sale
15 Resolution and those Parity Bonds designated as such in the applicable Parity
16 Bond Authorizing Ordinance.
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18 "2001 Bonds" means the City's Water System Revenue Refunding
19 Bonds, 2001, issued in the original principal amount of \$32,900,000 pursuant to
20 Ordinance No. 26849, passed on September 18, 2001.

21 "2003 Bonds" means the City's Water System Revenue and Refunding
22 Bonds, 2003, issued in the original principal amount of \$51,380,000 pursuant to
23 Ordinance No. 27109, passed on July 1, 2003.
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1 “2005 Bonds” means the City’s Water System Revenue and Refunding
2 Bonds, 2005, issued in the original principal amount of \$46,550,000 pursuant to
3 Ordinance No. 27405, passed on August 30, 2005.

4 “Variable Interest Rate” means any variable interest rate or rates to be
5 borne by any Parity Bonds. The method of computing such a variable interest
6 rate shall be as specified in the applicable Parity Bond Authorizing Ordinance,
7 which ordinance or resolution also shall specify either: (1) the particular period
8 or periods of time or manner of determining such period or periods of time for
9 which each value of such variable interest rate shall remain in effect; or (2) the
10 time or times upon which any change in such variable interest rate shall
11 become effective. A Variable Interest Rate may, without limitation, be based on
12 the interest rate on certain bonds or may be based on interest rate, currency,
13 commodity, or other indexes.

14 “Variable Interest Rate Bonds” means, for any period of time, any Parity
15 Bonds that bear a Variable Interest Rate during that period, except that Parity
16 Bonds shall not be treated as Variable Interest Rate Bonds if the net economic
17 effect of interest rates on particular Parity Bonds of an issue and interest rates
18 on other Parity Bonds of the same issue, as set forth in the applicable Parity
19 Bond Authorizing Ordinance, or the net economic effect of a Payment
20 Agreement with respect to particular Parity Bonds, in either case is to produce
21 obligations that bear interest at a fixed interest rate; and Parity Bonds with
22 respect to which a Payment Agreement is in force shall be treated as Variable
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1 Interest Rate Bonds if the net economic effect of the Payment Agreement is to
2 produce obligations that bear interest at a Variable Interest Rate.

3 "Water Division Fund" means Fund No. 4600 of the City, or any
4 successor fund or funds, into which is paid the Gross Revenue of the Water
5 System.

6 "Water System" means the water system of the City as it now exists, and
7 all additions thereto and betterments and extensions thereof at any time made
8 for so long as any of the Parity Bonds are outstanding. The Water System shall
9 not include the Regional System or any water supply or service or other
10 facilities that may be created, acquired, or constructed by the City as a separate
11 utility system, as provided in Section 23 of this ordinance.

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13 Section 2. Parity and Other Findings.

14 2.1 Parity Findings. In connection with the issuance of the Bonds on
15 a parity of lien with the Outstanding Parity Bonds, the City hereby makes the
16 following findings:

17 (a) There is, and as of the date of the issuance of the Bonds
18 there will be, no deficiency in the Bond Fund, and no Event of Default, as defined
19 in Ordinance Nos. 26849, 27109 or 27405, has occurred or is continuing.

20 (b) This ordinance provides that all assessments and interest
21 thereon that may be levied in any utility local improvement district created for the
22 purpose of paying, in whole or in part, the principal of and interest on the Bonds,
23 shall be paid directly into the Bond Fund, except for any prepaid assessments
24 permitted by law to be paid into a construction fund or account.
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1 (c) This ordinance provides for the payment of the principal of
2 and interest on the Bonds out of the Bond Fund.

3 (d) This ordinance provides for the payment of amounts into
4 the Bond Fund to meet mandatory redemption requirements applicable to any
5 Term Bonds to be issued and for regular payments to be made of the payment of
6 the principal of such Term Bonds on or before their maturity, or, as an
7 alternative, the mandatory redemption of those Term Bonds prior to their maturity
8 date from money in the Principal and Interest Account.

9 (e) This ordinance provides for the deposit into the Reserve
10 Account of: (1) an amount, if any, necessary to fund the Reserve Requirement
11 upon the issuance of the Bonds from Bond proceeds or other money legally
12 available; or (2) Reserve Insurance or an amount necessary to fund the Reserve
13 Requirement upon the issuance of the Bonds.

14 (f) On the date of issuance of the Bonds, there will be on file
15 with the City a certificate of the Finance Director demonstrating that during any
16 12 consecutive calendar months out of the immediately preceding 24 calendar
17 months Net Revenue was at least equal to 1.25 times the projected Maximum
18 Annual Debt Service for all Parity Bonds plus the Bonds.

19 2.2 Other Findings. The City specifies, adopts, and orders to be
20 carried out the system or plan of additions to and betterments and extensions of
21 the Water System (the "Plan of Additions" and each element thereof an
22 "Addition") as generally provided for in the capital portions of the 2007-2010
23 Biennial Budgets (the "2007-2010 Budgets") and as provided in subsequent
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1 budgets if Bond proceeds are available after 2010, and described as follows:
2 capital improvements to the Water System, including main upgrades, water
3 service replacement and renewals, valve replacements, McMillin reservoir
4 cover, building and other supply system improvements and Tacoma Water's
5 share of Regional Water Supply System capital projects. The Bond proceeds
6 will be used to finance and reimburse the City for costs of the Plan of Additions.

7 The estimated cost of the Plan of Additions to be financed with Bond
8 proceeds is \$72,000,000.

9 The Plan of Additions shall include any amendments, updates,
10 supplements, or replacements to the Water System comprehensive plan or
11 budget, all of which shall constitute amendments to the Plan of Additions. The
12 Plan of Additions also may be modified to include other improvements if the City
13 determines by ordinance or resolution that those amendments or other
14 improvements constitute a system or plan of additions to and betterments and
15 extensions of the Water System.
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17 The Plan of Additions includes the purchase and installation of all
18 materials, supplies, appliances, equipment (including, but not limited to, data
19 processing hardware and software and conservation equipment) and facilities,
20 the acquisition of all permits, franchises, property and property rights, other
21 capital assets, and all engineering, consulting, and other professional services
22 and studies (whether performed by the City or by other public or private entities)
23 necessary or convenient to carry out the Plan of Additions.
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Section 3. Authorization and Description of Bonds. For the purpose of providing all or a part of the money required to: (a) pay part of the cost of carrying out the Plan of Additions; (b) provide for a reserve for the Bonds; and (c) pay the costs of issuance of the Bonds, the City shall issue the Bonds in the principal amount of not to exceed \$82,000,000. The Bonds shall be designated Water System Revenue Bonds, 2009 and may be issued in one or more series, one series of which may be designated as Build America Bonds, shall be dated as specified in the Bond Sale Resolution, shall be in the denomination of \$5,000 or any integral multiple thereof within a single maturity or such other denomination within a maturity as specified in the Bond Sale Resolution, shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for the purpose of identification, shall bear interest at such rate or rates (computed on the basis of a 360-day year of 12 30-day months) as shall be specified and approved by the Bond Sale Resolution payable semiannually on the dates as specified in the Bond Sale Resolution; and shall mature on the dates and in years and amounts as specified in the Bond Sale Resolution.

Section 4. Bond Sale Resolution. The City Council may adopt the Bond Sale Resolution and, in that resolution, provide for the matters described in this ordinance and such other matters that the City Council deems necessary and appropriate to carry out the purposes of this ordinance.

The Bond Sale Resolution may specify that one or more series of Bonds are Build America Bonds.



1 The Bond Sale Resolution may provide for Bond Insurance or Reserve
2 Insurance, and conditions or covenants relating thereto, including additional
3 terms, conditions, and covenants relating to the Bonds that are required by the
4 Bond Insurer and are consistent with the provisions of this ordinance, including,
5 but not limited to, restrictions on investments and requirements of notice to and
6 consent of the Bond Insurer or provider of Reserve Insurance.

7 The Bond Sale Resolution may approve and authorize the execution and
8 delivery on behalf of the City of any agreements consistent with the provisions
9 of this ordinance for which the City's approval is necessary or to which the City
10 is a party and that are related or incidental to the initial issuance and sale of the
11 Bonds, the establishment of the interest rate or rates on the Bonds, redemption
12 of the Bonds, provision of Bond Insurance, Reserve Insurance, Payment
13 Agreements, and similar agreements.

14
15 Section 5. Registration and Transfer or Exchange of Bonds.

16
17 5.1 Registrar/Bond Register. The City hereby adopts the system of
18 registration approved by the Washington State Finance Committee, which
19 utilizes the Fiscal Agency, as registrar, authenticating agent, paying agent and
20 transfer agent for the Bonds (collectively, the "Bond Registrar"). The Bond
21 Registrar shall keep, or cause to be kept, at its principal corporate trust office,
22 sufficient records for the registration and transfer of the Bonds (the "Bond
23 Register"), which shall be open to inspection by the City. The Bond Registrar is
24 authorized, on behalf of the City, to authenticate and deliver Bonds transferred
25 or exchanged in accordance with the provisions of such Bonds and this
26



1 ordinance and to carry out all of the Bond Registrar's powers and duties under
2 this ordinance. The Bond Registrar shall be responsible for its representations
3 contained in the Certificate of Authentication on the Bonds.

4 5.2 Registered Ownership. The City and the Bond Registrar may
5 deem and treat the registered owner of each Bond as the absolute owner for all
6 purposes, and neither the City nor the Bond Registrar shall be affected by any
7 notice to the contrary. Payment of any such Bond shall be made only as
8 described in Section 7, but such registration may be transferred as herein
9 provided. All such payments made as described in Section 7 shall be valid and
10 shall satisfy the liability of the City upon such Bond to the extent of the amount
11 so paid.
12

13 5.3 Transfer or Exchange of Registered Ownership; Change in
14 Denominations. The registered ownership of any Bond may be transferred or
15 exchanged, but no transfer of any Bond shall be valid unless it is surrendered to
16 the Bond Registrar with the assignment form appearing on the Bond duly
17 executed by the registered owner or such registered owner's duly authorized
18 agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the
19 Bond Registrar shall cancel the surrendered Bond and shall authenticate and
20 deliver, without charge to the registered owner or transferee, a new Bond (or
21 Bonds at the option of the new registered owner) of the same series, date,
22 maturity, and interest rate and for the same aggregate principal amount in any
23 authorized denomination, naming as registered owner the person or persons
24 listed as the assignee on the assignment form appearing on the surrendered
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1 Bond, in exchange for such surrendered and canceled Bond. Any Bond may be
2 surrendered to the Bond Registrar and exchanged, without charge, for an equal
3 aggregate principal amount of Bonds of the same series, date, maturity, and
4 interest rate in any authorized denomination. The Bond Registrar shall not be
5 obligated to transfer or exchange any Bond during a period beginning at the
6 opening of business on the 15th day of the month next preceding any interest
7 payment date and ending at the close of business on such interest payment
8 date, or, in the case of any proposed redemption of the Bonds, after the mailing
9 of notice of the call of such Bonds for redemption.
10

11 5.4 Bond Registrar's Ownership of Bonds. The Bond Registrar may
12 become the registered owner of any Bond with the same rights it would have if
13 it were not the Bond Registrar, and to the extent permitted by law, may act as
14 depository for and permit any of its officers or directors to act as member of, or
15 in any other capacity with respect to, any committee formed to protect the rights
16 of the registered owners of the Bonds.
17

18 5.5 Registration Covenant. The City covenants that, until all Bonds
19 have been surrendered and canceled, it will maintain a system for recording the
20 ownership of each Bond that complies with the provisions of Section 149 of the
21 Code.
22

23 Section 6. Lost or Destroyed Bonds. If any Bonds are lost, stolen, or
24 destroyed, the Bond Registrar may authenticate and deliver a new Bond or
25 Bonds of like series, amount, maturity, and tenor to the registered owner upon
26 the owner paying the expenses and charges of the Bond Registrar and the City



1 in connection with preparation and authentication of the replacement Bond or
2 Bonds and upon his or her filing with the Bond Registrar and the City evidence
3 satisfactory to both that such Bond or Bonds were actually lost, stolen, or
4 destroyed and of his or her ownership, and upon furnishing the City and the
5 Bond Registrar with indemnity satisfactory to both.

