



## ORDINANCE NO. 27902

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  
3 aggregate principal amount of not to exceed \$120,000,000 to provide  
4 funds to finance or refinance costs of capital improvements to the water  
5 system and to refund or defease a portion of the Water System Revenue  
6 Bonds, 2001, and specifying the terms and covenants of the bonds.

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

10 WHEREAS, pursuant to Ordinance No. 26849, the City issued its  
11 \$32,900,000 Water System Revenue Bonds, 2001 (the "2001 Bonds"), and

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

15 WHEREAS, pursuant to Ordinance No. 27405, the City issued its  
16 \$46,550,000 Water System Revenue and Refunding Bonds, 2005 (the "2005  
17 Bonds"); and

18 WHEREAS, pursuant to Ordinance No. 27837, the City issued its  
19 \$76,775,000 Water System Revenue Bonds, 2009 (Taxable Build America  
20 Bonds – Direct Payment) (the "2009 Bonds", and collectively with the  
21 outstanding 2001 Bonds, 2003 Bonds, 2005 Bonds and 2009 Bonds, the  
22 "Outstanding Parity Bonds"), and

23 WHEREAS, pursuant to the ordinances authorizing the Outstanding  
24 Parity Bonds, the City is authorized to issue water system revenue bonds with a  
25 lien and charge on net revenue of the Water System equal to the lien and  
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1 charge thereon of the Outstanding Parity Bonds for purposes of the Water  
2 System, if specified conditions are met and complied with at the time of the  
3 issuance of those bonds, and

4 WHEREAS the Outstanding Parity Bonds, together with the Public  
5 Works Trust Fund loans (as hereinafter defined), are the only outstanding  
6 revenue obligations of the City pledged against the net revenue of the Water  
7 System, and

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

11 WHEREAS the Public Utility Board has initiated and has recommended  
12 to the City Council for its approval the issuance of water revenue bonds in one  
13 or more series (the "Bonds") to finance or refinance such capital improvements  
14 to the Water System and to pay costs of issuance and, if interest rates are  
15 favorable, to refund or defease a portion of the 2001 Bonds, and

16 WHEREAS the City has determined that it is in the best interests of the  
17 City and its ratepayers to issue the Bonds to provide the funds to finance or  
18 refinance costs of capital improvements to the Water System and pay the cost  
19 of issuance and sale of the Bonds, and, if interest rates are favorable to refund  
20 or defease a portion of the 2001 Bonds, and

21 WHEREAS the City has a policy of selling its bonds through competitive  
22 sale unless circumstances make it advantageous to conduct a negotiated sale,  
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1 WHEREAS Congress enacted legislation permitting municipalities in  
2 2009 and 2010 to issue bonds bearing interest at a taxable rate with a 35%  
3 direct payment by the Federal Government, and

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

8 BE IT ORDAINED BY THE CITY OF TACOMA:

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

5 (1) Debt Service on Term Bonds. For purposes of calculating debt  
6 service on Term Bonds, only the scheduled mandatory redemption amounts  
7 payable in respect of principal of Term Bonds shall be taken into account in any  
8 fiscal year prior to the Term Bond Maturity Year, and only the principal amount  
9 scheduled to remain outstanding after payment of all prior mandatory  
10 redemption amounts shall be taken into account in the Term Bond Maturity  
11 Year;  
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13 (2) Interest on Parity Bonds. For purposes of determining compliance  
14 with the Coverage Requirement, the Reserve Requirement and the conditions  
15 for the issuance of Future Parity Bonds or the creation of Contract Resource  
16 Obligations:  
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18 (a) Generally. Except as otherwise provided by  
19 Subparagraph (2)(b) with respect to Variable Interest Rate Bonds and by  
20 Subparagraph 30.1 with respect to Parity Bonds with respect to which a  
21 Payment Agreement is in force, interest on any issue of Parity Bonds payable in  
22 a fiscal year shall be calculated based on the actual amount of accrued,  
23 accreted or otherwise accumulated interest that is payable in that fiscal year in  
24 respect of that issue taken as a whole, at the rate or rates set forth in the Parity  
25 Bond Authorizing Ordinance;  
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(b) Interest on Variable Interest Rate Bonds. The amount of interest deemed to be payable on any issue of Variable Interest Rate Bonds shall be calculated on the assumption that the interest rate on those bonds would be equal to the rate (the "assumed RBI-based rate") that is 90% of the average Bond Buyer Revenue Bond Index or comparable index during the fiscal quarter preceding the quarter in which the calculation is made; except that, for purposes of determining actual compliance with the Coverage Requirement under 19.2(b) in any past fiscal year, the actual amount of interest paid on any issue of Variable Interest Rate Bonds shall be taken into account;

(c) Interest on Parity Bonds with Respect to Which a Payment Agreement or Parity Payment Agreement is in Force. Debt service on Parity Bonds with respect to which a Payment Agreement or Parity Payment Agreement is in force shall be based on the net economic effect on the City expected to be produced by the terms of the Parity Bonds and the terms of the Payment Agreement, including but not limited to the effects set forth in Section 30 of this ordinance.