6 Section 7. Payment of Bond Principal and Interest. Both principal of
7 and interest on the Bonds shall be payable in lawful money of the United States
8 of America. Interest on the Bonds shall be paid by checks or drafts mailed by
9 the Bond Registrar on the interest payment date to the registered owners at the
10 addresses appearing on the Bond Register on the 15th day of the month
11 preceding the interest payment date or, at the request of an owner of
12 \$1,000,000 or more in aggregate principal amount of Bonds, by wire transfer to
13 an account in the United States designated in writing by such owner prior to the
14 record date. Principal of the Bonds shall be payable upon presentation and
15 surrender of the Bonds by the registered owners at either of the principal offices
16 of the Bond Registrar at the option of the owners. The Bonds shall be payable
17 solely out of the Bond Fund and shall not be general obligations of the City.
18 Notwithstanding the foregoing, as long as the Bonds are registered in the name
19 of DTC or its nominee, payment of principal of and interest on the Bonds shall
20 be made in the manner set forth in the Letter of Representations.
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23 Section 8. Redemption and Open Market Purchase of Bonds.
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1 8.1 Optional Redemption. All or some of the Bonds may be subject to
2 redemption at the option of the City at the times and on the terms set forth in
3 the Bond Sale Resolution.

4 8.2 Mandatory Redemption. The Finance Director may designate
5 Term Bonds with mandatory redemption amounts as he deems necessary or
6 advisable all to be provided by the Bond Sale Resolution. The City shall
7 redeem any such Term Bonds, if not redeemed under the optional redemption
8 provisions or purchased in the open market, randomly (in such manner as the
9 Bond Registrar shall determine) at par plus accrued interest on the dates and in
10 the years and principal amounts as set forth in the Bond Sale Resolution.
11

12 If the City shall redeem Term Bonds under the optional redemption
13 provisions or purchase Term Bonds in the open market, the par amount of the
14 Term Bonds so redeemed or purchased (irrespective of their actual redemption
15 or purchase prices) shall be credited against one or more scheduled mandatory
16 redemption amounts for those Term Bonds (as allocated by the City) beginning
17 not earlier than 60 days after the date of the optional redemption or purchase,
18 and the City shall promptly notify the Bond Registrar in writing of the manner in
19 which the credit for the Term Bonds so redeemed or purchased has been
20 allocated.
21

22 8.3 Partial Redemption. Portions of the principal amount of any Bond,
23 in installments of \$5,000 or any integral multiple thereof, may be redeemed. If
24 less than all of the principal amount of any Bond is redeemed, upon surrender
25 of that Bond at either of the principal offices of the Bond Registrar, there shall
26



1 be issued to the registered owner, without charge therefor, a new Bond (or
2 Bonds, at the option of the registered owner) of the same series, maturity and
3 interest rate in any of the denominations authorized by this ordinance in the
4 aggregate total principal amount remaining unredeemed.

5 8.4 Purchase for Cancellation. The City reserves the right and option
6 to purchase any or all of the Bonds for cancellation at any time at any price
7 acceptable to the City plus accrued interest to the date of purchase. The
8 principal amount of Term Bonds purchased pursuant to this section shall be
9 credited at the par amount thereof against the next mandatory redemption
10 requirement, or as otherwise directed by the Finance Director.

12 Section 9. Notice of Redemption. The City shall cause notice of any
13 intended redemption of Bonds to be given not less than 30 nor more than
14 60 days prior to the date fixed for redemption by first class mail, postage
15 prepaid, to the registered owner of any Bond to be redeemed at the address
16 appearing on the Bond Register at the time the Bond Registrar prepares the
17 notice, and the requirements of this sentence shall be deemed to have been
18 fulfilled when notice has been mailed as so provided, whether or not it is
19 actually received by the owner of any Bond. Interest on Bonds called for
20 redemption shall cease to accrue on the date fixed for redemption unless the
21 Bond or Bonds called are not redeemed when presented pursuant to the call.
22 In addition, the redemption notice shall be mailed by the Bond Registrar within
23 the same period, postage prepaid, to each of the Rating Agencies at their
24 offices in New York, New York, to any Bond Insurer for the Bonds, and to such
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1 other person and with such additional information as the Finance Director shall
2 determine or as shall be specified in the Bond Sale Resolution, but these
3 additional mailings shall not be a condition precedent to the redemption of
4 Bonds. The Bond Registrar shall provide additional notice of redemption (at
5 least 30 days) to the MSRB.

6 In the case of an optional redemption, the notice may state that the City
7 retains the right to rescind the redemption notice and the related optional
8 redemption of Bonds by giving a notice of rescission to the affected registered
9 owners at any time prior to the scheduled optional redemption date. Any notice
10 of optional redemption that is so rescinded shall be of no effect, and the Bonds
11 for which the notice of optional redemption has been rescinded shall remain
12 outstanding.

13
14 Section 10. Failure to Redeem Bonds. If any Bond is not redeemed
15 when properly presented at its maturity or call date, the City shall be obligated
16 to pay interest on that Bond at the same rate provided in the Bond from and
17 after its maturity or call date until that Bond, both principal and interest, is paid
18 in full or until sufficient money for its payment in full is on deposit in the Bond
19 Fund and the Bond has been called for payment by giving notice of that call to
20 the registered owner of each of those unpaid Bonds.

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22 Section 11. Form and Execution of Bonds.
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11.1 Form of the Bonds. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. _____ \$ _____

STATE OF WASHINGTON
CITY OF TACOMA, WASHINGTON

WATER SYSTEM REVENUE BOND, 2009
[A/B (TAXABLE BUILD AMERICA BONDS – DIRECT PAYMENT)]

INTEREST RATE: ____% MATURITY DATE: _____

CUSIP NO.: _____

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: _____

The City of Tacoma, Washington (the "City") hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, the Principal Amount indicated above and to pay interest from _____, 2009, or the most recent date to which interest has been paid or duly provided for, until payment of this bond at the Interest Rate set forth above, payable on _____ 1, _____, and semiannually thereafter on the first days of each succeeding _____ and _____. Both principal of and interest on this bond are payable in lawful money of the United States of America. For so long as the bonds of this issue are held in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of The Depository Trust Company ("DTC") referred to in the Blanket Issuer Letter of Representations from the City to DTC. In the event that the bonds of this issue are no longer held in fully immobilized form, interest on this bond shall be paid by check or draft mailed to the Registered Owner at the address appearing on the Bond Register on the 15th day of the month preceding the interest payment date, and principal of this bond shall be payable upon presentation and surrender of this bond by the Registered Owner at the principal office of the fiscal agency of the State of Washington in New York, New York (the "Bond Registrar"); provided, however, that if so requested in writing by the Registered Owner of at least \$1,000,000 principal amount of bonds, interest will be paid by wire transfer on the date due to an account with a bank located within the United States.



1 This bond is one of an authorized issue of bonds of like date and tenor,
2 except as to number, amount, rate of interest, and date of maturity, in the
3 aggregate principal amount of \$ _____ (the "Bonds"), and is issued
4 pursuant to Ordinance No. _____ and Resolution No. _____ (together, the
5 "Bond Ordinance") passed by the City Council on _____, 2009, and _____,
6 2009, respectively, to finance or refinance capital improvements to the Water
7 System, to provide for a reserve fund, and to pay costs of issuance. The Bonds
8 are being issued simultaneously with the City's Water System Revenue Bonds,
9 2009 [A/B (Taxable Build America Bonds – Direct Payment)] (the "2009[A/B]
10 Bonds").

11 Capitalized terms used in this bond and not otherwise defined shall have
12 the meanings given them in the Bond Ordinance.

13 The Bonds are subject to redemption prior to their maturities as provided
14 in the Bond Ordinance.

15 The Bonds are payable solely from the special fund of the City known as
16 the Water Revenue Bond Fund of the Water Division Fund (the "Bond Fund"),
17 created by Ordinance No. 25392. The City has irrevocably obligated and bound
18 itself to pay into the Bond Fund out of Net Revenue of the Water System or
19 from such other money as may be provided for such purpose certain amounts
20 necessary to pay and secure the payment of the principal and interest on the
21 Outstanding Parity Bonds, the Bonds, the 2009[A/B] Bonds and any Future
22 Parity Bonds.

23 The City has pledged to set aside from the Gross Revenue of the Water
24 System and to pay into the Bond Fund the various amounts required by the
25 Bond Ordinance to be paid into and maintained in such Fund within the times
26 provided by the Bond Ordinance.

To the extent more particularly provided by the Bond Ordinance, the
amounts so pledged to be paid out of the Gross Revenue of the System into the
Bond Fund shall be a lien and charge thereon equal in rank to the lien and
charge upon such Gross Revenue of the amounts required to pay and secure
the payment of the City's Outstanding Parity Bonds, the 2009[A/B] Bonds and
any Future Parity Bonds, and superior to all other liens and charges of any kind
or nature, except subject to the Operation and Maintenance Expenses of the
Water System.

The City has further bound itself to maintain the Water System in good
repair, working order and condition, to operate the same in an efficient manner
and at a reasonable cost, and to establish, maintain, and collect rates and
charges for as long as any of the Bonds are outstanding that will make
available, for the payment of the principal thereof and interest thereon as the
same shall become due, Net Revenue in an amount at least equal to the



1 Coverage Requirement. The City hereby covenants that it will perform all the
2 covenants of this Bond and of the Bond Ordinance, and reference is hereby
3 made to the Bond Ordinance for a complete statement of such covenants.

4 The pledge of Net Revenue of the Water System and other obligations of
5 the City under the Bond Ordinance may be discharged at or prior to the maturity
6 or redemption of the bonds of this issue upon the making of provision for the
7 payment thereof on the terms and conditions set forth in the Bond Ordinance.

8 This Bond is a special limited obligation of the City and is not an
9 obligation of the State of Washington or any political subdivision thereof other
10 than the City, and neither the full faith and credit nor the taxing power of the City
11 or the State of Washington is pledged to the payment of this Bond.

12 [The City in the Bond Ordinance has elected to have section 54AA of the
13 Internal Revenue Code of 1986, as amended (the "Code"), apply to the Bonds
14 so that the Bonds are treated as "Build America Bonds," and further to have
15 subsection 54AA(g) of the Code apply to the Bonds so that the Bonds are
16 treated as "qualified bonds" pursuant to section 6431 of the Code.]

17 This Bond shall not be valid or become obligatory for any purpose or be
18 entitled to any security or benefit under the Bond Ordinance until the Certificate
19 of Authentication has been manually signed by the Bond Registrar.

20 This Bond is transferable only on the records maintained by the Bond
21 Registrar for that purpose upon the surrender of this Bond by the Registered
22 Owner or his or her duly authorized agent and only if endorsed in the manner
23 provided hereon, and a new fully registered Bond of like principal amount,
24 maturity, and interest rate shall be issued to the transferee in exchange. Such
25 exchange or transfer shall be without cost to the Registered Owner or
26 transferee. The City and Bond Registrar may deem the person in whose name
this Bond is registered to be the absolute owner for the purpose of receiving
payment of the principal of and interest on this Bond and for all other purposes.

The Bond Registrar is not required to issue, register, transfer, or
exchange any Bonds during a period beginning at the opening of business on
the 15th day of the month next preceding any interest payment date and ending
at the close of business on the interest payment date, or, in the case of any
proposed redemption of the Bonds, after the mailing of notice of the call of such
Bonds for redemption.

It is hereby certified that all acts, conditions, and things required by the
Constitution and statutes of the State of Washington and the Charter and
ordinances of the City to exist, to have happened, been done, and performed
precedent to and in the issuance of this Bond have happened, been done, and
performed and that the issuance of this bond and the bonds of this series does



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not violate any constitutional, statutory, or other limitation upon the amount of bonded indebtedness that the City may incur.

The City has caused this Bond to be executed by the manual or facsimile signature of the Mayor and to be attested by the manual or facsimile signature of the City Clerk, and has caused the seal of the City to be impressed or imprinted on this Bond, as of this _____, 2009.

CITY OF TACOMA, WASHINGTON

By _____ /s/ _____
Mayor

ATTEST:

_____/s/_____
City Clerk

The Bond Registrar's Certificate of Authentication on the Bonds shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

This is one of the Water System Revenue Bonds, 2009[A/B (Taxable Build America Bonds – Direct Payment) of the City of Tacoma, Washington, dated _____, 2009, described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENCY,
as Bond Registrar

By _____
Authorized Signatory



ASSIGNMENT

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FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION NUMBER OF TRANSFEREE)

[Empty box for Social Security or Taxpayer Identification Number]

(Please print or typewrite name and address, including zip code, of transferee)

the within bond and does hereby irrevocably constitute and appoint

as attorney-in-fact to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____, _____.

SIGNATURE GUARANTEED:

NOTICE: Signature(s) must be guaranteed pursuant to law.

NOTE: The signature on this Assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

11.2 Execution of the Bonds. The Bonds shall be signed by the Mayor and City Clerk, 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.



1 Only Bonds bearing a Certificate of Authentication in the form set forth
2 above, manually signed by the Bond Registrar, shall be valid or obligatory for
3 any purpose or entitled to the benefits of this ordinance. The authorized signing
4 of a Certificate of Authentication shall be conclusive evidence that the Bonds so
5 authenticated have been duly executed, authenticated, and delivered and are
6 entitled to the benefits of this ordinance.

7 If any officer whose facsimile signature appears on the Bonds ceases to
8 be an officer of the City authorized to sign bonds before the Bonds bearing his
9 or her facsimile signature are authenticated or delivered by the Bond Registrar
10 or issued by the City, those Bonds nevertheless may be authenticated,
11 delivered, and issued and, when authenticated, issued, and delivered, shall be
12 as binding on the City as though that person had continued to be an officer of
13 the City authorized to sign bonds. Any Bond also may be signed on behalf of
14 the City by any person who, on the actual date of signing of the Bond, is an
15 officer of the City authorized to sign bonds, although he or she did not hold the
16 required office on the date of issuance of the Bonds.
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19 Section 12. Bond Registrar. The Bond Registrar shall keep, or cause
20 to be kept, at its principal corporate trust office, sufficient books for the
21 registration and transfer of the Bonds which shall at all times be open to
22 inspection by the City. The Bond Registrar is authorized, on behalf of the City,
23 to authenticate and deliver Bonds transferred or exchanged in accordance with
24 the provisions of the Bonds and this ordinance, to serve as the City's paying
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1 agent for the Bonds, and to carry out all of the Bond Registrar's powers and
2 duties under this ordinance and Ordinance No. 22999, establishing a system of
3 registration for the City's bonds and obligations.

4 The City reserves the right in its discretion to appoint special paying
5 agents, registrars, or trustees in connection with the payment of some or all of
6 the principal of or interest on the Bonds. If a new Bond Registrar is appointed
7 by the City, notice of the name and address of the new Bond Registrar shall be
8 mailed to the registered owners of the Bonds. The notice may be mailed
9 together with the next interest payment due on the Bonds, but, to the extent
10 practicable, shall be mailed not less than 15 days prior to a maturity date of the
11 principal or a mandatory redemption date of any Bond.
12

13 The Bond Registrar shall be responsible for its representations contained
14 in the Bond Registrar's Certificate of Authentication on the Bonds. The Bond
15 Registrar may become the owner of Bonds with the same rights it would have if
16 it were not the Bond Registrar and, to the extent permitted by law, may act as
17 depository for and permit any of its officers or directors to act as members of, or
18 in any other capacity with respect to, any committee formed to protect the rights
19 of Bond owners.
20

21 Section 13. Continuing Disclosure.

22 13.1 Contract/Undertaking. To meet the requirements of United States
23 Securities and Exchange Commission ("SEC") Rule 15c2-12(b)(5) (the "Rule"),
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1 as applicable to a participating underwriter for the Bonds, the City makes the
2 following written undertaking (the "Undertaking") for the benefit of holders of the
3 Bonds:

4 (a) Financial Statements/Operating Data. The City agrees to
5 provide, or cause to be provided, either directly or through a designated agent,
6 to the MSRB as designated by the Commission in accordance with the Rule, in
7 electronic format as prescribed by the MSRB, accompanied by identifying
8 information as prescribed by the MSRB, the following annual financial
9 information and operating data for the prior fiscal year (commencing in 2010 for
10 the fiscal year ended December 31, 2009):

11 (i) Annual financial statements, which statements may
12 or may not be audited, showing ending fund balances for the Water System
13 prepared in accordance with the Budget Accounting and Reporting System
14 prescribed by the Washington State Auditor, pursuant to RCW 43.09.200 (or
15 any successor statute);

16 (ii) Principal amount of outstanding Parity Bonds and
17 debt service coverage;

18 (iii) Water rates; and

19 (iv) Number of customers and water sales.

20 The information and data described above shall be provided on or before
21 nine months after the end of the City's fiscal year. The City's current fiscal year
22 ends December 31. The City may adjust such fiscal year by providing written
23 notice of the change of fiscal year to the MSRB. Such information may be
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1 provided in a single or multiple documents, and may be incorporated by specific
2 reference to documents available to the public on the Internet website of the
3 MSRB or filed with the SEC.

4 If not provided as part of the annual financial information discussed
5 above, the City shall provide the City's audited annual financial statement
6 prepared in accordance with the Budget Accounting and Reporting System
7 prescribed by the Washington State Auditor, pursuant to RCW 43.09.200 (or
8 any successor statute) when and if available to the MSRB.

9 (b) Material Events. The City agrees to provide or cause to be
10 provided, in a timely manner, to the MSRB notice of the occurrence of any of
11 the following events with respect to the Bonds (as currently defined below or as
12 redefined by MSRB in the future), if material:

- 13
- 14 (i) Principal and interest payment delinquencies;
 - 15 (ii) Non payment related defaults;
 - 16 (iii) Unscheduled draws on debt service reserves
17 reflecting financial difficulties;
 - 18 (iv) Unscheduled draws on credit enhancements
19 reflecting financial difficulties;
 - 20 (v) Substitution of credit or liquidity providers, or their
21 failure to perform;
 - 22 (vi) Adverse tax opinions or events affecting the tax
23 exempt status of the Bonds, if applicable;
 - 24 (vii) Modifications to the rights of Bond owners;
 - 25
 - 26



1 (viii) Bond calls (optional, contingent, or unscheduled
2 Bond calls other than scheduled sinking fund redemptions for which notice is
3 given pursuant to Exchange Act Release 34 23856);

4 (ix) Defeasances;

5 (x) Release, substitution, or sale of property securing
6 repayment of the Bonds; and

7 (xi) Rating changes.

8 (c) Notification Upon Failure to Provide Financial Data. The
9 City agrees to provide, or cause to be provided, in a timely manner, to the
10 MSRB notice of its failure to provide the annual financial information described
11 in Subsection (b) above on or prior to the date set forth in Subsection (b) above.

12 (d) Amendment of Undertaking. The Undertaking is subject to
13 amendment after the primary offering of the Bonds without the consent of any
14 holder of any Bond, or of any broker, dealer, municipal securities dealer,
15 participating underwriter, rating agency or the MSRB, under the circumstances
16 and in the manner permitted by the Rule.
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19 The City will give notice to the MSRB of the substance (or provide a
20 copy) of any amendment to the Undertaking and a brief statement of the
21 reasons for the amendment. If the amendment changes the type of annual
22 financial information to be provided, the annual financial information containing
23 the amended financial information will include a narrative explanation of the
24 effect of that change on the type of information to be provided.
25
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1 (e) Beneficiaries. The Undertaking evidenced by this section
2 shall inure to the benefit of the City and any holder of Bonds, and shall not inure
3 to the benefit of or create any rights in any other person.

4 (f) Termination of Undertaking. The City's obligations under
5 this Undertaking shall terminate upon the legal defeasance of all of the Bonds.
6 In addition, the City's obligations under this Undertaking shall terminate if those
7 provisions of the Rule which require the City to comply with this Undertaking
8 become legally inapplicable in respect of the Bonds for any reason, as
9 confirmed by an opinion of nationally recognized bond counsel or other counsel
10 familiar with federal securities laws delivered to the City, and the City provides
11 timely notice of such termination to the MSRB.
12

13 (g) Remedy for Failure to Comply with Undertaking. As soon
14 as practicable after the City learns of any failure to comply with the Undertaking,
15 the City will proceed with due diligence to cause such noncompliance to be
16 corrected. No failure by the City or other obligated person to comply with the
17 Undertaking shall constitute a default in respect of the Bonds. The sole remedy
18 of any holder of a Bond shall be to take such actions as that holder deems
19 necessary, including seeking an order of specific performance from an
20 appropriate court, to compel the City or other obligated person to comply with
21 the Undertaking.
22

23 (h) Designation of Official Responsible to Administer
24 Undertaking. The Finance Director of the City (or such other officer of the City
25 who may in the future perform the duties of that office) or his or her designee is
26



1 authorized and directed in his or her discretion to take such further actions as
2 may be necessary, appropriate or convenient to carry out the Undertaking of
3 the City in respect of the Bonds set forth in this section and in accordance with
4 the Rule, including, without limitation, the following actions:

5 (i) Preparing and filing the annual financial information
6 undertaken to be provided;

7 (ii) Determining whether any event specified in
8 subsection (c) has occurred, assessing its materiality with respect to the Bonds,
9 and, if material, preparing and disseminating notice of its occurrence;

10 (iii) Determining whether any person other than the City
11 is an "obligated person" within the meaning of the Rule with respect to the
12 Bonds, and obtaining from such person an undertaking to provide any annual
13 financial information and notice of material events for that person in accordance
14 with the Rule;
15

16 (iv) Selecting, engaging and compensating designated
17 agents and consultants, including but not limited to financial advisors and legal
18 counsel, to assist and advise the City in carrying out the Undertaking; and
19

20 (v) Effecting any necessary amendment of the
21 Undertaking.

22 Section 14. Bond Fund. The Bond Fund has been created in the Water
23 Division Fund, known as the Water Revenue Bond Fund, and is further divided
24 into two accounts: the Principal and Interest Account and the Reserve Account.
25 So long as any Parity Bonds are outstanding, the City shall set aside and pay
26



1 into the Bond Fund out of the Net Revenue, certain fixed amounts without
2 regard to any fixed proportion, namely:

3 (a) Into the Principal and Interest Account on or before each
4 interest or principal and interest payment date of any Parity Bonds at least an
5 amount which, together with other money on deposit therein, will be sufficient to
6 pay the interest, or principal and interest, to become due and payable on the
7 Parity Bonds on that payment date, including any Parity Bonds subject to
8 mandatory redemption on that date, and net payments due on Parity Payment
9 Agreements; and
10

11 (b) Into the Reserve Account the Reserve Requirement for the
12 Bonds. The City may, at any time, provide all or any part of the Reserve
13 Requirement through Reserve Insurance, and the amount available to be drawn
14 upon under that Reserve Insurance shall be credited against the Reserve
15 Requirement, subject to the following:

16 The Reserve Insurance shall not be cancelable on less than three years'
17 notice. On receipt of a notice of cancellation of any Reserve Insurance or upon
18 notice that the entity providing the Reserve Insurance no longer meets the
19 requirements specified herein, the City shall substitute Reserve Insurance in the
20 amount required to make up the deficiency created in the Reserve Account or in
21 the alternative shall create a special account in the Water Division Fund and
22 deposit therein, on or before the 25th day of each of the 36 succeeding calendar
23 months (commencing with the 25th day of the calendar month next following the
24 date of the notice) 1/36th of the amount sufficient, together with other money
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1 and investments on deposit in the Reserve Account, to equal the Reserve
2 Requirement in effect as of the date the cancellation or disqualification of the
3 entity becomes effective. Those amounts shall be deposited in the special
4 account from money in the Water Division Fund after making provision for
5 payment of Operation and Maintenance Expenses and for required payments
6 into the Bond Fund. Amounts on deposit in that special account shall not be
7 available to pay debt service on Parity Bonds or for any other purpose of the
8 City, and shall be transferred to the Reserve Account on the effective date of
9 any cancellation of a Reserve Insurance to make up all or part of the deficiency
10 caused thereby. Amounts in that special account or in the Reserve Account
11 may be transferred back to the Water Division Fund and used for any purpose if
12 and when qualifying Reserve Insurance is obtained.