(d) Interest on Parity Bonds designated as "build America bonds." Ordinances No. 26849, 27109 and 27405 are hereby amended to provide that, the interest on Parity Bonds designated as build America Bonds, including the 2009 Bonds and any 2010 Bonds designated as such in the Sale Resolution, only for purposes of calculating the Reserve Requirement, shall be based on the net interest after the 35% federal direct payment or such other federal direct payment to be received for Parity Bonds. The owners of the 2010



1 Bonds shall be deemed to have consented to this subsection. This subsection  
2 shall be in effect when 60% of the then current owners of Parity Bonds,  
3 including the 2009 Bonds and 2010 Bonds, have consented to this amendment  
4 to the definition of Annual Debt Service.

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

8 "Bond Counsel" means a firm of lawyers nationally recognized and  
9 accepted as bond counsel and so employed by the City for any purpose under  
10 this ordinance applicable to the use of that term.  
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12 "Bond Fund" means that special fund of the City known as the Water  
13 Revenue Bond Fund, created by Ordinance No. 25392 in the Water Division  
14 Fund of the City for the payment of the principal of, mandatory sinking fund  
15 payments and interest on the Parity Bonds.  
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17 "Bond Insurance" means any bond insurance, letter of credit, guaranty,  
18 surety bond or similar credit enhancement device providing for or securing the  
19 payment of all or part of the principal of and interest on any Parity Bonds.

20 "Bond Insurer" means any provider of Bond Insurance approved by the  
21 City Council by ordinance or resolution.

22 "Bond Register" means the books or records maintained by the Bond  
23 Registrar on which are recorded the names and addresses of the owners of  
24 each of the Bonds.  
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26 "Bond Registrar" means the Fiscal Agency.



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, 2010, 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.

17 "City" means the City of Tacoma, Washington.

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

21 "Code" means the Internal Revenue Code of 1986, as amended,  
22 together with corresponding and applicable final, temporary or proposed  
23 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 2010 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.

17 "DTC" means The Depository Trust Company.

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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.

22 "Fiscal Agency" means the fiscal agency of the State of Washington,  
23 whose duties include registering and authenticating the Bonds, maintaining the  
24 Bond Register, transferring ownership of the Bonds, and paying the principal of  
25 and interest on the Bonds.  
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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.

19 "Outstanding Parity Bonds" means the 2001 Bonds, 2003 Bonds, 2005  
20 Bonds, 2009 Bonds and the 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.

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

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

18 "Plan of Additions" means the system or plan of additions to and  
19 betterments and extensions of the Water System described in Section 2 of this  
20 ordinance, as such plan of additions may be amended, updated, supplemented,  
21 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 "Refunded Bonds" means all or a portion of the 2001 Bonds identified in  
4 the Bond Sale Resolution.

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

8 "Reserve Account" means the account of that name created in the Bond  
9 Fund for the purpose of securing the payment of the principal of and interest on  
10 the Parity Bonds.  
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12 "Reserve Insurance" means any bond insurance, letter of credit,  
13 guaranty, surety bond, or similar credit enhancement device obtained by the  
14 City equal to part or all of the Reserve Requirement for any Parity Bonds which  
15 is issued by an institution which has been assigned a credit rating at the time of  
16 issuance of the device in one of the two highest rating categories of each of the  
17 Rating Agencies.  
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19 "Reserve Requirement" means as of any date the lesser of Maximum  
20 Annual Debt Service or 125% of average Annual Debt Service on all the  
21 outstanding Parity Bonds. Once the 2001 Bonds are no longer outstanding, the  
22 Reserve Requirement for a series of Parity Bonds shall not exceed 10% of the  
23 net proceeds of such Bonds.  
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1 "Rule" means the Commission's Rule 15c2-12 under the Securities  
2 Exchange Act of 1934, as amended and as the same may be amended from  
3 time to time.