14 Except for withdrawals therefrom and payments over time as authorized
15 herein, the Reserve Account shall be maintained at the Reserve Requirement,
16 as it is adjusted from time to time, at all times so long as any Parity Bonds are
17 outstanding. For the purpose of determining the amount credited to the
18 Reserve Account, obligations in which money in the Reserve Account has been
19 invested shall be valued at the greater of cost or accreted value.

21 In the event that there shall be a deficiency in the Principal and Interest
22 Account to meet maturing installments of either principal or interest or
23 mandatory redemption requirements, as the case may be, that deficiency shall
24 be made up from the Reserve Account by the withdrawal of cash or draws on
25 the Reserve Insurance therefrom for that purpose. Any deficiency created in
26



1 the Reserve Account by reason of any such withdrawal shall, within 12 months,
2 be made up from Net Revenue available after making necessary provisions for
3 the required payments into the Principal and Interest Account.

4 The money in the Reserve Account may be applied to the payment of the
5 last outstanding bonds payable out of the Bond Fund, except that any money in
6 the Reserve Account (including investment earnings) in excess of the Reserve
7 Requirement may be withdrawn and deposited in the Principal and Interest
8 Account and spent for the purpose of retiring Parity Bonds or may be deposited
9 in any other fund or account and spent for any other lawful Water System
10 purpose. When the total amount in the Bond Fund (including investment
11 earnings) shall equal the total amount of principal and interest for all Parity
12 Bonds to the last maturity thereof, no further payment need be made into the
13 Bond Fund.
14

15 The City may provide for the purchase, redemption, or defeasance of
16 any Parity Bonds by the use of money on deposit in any account in the Bond
17 Fund as long as the money remaining in those accounts is sufficient to satisfy
18 the required deposits in those accounts for the remaining Parity Bonds.
19

20 All money in the Bond Fund may be kept in cash or invested in legal
21 investments (including the City's investment pool) maturing, for investments in
22 the Principal and Interest Account, not later than the dates when the funds are
23 required for the payment of principal of or interest on the Parity Bonds and, for
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1 investments in the Reserve Account, maturing (or subject to redemption, or
2 repurchase and redemption, at the option of the City) on a date not later than
3 15 years from the date of investment.

4 Earnings from investments in the Principal and Interest Account shall be
5 deposited in that account. Earnings from investments in the Reserve Account
6 shall be deposited in that account if necessary to meet the Reserve Account
7 Requirement. Notwithstanding the provisions for the deposit of earnings, any
8 earnings that are subject to federal arbitrage rebate requirements may be
9 withdrawn from the Bond Fund for deposit into a separate fund or account
10 created for the purpose of compliance with those rebate requirements.
11

12 If the City provides for all or part of the Reserve Requirement by Reserve
13 Insurance, excess amounts in the Reserve Account may be withdrawn from that
14 account and deposited either in the Principal and Interest Account and/or in the
15 Water Division Fund, subject to applicable state and federal law.
16

17 Once the Outstanding Parity Bonds are no longer outstanding, a
18 supplemental ordinance may establish a separate reserve account for a series
19 or series of Future Parity Bonds, in which case the Reserve Account shall not
20 secure such Future Parity Bonds.

21 The City may create sinking fund accounts or other accounts in the Bond
22 Fund for the payment or securing the payment of Parity Bonds, as long as the
23 maintenance of such accounts does not conflict with the rights of the owners of
24 such Parity Bonds.
25
26



1 Section 15. Construction Funds and Deposit of Bond Proceeds. There
2 is created in the Water Division Fund a fund known as the 2009 Water Division
3 Construction Fund (the "Construction Fund"). The principal proceeds of the
4 sale of the Bonds remaining after: (a) the deposit of accrued interest on the
5 Bonds, if any, into the Principal and Interest Account; (b) the deposit of any
6 proceeds as determined by the Bond Sale Resolution into the Reserve Account;
7 and (c) the deposit to the Construction Fund of the amounts set forth in Bond
8 Sale Resolution, shall be deposited into the Construction Fund as determined
9 by the Director of Utilities to be used for the purpose of paying part of the costs
10 of carrying out the Plan of Additions and to pay for the costs of issuance of the
11 Bonds. Money in the Construction Fund may be used to reimburse the Water
12 Division Fund for prior expenditures in connection with the Plan of Additions
13 described and ordered to be carried out in Section 2. Until needed to pay such
14 costs, the City may invest principal proceeds and interest thereon temporarily in
15 any legal investment, and the investment earnings may be retained in the
16 Construction Fund and be spent for the purposes of those funds or may be
17 deposited in the Bond Fund.
18
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20 Section 16. Rate Stabilization Account. There has previously been
21 established in the Water Division Fund a Rate Stabilization Account. The City
22 may, at any time, as determined by the City and as consistent with Section 20
23 of this ordinance, deposit in the Rate Stabilization Account Gross Revenue and
24 any other money received by the Water System and available to be used
25 therefor, excluding principal proceeds of Parity Bonds or other borrowing. Net
26



1 Revenue for a fiscal year shall not include deposits into the Rate Stabilization
2 Account. The City may withdraw money from the Rate Stabilization Account for
3 inclusion in the Net Revenue for any fiscal year of the Water System, except
4 that: (a) the total amount withdrawn from the Rate Stabilization Account in any
5 fiscal year of the Water System may not exceed the total debt service of the
6 Water System in that year; and (b) the Net Revenue in that fiscal year,
7 disregarding the amounts withdrawn from the Rate Stabilization Account, must
8 equal at least 1.0 times the Annual Debt Service that year on all Parity Bonds.
9 Such deposits or withdrawals may be made up to and including the date
10 90 days after the end of the fiscal year for which the deposit or withdrawal will
11 be included as Net Revenue for that fiscal year.
12

13 Earnings from investments in the Rate Stabilization Account shall be
14 deposited in that fund or another Water System fund and shall not be included
15 as Net Revenue unless and until withdrawn from that fund as provided herein.
16

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

20 Section 17. Finding as to Sufficiency of Gross Revenue. The City finds
21 that the Gross Revenue and benefits to be derived from the operation and
22 maintenance of the Water System of the City at the rates to be charged for
23 water and other services and commodities from the Water System will be more
24 than sufficient to meet all Operation and Maintenance Expenses and to permit
25 the setting aside into the Bond Fund out of the Gross Revenue of amounts
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1 sufficient to pay the principal of and interest on the Bonds and any mandatory
2 redemption requirements when due. The City further declares that in creating
3 the Bond Fund and in fixing the amounts to be paid into the Bond Fund it has
4 exercised due regard for Operation and Maintenance Expenses, and the City
5 has not bound and obligated itself to set aside and pay into the Bond Fund a
6 greater amount or proportion of the Gross Revenue than in the judgment of the
7 City will be available over and above the Operation and Maintenance
8 Expenses.

9
10 Section 18. Pledge of Net Revenue and Lien Position. The Net
11 Revenue of the Water System and all money and investments held in the Bond
12 Fund, the Rate Stabilization Account, and the Construction Fund (except money
13 and investments held in a separate fund or account created for the purpose of
14 compliance with rebate requirements under the Code), is pledged to the
15 payment of the Parity Bonds and to make payments into the Reserve Account
16 required by this ordinance, the Parity Bond Authorizing Ordinances and the
17 Bond Sale Resolution, and this pledge shall constitute a lien and charge upon
18 the Net Revenue prior and superior to any other charges whatsoever.
19

20 Section 19. Covenants. The City covenants and agrees with the owner
21 of each Bond at any time outstanding, as follows:

22 (a) Operation and Maintenance. It will at all times maintain,
23 preserve, and keep the properties of the Water System in good repair, working
24 order, and condition; will make all necessary and proper additions, betterments,
25 renewals, and repairs thereto, and improvements, replacements, and
26



1 extensions thereof; and will at all times operate or cause to be operated the
2 properties of the Water System and the business in connection therewith in an
3 efficient manner and at a reasonable cost.

4 (b) Establishment and Collection of Rates and Charges. It will
5 establish, maintain, and collect rates and charges for services and facilities
6 provided by the Water System which will be fair and equitable, and will adjust
7 those rates and charges from time to time so that:

8 (i) The Gross Revenue will be sufficient to: (A) pay all
9 Operation and Maintenance Expenses; (B) pay when due all amounts that the
10 City is obligated to pay into the Bond Fund and the accounts therein; and
11 (C) pay all taxes, assessments, or other governmental charges lawfully
12 imposed on the Water System or the revenue therefrom or payments in lieu
13 thereof and any and all other amounts which the City may now or hereafter
14 become obligated to pay from the Gross Revenue by law or contract; and

15 (ii) The Net Revenue of the Water System in each fiscal
16 year of the Water System will be at least equal to the Coverage Requirement;
17 and
18

19 (iii) The failure of the City to comply with
20 subparagraphs (i) and (ii) of this paragraph (b) shall not be an Event of Default
21 as defined in Section 30 of this ordinance if the City promptly retains an
22 Independent Consulting Engineer to recommend to the City Council
23 adjustments in the rates of the Water System necessary to meet the
24 requirements of those subparagraphs and if the City Council adopts the
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1 recommended modifications within 180 days of the date the failure become
2 known to the City Council.

3 (c) Sale, Transfer, or Disposition of the Water System. It will
4 sell, transfer, or otherwise dispose of any of the works, plant, properties,
5 facilities, or other part of the Water System or any real or personal property
6 comprising a part of the Water System only upon approval by ordinance and
7 only consistent with one or more of the following:

8 (i) The City may exchange any of the works, plant,
9 properties, facilities, or other part of the Water System for works, plant,
10 properties, or facilities of substantially the same type, use and value; or
11

12 (ii) The City, in its discretion, may carry out such a sale,
13 transfer, or disposition (each, as used in this subparagraph, a "transfer") if the
14 facilities or property transferred are not material to the operation of the Water
15 System, or shall have become unserviceable, inadequate, obsolete or unfit to
16 be used in the operation of the Water System or are no longer necessary,
17 material, or useful to the operation of the Water System; or
18

19 (iii) The City, in its discretion, may carry out such a
20 transfer if the aggregate depreciated cost value of the facilities or property being
21 transferred under this subparagraph (iii) in any fiscal year of the Water System
22 comprises no more than three percent of the total assets of the Water System;
23 or
24

25 (iv) The City may sell, lease, mortgage, or otherwise
26 dispose of the Water System, including all additions to and betterments and



1 extensions thereof at any time made, that are used, useful, or material in the
2 operation of the Water System, if provision is made for the replacement thereof
3 or if the City receives from the purchaser or transferee an amount equal to or
4 greater than the greatest of the following:

5 (A) An amount which will be in the same
6 proportion to the net amount of Bonds and Future Parity Bonds then
7 outstanding (defined as the total amount of the Parity Bonds less the amount of
8 cash and investments in the Bond Fund and accounts therein) that the Gross
9 Revenue of the Water System from the portion of the Water System sold or
10 disposed of for the preceding year bears to the total Gross Revenue of the
11 Water System for that period;

12 (B) An amount which will be in the same
13 proportion to the net amount of Bonds and Future Parity Bonds then
14 outstanding (as defined above) that the Net Revenue from the portion of the
15 Water System sold or disposed of for the preceding year bears to the total Net
16 Revenue of the Water System for such period; or

17 (C) An amount which will be in the same
18 proportion to the net amount of Bonds and Future Parity Bonds then
19 outstanding (as defined above) that the depreciated cost value of the portion of
20 the Water System sold or disposed of bears to the depreciated cost value of the
21 entire Water System immediately prior to such sale or disposition.
22
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24 The amount required to be paid to the City under this paragraph may be
25 reduced by any "equity credits" or similar amounts based on prior capital
26



1 contributions or other payments to the City which, under any contract between
2 the City and the purchaser or transferee, are allowed as a setoff against the
3 purchase or transfer price that would otherwise be payable to the City.

4 The City may accept from the purchaser or transferee the amount
5 calculated as described in this paragraph, payable, with interest, amortized over
6 the number of years of remaining life of the portion of the Water System sold or
7 disposed of or such shorter period of time as determined by the City. However,
8 the contract of transfer or sale must provide that the payments to the City shall
9 be either superior to or equal to the lien on the revenues of the purchaser or
10 transferee of all other obligations of the purchaser or transferee.
11

12 (d) No Free Service. Except to aid the poor or infirm and for
13 firefighting purposes and if the City elects to provide free service for such
14 purposes, it will not furnish or supply or permit the furnishing or supplying of any
15 service or facility in connection with the operation of the Water System free of
16 charge to any person, firm, or corporation, public or private.
17

18 (e) Liens Upon the Water System. Except as otherwise
19 provided in this ordinance, it will not at any time create or permit to accrue or to
20 exist any lien or other encumbrance or indebtedness upon the Gross Revenue
21 or any part thereof, prior or superior to the lien thereon for the payment of the
22 Parity Bonds, and will pay and discharge, or cause to be paid and discharged,
23 any and all lawful claims for labor, materials, or supplies which, if unpaid, might
24 become a lien or charge upon the Gross Revenue or any part thereof, prior or
25
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1 superior to, or on a parity with, the lien of the Parity Bonds, or which might
2 impair the security of the Parity Bonds.

3 (f) Books and Accounts. It will keep proper books, records,
4 and accounts with respect to the operations, income, and expenditures of the
5 Water System in accordance with generally accepted accounting practices
6 relating to municipal utilities and any applicable rules and regulations prescribed
7 by the State, and will cause those books, records, and accounts to be audited
8 on an annual basis by the State Auditor and/or Independent Auditor (or, if such
9 audit is not made by the State Auditor within 270 days after the close of any
10 fiscal year of the Water System, by a certified public accountant selected by the
11 City). It will prepare annual financial and operating statements as soon as
12 practicable after the close of each fiscal year of the Water System showing in
13 reasonable detail the financial condition of the Water System as of the close of
14 the previous year, and the income and expenses for such year, including the
15 amounts paid into the Bond Fund and into any and all special funds or accounts
16 created pursuant to the provisions of this ordinance, the status of all funds and
17 accounts as of the end of such year, and the amounts expended for
18 maintenance, renewals, replacements, and capital additions to the Water
19 System. Such statements shall be sent to the owner of any Parity Bonds upon
20 written request therefor being made to the City. The City may charge a
21 reasonable cost for providing such financial statements.
22
23

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

3 (h) Maintenance of Insurance. It at all times will carry fire and
4 extended coverage, public liability and property damage and such other forms
5 of insurance with responsible insurers and with policies payable to the City on
6 such of the buildings, equipment, works, plants, facilities and properties of the
7 Water System as are ordinarily carried by municipal or privately owned utilities
8 engaged in the operation of like systems, and against such claims for damages
9 as are ordinarily carried by municipal or privately owned utilities engaged in the
10 operation of like systems, or it will self insure or will participate in an insurance
11 pool or pools with reserves adequate, in the reasonable judgment of the City, to
12 protect the Water System and the owners of the Parity Bonds against loss.

14 (i) Condemnation Awards and Insurance Proceeds. If the City
15 receives any condemnation awards or proceeds of an insurance policy in
16 connection with any loss of or damage to any property of the Water System, it
17 shall apply the condemnation award or insurance proceeds, in the City's sole
18 discretion, either: (A) to the cost of replacing or repairing the lost or damaged
19 properties; (B) to the payment, purchase or redemption of Parity Bonds; or
20 (C) to the cost of improvements to the Water System.

22 Section 20. Flow of Funds. The Gross Revenue of the Water System
23 shall be used for the following purposes only and shall be applied in the
24 following order of priority:

26 (a) To pay the Operation and Maintenance Expenses;



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(b) To pay interest on Parity Bonds and net payments on Parity Payment Agreements 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, and to make payments due under any reimbursement agreement with a Bond Insurer which agreement requires those payments to be treated on a parity of lien with the Parity Bonds;

(d) To make all payments required to be made into the Reserve Account, all payments required to be made under any agreement relating to the provision of Reserve Insurance, and payments due under any reimbursement agreement with a Bond Insurer which agreement requires those payments to be treated on a parity of lien with the payments required to be made into the Reserve Account;

(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 revenue of the Water System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds, including the Public Works Trust Fund loans; and

(f) To retire by redemption or purchase in the open market any outstanding revenue bonds or other revenue obligations of the Water System; to make necessary additional betterments, improvements, and repairs to or



1 extensions and replacements of the Water System; to make deposits into the
2 Rate Stabilization Account; or for any other lawful Water System purposes.

3 The City may transfer any money from any funds or accounts of the
4 Water System legally available therefor, except bond redemption funds,
5 refunding escrow funds or defeasance funds, to meet the required payments to
6 be made into the Bond Fund.

7 Section 21. Provisions for Future Parity Bonds. The City reserves the
8 right to issue Future Parity Bonds and to enter into Parity Payment Agreements
9 for purposes of the Water System or to refund a portion of the Parity Bonds if
10 the following conditions are met and complied with at the time of the issuance of
11 those Future Parity Bonds or entering into the Parity Payment Agreement:
12

13 (a) There shall be no deficiency in the Bond Fund and no
14 Event of Default as defined in Section 30 shall have occurred and be
15 continuing.

16 (b) The Parity Bond Authorizing Ordinance shall provide that
17 all assessments and interest thereon that may be levied in any utility local
18 improvement district created for the purpose of paying, in whole or in part, the
19 principal of and interest on those Future Parity Bonds, shall be paid directly into
20 the Bond Fund, except for any prepaid assessments permitted by law to be paid
21 into a construction fund or account.
22

23 (c) The Parity Bond Authorizing Ordinance shall provide for the
24 payment of the principal thereof and interest thereon out of the Bond Fund.
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1 (d) The Parity Bond Authorizing Ordinance shall provide for the
2 payment of amounts into the Bond Fund to meet mandatory redemption
3 requirements applicable to any Term Bonds to be issued and for regular
4 payments to be made for the payment of the principal of such Term Bonds on
5 or before their maturity, or, as an alternative, the mandatory redemption of
6 those Term Bonds prior to their maturity date from money in the Principal and
7 Interest Account.

8 (e) The Parity Bond Authorizing Ordinance shall provide for the
9 deposit into the Reserve Account of: (i) an amount, if any, necessary to fund
10 the Reserve Requirement upon the issuance of those Future Parity Bonds from
11 Future Parity Bond proceeds or other money legally available; or (ii) Reserve
12 Insurance or an amount plus Reserve Insurance necessary to fund the Reserve
13 Requirement upon the issuance of those Future Parity Bonds; or (iii) amounts
14 necessary to fund the Reserve Requirement from Net Revenue within five years
15 from the date of issuance of those Future Parity Bonds, in five approximately
16 equal annual payments.
17

18 (f) There shall be on file with the City either:
19

20 (i) A certificate of the Finance Director demonstrating
21 that during any 12 consecutive calendar months out of the immediately
22 preceding 24 calendar months Net Revenue was at least equal to 1.25 times
23 the projected Maximum Annual Debt Service for all Parity Bonds plus the
24 Future Parity Bonds proposed to be issued; or
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(ii) A certificate of an Independent Consulting Engineer that, in his or her opinion, the Net Revenue will be at least equal to 1.25 times the projected Average Annual Debt Service for all Parity Bonds plus the Future Parity Bonds proposed to be issued. In providing that certificate, the Independent Consulting Engineer may take into account the following adjustments:

(A) 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;

(B) Net revenue from customers of the Water 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 Water System who have paid the required connection charges, adjusted to reflect one year's net revenue from those customers;

(C) The Independent Consulting Engineer's estimate of 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

(D) Net revenue from any person, firm, corporation, or municipal corporation under any executed contract for water or other utility service, which revenue was not included in the historical Net Revenue of the Water System.



1 If the Future Parity Bonds proposed to be issued are for the sole purpose
2 of refunding outstanding bonds payable from the Bond Fund, no such coverage
3 certification shall be required if the Annual Debt Service on the Parity Bonds
4 after the issuance of the Future Parity Bonds is not, for any year in which Parity
5 Bonds are outstanding, more than \$5,000 over the Annual Debt Service on the
6 Parity Bonds prior to the issuance of those Future Parity Bonds.

7 Nothing contained herein shall prevent the City from issuing Future
8 Parity Bonds to refund maturing Parity Bonds, money for the payment of which
9 is not otherwise available, or revenue bonds that are a charge or lien upon the
10 Gross Revenue subordinate to the charge or lien of the Parity Bonds, or from
11 pledging the payment of utility local improvement district assessments into a
12 bond redemption fund created for the payment of the principal of and interest on
13 those junior lien bonds as long as such utility local improvement district
14 assessments are levied for improvements constructed from the proceeds of
15 those junior lien bonds.
16

17
18 Section 22. Reimbursement Obligations. If the City elects to meet the
19 Reserve Requirement or any portion thereof through the use of Reserve
20 Insurance or elects to secure any issue of Parity Bonds through the use of Bond
21 Insurance, the City may contract with the entity providing such Reserve
22 Insurance or Bond Insurance to the effect that the City's reimbursement
23 obligation, if any, to such entity ranks on a parity of lien with the Parity Bonds.
24

25 Section 23. Separate Utility Systems. The City may create, acquire,
26 construct, finance, own, and operate one or more additional systems for water



1 supply, transmission, treatment, or other commodity or service. The Regional
2 System has been created as a separate system. The revenue of any separate
3 utility system shall not be included in the Gross Revenue of the Water System
4 and may be pledged to the payment of revenue obligations issued to purchase,
5 construct, condemn, or otherwise acquire or expand the separate utility system.
6 Neither the Gross Revenue nor the Net Revenue of the Water System shall be
7 pledged by the City to the payment of any obligations of a separate utility
8 system except: (a) as a Contract Resource Obligation upon compliance with
9 Section 24 hereof; and/or (b) with respect to the Net Revenue, on a basis
10 subordinate to the lien of the Parity Bonds on that Net Revenue.
11

12 Section 24. Contract Resource Obligations. The City may at any time
13 enter into one or more contracts or other obligations for the acquisition, from
14 facilities to be constructed, of water supply, transmission, treatment, or other
15 commodity or service relating to the Water System. The City's obligation with
16 respect to the Regional System is a Contract Resource Obligation. The City
17 may determine that such contract or other obligation is a Contract Resource
18 Obligation, and may provide that all payments under that Contract Resource
19 Obligation (including payments prior to the time that water supply, transmission,
20 treatment or other commodity or service is being provided, or during a
21 suspension or after termination of supply or service) shall be Operation and
22 Maintenance Expenses if the following requirements are met at the time such
23 Contract Resource Obligation is entered into:
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1 (a) No Event of Default as defined in Section 30 of this
2 ordinance has occurred and is continuing.

3 (b) There shall be on file a certificate of an Independent
4 Consulting Engineer stating that: (i) the payments to be made by the City in
5 connection with the Contract Resource Obligation are reasonable for the
6 supply, transmission, treatment, or other service rendered; (ii) the source of any
7 new supply, and any facilities to be constructed to provide the supply,
8 transmission, treatment, or other service, are sound from a water or other
9 commodity supply or transmission planning standpoint, are technically and
10 economically feasible in accordance with prudent utility practice, and are likely
11 to provide supply or transmission or other service no later than a date set forth
12 in the Independent Consulting Engineer's certification; and (iii) the Net Revenue
13 (further adjusted by the Independent Consulting Engineer's estimate of the
14 payments to be made in accordance with the Contract Resource Obligation) for
15 the five fiscal years following the year in which the Contract Resource
16 Obligation is incurred, as such Net Revenue is estimated by the Independent
17 Consulting Engineer (with such estimate based on such factors as he or she
18 considers reasonable), will be at least equal to the Coverage Requirement.
19
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21 Payments required to be made under Contract Resource Obligations
22 shall not be subject to acceleration.

23 Nothing in this Section 24 shall be deemed to prevent the City from
24 entering into other agreements for the acquisition of water supply, transmission,
25 treatment, or other commodity or service from existing facilities and from
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1 treating those payments as Operation and Maintenance Expenses of the Water
2 System. Nothing in this Section 24 shall be deemed to prevent the City from
3 entering into other agreements for the acquisition of water supply, transmission,
4 treatment, or other commodity or service from facilities to be constructed and
5 from agreeing to make payments with respect thereto, such payments
6 constituting a lien and charge on Net Revenue subordinate to that of Parity
7 Bonds.

8 Section 25. Tax Covenants.

9 (a) Preservation of Tax Exemption on Bonds. The City
10 covenants that it will take all actions necessary to prevent interest on any series
11 of Bonds issued as tax-exempt obligations from being included in gross income
12 for federal income tax purposes, and it will neither take any action nor make or
13 permit any use of proceeds of such series of Bonds or other funds of the City
14 treated as proceeds of such series of Bonds at any time during the term of such
15 series of Bonds which will cause interest on such series of Bonds to be included
16 in gross income for federal income tax purposes. The City also covenants that
17 it will, to the extent the arbitrage rebate requirement of Section 148 of the Code,
18 is applicable to such series of Bonds, take all actions necessary to comply (or to
19 be treated as having complied) with that requirement in connection with such
20 series of Bonds, including the calculation and payment of any penalties that the
21 City has elected to pay as an alternative to calculating rebatable arbitrage, and
22 the payment of any other penalties if required under Section 148 of the Code to
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1 prevent interest on such series of Bonds from being included in gross income
2 for federal income tax purposes.

3 (b) Designation of Bonds as “Build America Bonds.” The City
4 also covenants that it will not take or permit to be taken on its behalf any action
5 that would adversely affect the entitlement of the City to receive from the United
6 States Treasury the applicable federal credit payments in respect of any series
7 of Bonds sold and issued as Build America Bonds. Without limiting the
8 generality of the foregoing, the City will comply with the provisions of the Code
9 compliance with which would result in the interest of Build America Bonds being
10 excluded from gross income for federal tax purposes but for the City’s
11 irrevocable election to have Section 54AA of the Code apply to such Bonds.
12

13 Section 26. Advance Refunding or Defeasance of Bonds. The City
14 may issue advance refunding bonds pursuant to the laws of the State or use
15 money available from any other lawful source to pay the principal of and interest
16 on the Bonds, or such portion thereof included in a refunding or defeasance
17 plan, as the same become due and payable and to redeem and retire, release,
18 refund, or defease the Bonds (the “Defeased Bonds”) and to pay the costs of
19 such refunding or defeasance. In the event that money and/or Government
20 Obligations sufficient in amount, together with known earned income from the
21 investments thereof, to redeem and retire, release, refund, or defease the
22 defeased Bonds in accordance with their terms, are set aside irrevocably in a
23 special fund for and pledged irrevocably to such redemption, retirement, or
24 defeasance (the “trust account”), then all right and interest of the owners of the
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1 defeased Bonds in the covenants of this ordinance and in the Net Revenue and
2 the funds and accounts pledged to the payment of such defeased Bonds, other
3 than the right to receive the funds so set aside and pledged, thereafter shall
4 cease and become void. Such owners thereafter shall have the right to receive
5 payment of the principal of and interest or redemption price on the defeased
6 Bonds from the trust account.

7 After the establishing and full funding of such a trust account, the City
8 then may apply any money in any other fund or account established for the
9 payment or redemption of the defeased Bonds to any lawful purposes as it shall
10 determine, subject only to the rights of the owners of any other Parity Bonds.
11

12 If the refunding plan provides that the defeased Bonds to be issued be
13 secured by money and/or Government Obligations pending the prior
14 redemption of the defeased Bonds and if such refunding plan also provides that
15 certain money and/or Government Obligations are pledged irrevocably for the
16 prior redemption of the defeased Bonds included in that refunding plan, then
17 only the debt service on the Bonds which are not defeased Bonds and the
18 refunding bonds, the payment of which is not so secured by the refunding plan,
19 shall be included in the computation of the Coverage Requirement for the
20 issuance of Future Parity Bonds and the annual computation of the Coverage
21 Requirement for determining compliance with the rate covenants.
22

23 Section 27. Provisions for Sale. The Finance Director may provide for
24 the sale of the Bonds by public sale or by a negotiated sale with the
25 underwriters chosen through a selection process determined by the Finance
26



1 Director. The terms of that sale shall be consistent with this ordinance and
2 confirmed by the Bond Sale Resolution. The Bonds will be delivered to the
3 purchasers as provided in the Bond Sale Resolution immediately upon payment
4 to the City of the purchase price plus accrued interest to the date of closing in
5 immediately available federal funds in Seattle, Washington, or at another time
6 or place upon which the Finance Director and the purchasers may mutually
7 agree.

8 The proper City officials are authorized and directed to do everything
9 necessary for the prompt delivery of the Bonds to the purchaser and for the
10 proper application and use of the proceeds of the sale thereof.

11 If a series of Bonds is sold and issued as Build America Bonds, the
12 Finance Director and his or her designee and Superintendent of the Water
13 Division and his or her designee, and other City officials, are hereby authorized
14 on behalf of the City to take such actions as are necessary or appropriate for
15 the City to receive from the United States Treasury the applicable federal credit
16 payments in respect of such Build America Bonds.

17 Section 28. Approval of Preliminary Official Statement. For the
18 purposes of the underwriter's compliance with Securities and Exchange
19 Commission Rule 15c2-12(b)(1), the Finance Director and Superintendent of
20 the Water Division or their designees are authorized to "deem final" the
21 preliminary official statement prepared in connection with the sale of the Bonds,
22 as of its date, except for the omission of information as to offering prices,
23 interest rates, selling compensation, aggregate principal amount, principal
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1 amount per maturity, maturity dates, options of redemption, delivery dates,
2 ratings, and other terms of the Bonds dependent on such matters. The Finance
3 Director and Superintendent of the Water Division, or their designees, are
4 further authorized to approve and execute the final official statement.

5 Section 29. Amendatory and Supplemental Ordinances.

6 (a) This ordinance shall not be modified or amended in any
7 respect subsequent to the initial issuance of the Bonds, except as provided in
8 and in accordance with and subject to the provisions of this section.

9 (b) The City, from time to time, and at any time, without the
10 consent of or notice to the registered owners of the Bonds, may pass
11 supplemental or amendatory ordinances as follows:

12 (i) To cure any formal defect, omission, inconsistency,
13 or ambiguity in this ordinance in a manner not adverse to the owner of any
14 Parity Bond;

15 (ii) To impose upon the Bond Registrar (with its
16 consent) for the benefit of the registered owners of the Bonds any additional
17 rights, remedies, powers, authority, security, liabilities, or duties which may
18 lawfully be granted, conferred, or imposed and which are not contrary to or
19 inconsistent with this ordinance as theretofore in effect;

20 (iii) To add to the covenants and agreements of, and
21 limitations and restrictions upon, the City in this ordinance, other covenants,
22 agreements, limitations, and restrictions to be observed by the City which are
23 not contrary or inconsistent with this ordinance as theretofore in effect;
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(iv) To confirm, as further assurance, any pledge under, and the subjection to any claim, lien, or pledge created or to be created by this ordinance of any other money, securities, or funds;

(v) To authorize different denominations of the Bonds and to make correlative amendments and modifications to this ordinance regarding exchangeability of Bonds of different authorized denominations, redemptions of portions of Bonds of particular authorized denominations, and similar amendments and modifications of a technical nature;

(vi) To modify, alter, amend, or supplement this ordinance in any other respect which is not materially adverse to the registered owners of the Parity Bonds and which does not involve a change described in Subparagraph (c) of this Section 29;

(vii) Because of change in federal law or rulings, to maintain the exclusion from gross income of the interest on the Bonds from federal income taxation; and

(viii) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this ordinance, other covenants, agreements, limitations, and restrictions to be observed by the City which are requested by a Bond Insurer or provider of Reserve Insurance and which are not materially adverse to the registered owners of the Parity Bonds.

Before the City shall adopt any such supplemental ordinance pursuant to this subsection, there shall have been delivered to the City and the Bond Registrar an opinion of Bond Counsel, stating that such supplemental ordinance



1 is authorized or permitted by this ordinance and, upon the execution and
2 delivery thereof, will be valid and binding upon the City in accordance with its
3 terms and will not adversely affect the exclusion from gross income for federal
4 income tax purposes of interest on the tax-exempt Bonds.

5 (c) (i) Except for any supplemental ordinance entered into
6 pursuant to Subparagraph (b) of this Section 29, subject to the terms and
7 provisions contained in this Subparagraph (c) and not otherwise, registered
8 owners of not less than 60 percent in aggregate principal amount of the Parity
9 Bonds shall have the right from time to time to consent to and approve the
10 passage by the City of any supplemental ordinance deemed necessary or
11 desirable by the City for the purpose of modifying, altering, amending,
12 supplementing, or rescinding, in any particular, any of the terms or provisions
13 contained in this ordinance; except that, unless approved in writing by the
14 registered owners of all Parity Bonds, nothing contained in this section shall
15 permit, or be construed as permitting:
16

17 (A) A change in the times, amounts, or currency
18 of payment of the principal of or interest on any outstanding Parity Bond, or a
19 reduction in the principal amount or redemption price of any outstanding Parity
20 Bond or a change in the redemption price of any outstanding Parity Bond or a
21 change in the method of determining the rate of interest thereon;
22

23 (B) A preference of priority of any Parity Bond or
24 Bonds or any other bond or bonds; or
25
26



1 (C) A reduction in the aggregate principal amount
2 of Parity Bonds, the consent of the registered owners of Parity Bonds of which
3 is required for any such supplemental ordinance.

4 (ii) If, at any time, the City shall pass any supplemental
5 ordinance for any of the purposes of this Subparagraph (c), the Bond Registrar
6 shall cause notice of the proposed supplemental ordinance to be given by first-
7 class United States mail to all registered owners of the Parity Bonds, to any
8 Bond Insurer, and to the Rating Agencies if the Bonds are rated by those
9 agencies. Such notice shall briefly set forth the nature of the proposed
10 supplemental ordinance and shall state that a copy thereof is on file at the office
11 of the Bond Registrar for inspection by all registered owners of the Parity
12 Bonds.
13

14 (iii) Within two years after the date of the mailing of such
15 notice, the City may adopt such supplemental ordinance in substantially the
16 form described in such notice, but only if there shall have first been delivered to
17 the Bond Registrar: (i) the required consents, in writing, of the registered
18 owners of the Parity Bonds; and (ii) an opinion of bond counsel stating that such
19 supplemental ordinance is authorized or permitted by this ordinance and, upon
20 the execution and delivery thereof, will be valid and binding upon the City in
21 accordance with its terms and will not adversely affect the exclusion from gross
22 income for federal income tax purposes of interest on the Parity Bonds.
23

24 (iv) If registered owners of not less than the percentage
25 of Parity Bonds required by this Subparagraph (c) shall have consented to and
26



1 approved the execution and delivery thereof as herein provided, no owner of
2 the Parity Bonds shall have any right to object to the passage of such
3 supplemental ordinance, or to object to any of the terms and provisions
4 contained therein or the operation thereof, or in any manner to question the
5 propriety of the passage thereof, or to enjoin or restrain the City or the Bond
6 Registrar from passing the same or from taking any action pursuant to the
7 provisions thereof.

8 (d) Upon the execution and delivery of any supplemental
9 ordinance pursuant to the provisions of this Section 29, this ordinance shall be,
10 and be deemed to be, modified and amended in accordance therewith, and the
11 respective rights, duties, and obligations under this ordinance of the City, the
12 Bond Registrar and all registered owners of Parity Bonds, shall thereafter be
13 determined, exercised and enforced under this ordinance subject in all respects
14 to such modifications and amendments.

15
16 Section 30. Defaults and Remedies.

17
18 30.1 Events of Default. The following shall constitute "Events of
19 Default" with respect to the Bonds:

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

22 (b) If the City defaults in the observance and performance of
23 any other of the covenants, conditions, and agreements on the part of the City
24 set forth in this ordinance or any covenants, conditions, or agreements on the
25 part of the City contained in any Parity Bond Authorizing Ordinance and such
26



1 default or defaults have continued for a period of six months after the City has
2 received from the Bondowners' Trustee (as defined below) or from the
3 registered owners of not less than 25 percent in principal amount of the Parity
4 Bonds, a written notice specifying and demanding the cure of such default.
5 However, if the default in the observance and performance of any other of the
6 covenants, conditions, and agreements is one which cannot be completely
7 remedied within the six months after written notice has been given, it shall not
8 be an Event of Default with respect to the Bonds as long as the City has taken
9 active steps within the six months after written notice has been given to remedy
10 the default and is diligently pursuing such remedy.
11

12 (c) If the City files a petition in bankruptcy or is placed in
13 receivership under any state or federal bankruptcy or insolvency law.

14 30.2 Bondowners' Trustee. So long as such Event of Default has not
15 been remedied, a bondowners' trustee (the "Bondowners' Trustee") may be
16 appointed by the registered owners of 25 percent in principal amount of the
17 Parity Bonds, by an instrument or concurrent instruments in writing signed and
18 acknowledged by such registered owners of the Parity Bonds or by their
19 attorneys in fact duly authorized and delivered to such Bondowners' Trustee,
20 notification thereof being given to the City. That appointment shall become
21 effective immediately upon acceptance thereof by the Bondowners' Trustee.
22 Any Bondowners' Trustee appointed under the provisions of this
23 Subsection 30.2 shall be a bank or trust company organized under the laws of
24 the State of Washington, the State of New York, or a national banking
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1 association. The bank or trust company acting as Bondowners' Trustee may be
2 removed at any time, and a successor Bondowners' Trustee may be appointed,
3 by the registered owners of a majority in principal amount of the Parity Bonds,
4 by an instrument or concurrent instruments in writing signed and acknowledged
5 by such registered owners of the Bonds or by their attorneys-in-fact duly
6 authorized. The Bondowners' Trustee may require such security and indemnity
7 as may be reasonable against the costs, expenses, and liabilities that may be
8 incurred in the performance of its duties. In the event that any Event of Default
9 in the sole judgment of the Bondowners' Trustee is cured and the Bondowners'
10 Trustee furnishes to the City a certificate so stating, that Event of Default shall
11 be conclusively deemed to be cured and the City, the Bondowners' Trustee and
12 the registered owners of the Parity Bonds shall be restored to the same rights
13 and position which they would have held if no Event of Default had occurred.

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

20 30.3 Suits at Law or in Equity. Upon the happening of an Event of
21 Default and during the continuance thereof, the Bondowners' Trustee may, and
22 upon the written request of the registered owners of not less than 25 percent in
23 principal amount of the Parity Bonds outstanding shall, take such steps and
24 institute such suits, actions, or other proceedings, all as it may deem
25 appropriate for the protection and enforcement of the rights of the registered
26



1 owners of the Parity Bonds, to collect any amounts due and owing to or from
2 the City, or to obtain other appropriate relief, and may enforce the specific
3 performance of any covenant, agreement, or condition contained in this
4 ordinance or in any of the Parity Bonds.

5 Nothing contained in this Section 30 shall, in any event or under any
6 circumstance, be deemed to authorize the acceleration of maturity of principal
7 on the Parity Bonds, and the remedy of acceleration is expressly denied to the
8 registered owners of the Parity Bonds under any circumstances including,
9 without limitation, upon the occurrence and continuance of an Event of Default.
10

11 Any action, suit, or other proceedings instituted by the Bondowners'
12 Trustee hereunder shall be brought in its name as trustee for the Bondowners
13 and all such rights of action upon or under any of the Parity Bonds or the
14 provisions of this ordinance may be enforced by the Bondowners' Trustee
15 without the possession of any of those Parity Bonds and without the production
16 of the same at any trial or proceedings relative thereto except where otherwise
17 required by law. Any such suit, action, or proceeding instituted by the
18 Bondowners' Trustee shall be brought for the ratable benefit of all of the
19 registered owners of those Parity Bonds, subject to the provisions of this
20 ordinance. The respective registered owners of the Parity Bonds, by taking and
21 holding the same, shall be conclusively deemed irrevocably to appoint the
22 Bondowners' Trustee the true and lawful trustee of the respective registered
23 owners of those Parity Bonds, with authority to institute any such action, suit, or
24 proceeding; to receive as trustee and deposit in trust any sums becoming
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1 distributable on account of those Parity Bonds; to execute any paper or
2 documents for the receipt of money; and to do all acts with respect thereto that
3 the registered owner himself or herself might have done in person. Nothing
4 herein shall be deemed to authorize or empower the Bondowners' Trustee to
5 consent to accept or adopt, on behalf of any registered owner of the Parity
6 Bonds, any plan of reorganization or adjustment affecting the Parity Bonds or
7 any right of any registered owner thereof, or to authorize or empower the
8 Bondowners' Trustee to vote the claims of the registered owners thereof in any
9 receivership, insolvency, liquidation, bankruptcy, reorganization, or other
10 proceeding to which the City is a party.
11

12 30.4 Application of Money Collected by Bondowners' Trustee. Any
13 money collected by the Bondowners' Trustee, at any time pursuant to this
14 Section 30, shall be applied in the following order of priority:

15 (a) First, to the payment of the charges, expenses, advances,
16 and compensation of the Bondowners' Trustee and the charges, expenses,
17 counsel fees, disbursements, and compensation of its agents and attorneys;

18 (b) Second, to the payment to the persons entitled thereto of
19 all installments of interest then due on the Parity Bonds in the order of maturity
20 of such installments and, if the amount available shall not be sufficient to pay in
21 full any installment or installments maturing on the same date, then to the
22 payment thereof ratably, according to the amounts due thereon to the persons
23 entitled thereto, without any discrimination or preference; and
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(c) 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 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.

30.5 Duties and Obligations of Bondowners' Trustee. The Bondowners' Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. During an Event of Default, the Bondowners' 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 Bondowners' Trustee shall have no liability for any act or omission to act hereunder except for the Bondowners Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Bondowners' Trustee shall be determined solely by the express provisions of this ordinance, and no implied powers, duties, or obligations of the Bondowners' Trustee shall be read into this ordinance.



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

6 The Bondowners' Trustee shall not be bound to recognize any person as
7 a registered owner of any Bond until his title thereto, if disputed, has been
8 established to its reasonable satisfaction.

9 The Bondowners' Trustee may consult with counsel and the opinion of
10 such counsel shall be full and complete authorization and protection in respect
11 of any action taken or suffered by it hereunder in good faith and in accordance
12 with the opinion of such counsel. The Bondowners' Trustee shall not be
13 answerable for any neglect or default of any person, firm, or corporation
14 employed and selected by it with reasonable care.

15
16 30.6 Suits by Individual Bondowners Restricted. Neither the registered
17 owner nor the beneficial owner of any one or more of Parity Bonds shall have
18 any right to institute any action, suit, or proceeding at law or in equity for the
19 enforcement of same unless:
20

- 21 (a) An Event of Default has happened and is continuing;
22 (b) A Bondowners' Trustee has been appointed;
23 (c) Such owner previously shall have given to the Bondowners'

24 Trustee written notice of the Event of Default on account of which such suit,
25 action, or proceeding is to be instituted;
26



1 (d) The registered owners of 25 percent in principal amount of
2 the Parity Bonds, after the occurrence of such Event of Default, has made
3 written request of the Bondowners' Trustee and have afforded the Bondowners'
4 Trustee a reasonable opportunity to institute such suit, action, or proceeding;

5 (e) There have been offered to the Bondowners' Trustee
6 security and indemnity satisfactory to it against the costs, expenses, and
7 liabilities to be incurred therein or thereby; and

8 (f) The Bondowners' Trustee has refused or neglected to
9 comply with such request within a reasonable time.
10

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

15 30.7 Payment Solely From Net Revenue and Certain Funds. Nothing
16 in this Section 30 shall be deemed to require payment to Bondowners from any
17 source other than the Net Revenue and money and investments in the funds
18 pledged in Section 18 of this ordinance.
19

20 Section 31. Payment Agreements and Parity Payment Agreements.

21 31.1 Calculation of Debt Service on Parity Bonds With Respect to
22 Which a Payment Agreement Is in Force. Debt service on Parity Bonds with
23 respect to which a Payment Agreement is in force shall be calculated based on
24 the net economic effect on the City expected to be produced by the terms of the
25 Parity Bonds and the terms of the Payment Agreement, including, but not
26



1 limited to, the effects that: (a) Parity Bonds that would, but for a Payment
2 Agreement, be treated as obligations bearing interest at a Variable Interest
3 Rate instead shall be treated as obligations bearing interest at a fixed interest
4 rate; and (b) Parity Bonds that would, but for a Payment Agreement, be treated
5 as obligations bearing interest at a fixed interest rate instead shall be treated as
6 obligations bearing interest at a Variable Interest Rate. Accordingly, the
7 amount of interest deemed to be payable on any Parity Bonds with respect to
8 which a Payment Agreement is in force shall be an amount equal to the amount
9 of interest that would be payable at the rate or rates stated in those Parity
10 Bonds plus Payment Agreement Payments minus Payment Agreement
11 Receipts. For the purposes of calculating as nearly as practicable Payment
12 Agreement Receipts and Payment Agreement Payments, under a Payment
13 Agreement that includes a variable rate component determined by reference to
14 a pricing mechanism or index that is not the same as the pricing mechanism or
15 index used to determine the variable rate interest component on the Parity
16 Bonds to which the Payment Agreement is related, it shall be assumed that the
17 fixed rate used in calculating Payment Agreement Payments will be equal to
18 105 percent of the fixed rate specified by the Payment Agreement and that the
19 pricing mechanism or index specified by the Payment Agreement is the same
20 as the pricing mechanism or index specified by the Parity Bonds.
21
22

23 31.2 Debt Service on Parity Payment Agreements. No additional debt
24 service shall be taken into account with respect to a Parity Payment Agreement
25 for any period during which Payment Agreement Payments on that Parity
26



1 Payment Agreement are taken into account in determining Annual Debt Service
2 on related Parity Bonds under Section 31.1. However, for any period during
3 which Payment Agreement Payments are not taken into account in calculating
4 Annual Debt Service on any outstanding Parity Bonds because the Parity
5 Payment Agreement is not then related to any outstanding Parity Bonds, debt
6 service on that Parity Payment Agreement shall be taken into account by
7 assuming:

8 (a) City Obligated to Make Payments Based on Fixed Rate. If
9 the City is obligated to make Payment Agreement Payments based on a fixed
10 rate and the Qualified Counterparty is obligated to make payments based on a
11 variable rate index, that payments by the City will be based on the assumed
12 fixed pay or rate, and that payments by the Qualified Counterparty will be based
13 on a rate equal to the average rate determined by the variable rate index
14 specified by the Parity Payment Agreement during the fiscal quarter preceding
15 the quarter in which the calculation is made; and

16 (b) City Obligated to Make Payments Based on Variable Rate
17 Index. If the City is obligated to make Payment Agreement Payments based on
18 a variable rate index and the Qualified Counterparty is obligated to make
19 payment based on a fixed rate, that payments by the City will be based on a
20 rate equal to the average rate determined by the variable rate index specified
21 by the Parity Payment Agreement during the fiscal quarter preceding the
22 quarter in which the calculation is made, and that the Qualified Counterparty will
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1 make payments based on the fixed rate specified by the Parity Payment
2 Agreement.

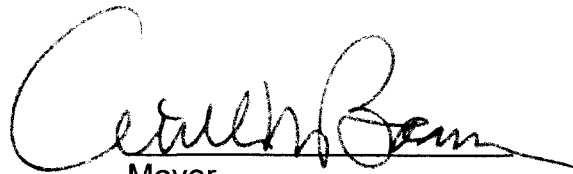
3 Section 32. Ratification of Prior Acts. Any action taken consistent with
4 the authority and prior to the effective date of this ordinance is ratified,
5 approved, and confirmed.

6 Section 33. Effective Date of Ordinance. This ordinance shall take
7 effect and be in force 10 days from and after its publication.


8 INTRODUCED AND READ FOR THE FIRST TIME at a regular meeting
9 of the City Council held the 6th day of October, 2009.

10 PASSED by the City Council of the City of Tacoma, Washington, and
11 authenticated by its Mayor at a regular meeting of the Council held this 13th
12 day of October, 2009.

13 Passed _____, 2009

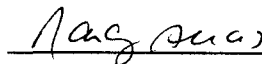
14
15
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17 
18 Mayor

18 Attest:

19
20 
21 City Clerk

22 Approved as to form and legality:

23 FOSTER PEPPER PLLC
24 Bond Counsel to the City of Tacoma

25 By 
26


CLERK'S CERTIFICATE

I, the undersigned, the duly chosen, qualified City Clerk of the City of Tacoma, Washington, and keeper of the records of the City Council (herein called the "Council"), DO HEREBY CERTIFY:

1. That the attached ^{↳ Substitute} Ordinance No. 27837 (herein called the "Ordinance") is a true and correct copy of an Ordinance of the Council, as finally passed at a regular meeting of the Council held on the 13th day of October, 2009 and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of said Ordinance; that all other requirements and proceedings incident to the proper adoption of said Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City as of this 22nd day of October, 2009.


City Clerk
City of Tacoma, Washington




REQUEST FOR **ORDINANCE** RESOLUTION

Request #: 12367
Ord./Res. #: 27837

CITY CLERK'S OFFICE

1. DATE: September 11, 2009

2. SPONSORED BY: COUNCIL MEMBER(S)

3a. REQUESTING DEPARTMENT/DIVISION/PROGRAM Tacoma Water; Finance 3b. "DO PASS" FROM [Committee Name] <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> To Committee as information only <input checked="" type="checkbox"/> Did not go before a Committee 3c. DID THIS ITEM GO BEFORE THE PUBLIC UTILITY BOARD? <input checked="" type="checkbox"/> Yes, on September 23, 2009 <input type="checkbox"/> Not required	4a. CONTACT (for questions): John Kirner Bob Biles	PHONE: 502-8208 591-5805
	4b. Person Presenting: Bob Biles John Kirner Nancy Neraas	PHONE: 591-5805 502-8208 (206) 370-6741
	4c. ATTORNEY: Nancy Neraas of Foster Pepper Bill Fosbre, Chief Assistant City Attorney	PHONE: (206) 370-6741 502-8218
 Department Director/Utility Division Budget Officer/Finance Director City Manager/Director Utilities		

5. REQUESTED COUNCIL DATE: October 6, 2009

Rey Arellano, Deputy City Manager

(If a specific council meeting date is required, explain why; i.e., grant application deadline, contract expiration date, required contract execution date, public notice or hearing required, etc.)

To allow for an October 20, 2009 bond sale date.

6. SUMMARY AGENDA TITLE: (A concise sentence, as it will appear on the Council agenda.)

Authorize Bond Ordinance for City of Tacoma, Washington, Department of Public Utilities, Water Division, water system revenue bond Series A and Series B in an amount not to exceed \$82,000,000.

7. BACKGROUND INFORMATION/GENERAL DISCUSSION: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

The Tacoma Water 2007/2008 and 2009/2010 budget included the issuance of revenue bonds to fund a portion of Tacoma Water's capital improvement program. The Water Division 2009 water system revenue bonds will fund the 2009/2010 capital projects and will repay the System Development Fund which provided interim financing for the 2007/2008 capital projects.

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:

Source Documents/Backup Material Location of Document

Letter to Public Utility Board, Mayor and City Council dated September 11, 2009 City Clerk's Office

Proposed Bond Ordinance City Clerk's Office

Request #: 12367
 Ord/Res #: 27837

FISCAL NOTE

Each piece of legislation that has a financial impact or creates positions authority requires a fiscal note. After preparation by departmental staff, the Budget and Research Division will review the fiscal note and make any necessary revisions before transmittal to the Legal Department for legislation preparation.

DEPARTMENT:	CONTACT PERSON/PHONE:	OMBA CONSULTANT/PHONE:
Tacoma Water	John Kirner, 502 8208	

Is it currently budgeted? Yes No
 Is this a grant? Yes No If Yes, Operating Capital

EXPENDITURES:

FUND NAME & NUMBER *	COST CENTER	WBS	ACCOUNT	2009-2010 EXPENDITURES
Tacoma Water 2009 Bond Construction Fund		To be determined	To be determined	Not to exceed \$82 million
TOTAL				

* General Fund: Include Department

Purpose: [Click Here and Type or Press Delete to Clear]

REVENUES:

FUND NAME & NUMBER	COST CENTER	WBS	ACCOUNT	2009-2010 REVENUES
Tacoma Water 2009 Bond Construction Fund		To be determined	24XXXXX Wtr Sys Rev Bd 09	Not to exceed \$82 million
TOTAL				

Notes: The Fund and Accounts are currently in the process of being created by the Tacoma Water Fund Accountant – Myung Hee Muller.

POSITION IMPACT:

POSITION TITLE	PERMANENT/PROJECT/ TEMPORARY POSITION	POSITION END DATE	2009 FTE	FUTURE FTE

Total positions created or abrogated through this legislation, including FTE impact. FTE impact for temporary employees is estimated.

FISCAL NOTE (CONT)

CITY CLERK USE ONLY

Request #:	12367
Ord/Res #:	27837

LONG-TERM FINANCIAL IMPACT OF LEGISLATION:

SPENDING PLAN & BUDGET	2009	2010	2011	2012	2013	TOTAL
Salaries/Benefits						
Start-up						
On-going						
Maintenance & Operations						
Capital	50 Million	20 Million	12 Million			82,000,000
TOTAL	50 Million	20 Million	12 Million			82,000,000

FUNDING SOURCE	2009	2010	2011	2012	2013	2014-2034
On-going Debt Service Interest	547,000	3,280,000	3,280,000	3,280,000	3,280,000	23,056,000
On-going Debt Service Principal						82,000,000
TOTAL						

The financial cost of not implementing the legislation:

[Click Here and Type or Press Delete to Clear]

Estimate the cost to the City if the legislation is not implemented, including the potential conflicts with regulatory requirements, cost avoidance, or other potential costs.

OTHER ISSUES:

[Click Here and Type or Press Delete to Clear]



3628 South 35th Street
Tacoma, Washington 98409-3192

TACOMA PUBLIC UTILITIES

September 11, 2009

To the Honorable Mayor and Members of the City Council and
To the Chairman and Members of the Public Utility Board

Proposed Water Division Bonds, 2009

Request

A proposed bond ordinance has been prepared in an amount not to exceed \$82,000,000 for the City of Tacoma, Washington, Department of Public Utilities, Water Division, Water System Revenue Bonds, 2009. The purpose of this bond issue is to provide funds for capital improvements to and extensions of the existing Water System and to repay the System Development Charge Fund which provided interim financing for 2007/2008 capital projects. The bond issue is consistent with the approved 2009/2010 budget and the water rates adopted in January, 2009. These bonds will be sold through a negotiated sale process in order to take advantage of the federal government's Build America Bonds program, which can provide a lower net cost of borrowing than tax-exempt bonds. Recent sale examples had an adjusted interest rate of 3.9% for the taxable Build American Bonds compared to a tax-exempt rate of 4.9%. This equates to a rough savings of \$566,300 a year on debt service payment for this proposed \$82,000,000 25-year issuance, so we are requesting an ordinance and sale process with the flexibility to pursue one or both options depending upon market conditions at the time of our sale.

Background

The Water Division last issued debt in September, 2005 to fund 2005/2006 capital projects. The Division now proposes to issue water system revenue bonds to fund portions of the 2007/2008 and 2009/2010 capital improvement program as budgeted.

Previous debt issuances for the Water Division have been tax-exempt bonds. In 2009, the federal government created Build America Bonds through the American Recovery and Reinvestment Act (ARRA) of 2009 to expand the market for state and local government bonds. Build America Bonds have been extremely popular, with an excess of \$25 billion in Build American Bonds issued to date. They are expected to remain popular among issuers as long as they provide a lower net cost of borrowing than traditional tax-exempt bonds for public finance issuers. The Build American Bonds are taxable governmental bonds with a federal subsidy paid to the issuer by the U.S. Treasury Department in an amount equal to 35% of the total interest payable on the bonds. Because Build America Bonds do not provide the lowest cost of financing for each individual maturity of the bonds (i.e. for each principal amount), most of these bond issues have been sold with a combination of Build America Bonds and traditional tax-exempt bonds, with the precise combination determined at the time of sale.

Process and Timeline

With assistance from the Finance Department, our financial advisor DashenMusselman, Inc., and our bond counsel, Foster Pepper, we have prepared the bond ordinance and official statement to give the Water Division the option to sell tax-exempt (Series A) bonds, taxable Build America Bonds (Series B), or a combination of both in mid-October 2009. We have selected an underwriter, Citigroup, to negotiate

the sale of the bonds. The proposed bond ordinance covenants have been revised to accommodate the issuance of tax-exempt bonds and Build America Bonds. The proposed bond ordinance with a "not to exceed" amount has been prepared for Public Utility Board and City Council action (the current request).

A bond resolution details the decision to sell tax-exempt and/or taxable Build America Bonds and includes the actual amounts and structures for each of the separate series which are dependent on market conditions. On the day of the sale, planned to be October 20, 2009, a special meeting of the Public Utility Board will be held to approve the bond resolution. The City Council will be then be requested to take action on the bond resolution during its regular (October 20, 2009) meeting. The process for setting interest rates on taxable bonds is extremely time sensitive, which is different from the typical tax-exempt bond pricing process. In the event market conditions warrant a special meeting of the City Council, such a request will be made on, or about, October 20, 2009.

Proposed Structure

Our current estimated amount of the issue size is \$79,100,800. Major contributors to the proposed issuance include:

- * \$34,367,000 million that will fund the 2007/2008 capital projects.
- * \$37,118,800 million that will fund the 2009/2010 capital projects
- * Approximately \$6,780,000 for a debt service reserve account and costs of issuance.

It is recommended that the Public Utility Board and City Council take the necessary approving action.

Approved:



Bill Gaines
Director of Utilities/CEO

Ordinance No. 27837

First Reading of Ordinance: ~~OCT 6 2009~~

Final Reading of Ordinance: ~~OCT 13 2009~~

Passed: OCT 13 2009

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson	✓			
Mr. Fey				✓
Ms. Ladenburg	✓			
Mr. Lonergan	✓			
Mr. Manthou	✓			
Ms. Strickland	✓			
Mr. Talbert				✓
Ms. Walker	✓			
Mayor Baarsma	✓			

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson				
Mr. Fey				
Ms. Ladenburg				
Mr. Lonergan				
Mr. Manthou				
Ms. Strickland				
Mr. Talbert				
Ms. Walker				
Mayor Baarsma				