4 "State" means the State of Washington.

5 "State Auditor" means the office of the Auditor of the State or such other  
6 department or office of the State authorized and directed by State law to make  
7 audits.

8 "Term Bond Maturity Year" means any calendar year in which Term  
9 Bonds are scheduled to mature.

10 "Term Bonds" means those Bonds designated as such in the Bond Sale  
11 Resolution and those Parity Bonds designated as such in the applicable Parity  
12 Bond Authorizing Ordinance.

13 "2001 Bonds" means the City's Water System Revenue Bonds, 2001,  
14 issued in the original principal amount of \$32,900,000 pursuant to Ordinance  
15 No. 26849, passed on September 18, 2001.

16 "2003 Bonds" means the City's Water System Revenue and Refunding  
17 Bonds, 2003, issued in the original principal amount of \$51,380,000 pursuant to  
18 Ordinance No. 27109, passed on July 1, 2003.

19 "2005 Bonds" means the City's Water System Revenue and Refunding  
20 Bonds, 2005, issued in the original principal amount of \$46,550,000 pursuant to  
21 Ordinance No. 27405, passed on August 30, 2005.



1           “2009 Bonds” means the City’s Water System Revenue Bonds, 2009  
2 (Taxable Build America Bonds – Direct Payment), issued in the original  
3 principal amount of \$76,775,000 pursuant to Ordinance No. 27837, passed on  
4 October 13, 2009.

5           “Variable Interest Rate” means any variable interest rate or rates to be  
6 borne by any Parity Bonds. The method of computing such a variable interest  
7 rate shall be as specified in the applicable Parity Bond Authorizing Ordinance,  
8 which ordinance or resolution also shall specify either: (1) the particular period  
9 or periods of time or manner of determining such period or periods of time for  
10 which each value of such variable interest rate shall remain in effect; or (2) the  
11 time or times upon which any change in such variable interest rate shall  
12 become effective. A Variable Interest Rate may, without limitation, be based on  
13 the interest rate on certain bonds or may be based on interest rate, currency,  
14 commodity, or other indexes.  
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16           “Variable Interest Rate Bonds” means, for any period of time, any Parity  
17 Bonds that bear a Variable Interest Rate during that period, except that Parity  
18 Bonds shall not be treated as Variable Interest Rate Bonds if the net economic  
19 effect of interest rates on particular Parity Bonds of an issue and interest rates  
20 on other Parity Bonds of the same issue, as set forth in the applicable Parity  
21 Bond Authorizing Ordinance, or the net economic effect of a Payment  
22 Agreement with respect to particular Parity Bonds, in either case is to produce  
23 obligations that bear interest at a fixed interest rate; and Parity Bonds with  
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1 respect to which a Payment Agreement is in force shall be treated as Variable  
2 Interest Rate Bonds if the net economic effect of the Payment Agreement is to  
3 produce obligations that bear interest at a Variable Interest Rate.

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

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

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14 Section 2. Parity and Other Findings.

15 2.1 Parity Findings. In connection with the issuance of the Bonds on  
16 a parity of lien with the Outstanding Parity Bonds, the City hereby makes the  
17 following findings:  
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19 (a) There is, and as of the date of the issuance of the Bonds  
20 there will be, no deficiency in the Bond Fund, and no Event of Default, as  
21 defined in Ordinance Nos. 26849, 27109, 27405, or 27837, has occurred or is  
22 continuing.

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

3 (c) This ordinance provides for the payment of the principal of  
4 and interest on the Bonds out of the Bond Fund.

5 (d) This ordinance provides for the payment of amounts into  
6 the Bond Fund to meet mandatory redemption requirements applicable to any  
7 Term Bonds to be issued and for regular payments to be made of the payment  
8 of the principal of such Term Bonds on or before their maturity, or, as an  
9 alternative, the mandatory redemption of those Term Bonds prior to their  
10 maturity date from money in the Principal and Interest Account.  
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12 (e) This ordinance provides for the deposit into the Reserve  
13 Account of: (1) an amount, if any, necessary to fund the Reserve Requirement  
14 upon the issuance of the Bonds from Bond proceeds or other money legally  
15 available; or (2) Reserve Insurance or an amount necessary to fund the  
16 Reserve Requirement upon the issuance of the Bonds.  
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18 (f) On the date of issuance of the Bonds, there will be on file  
19 with the City a certificate of the Finance Director demonstrating that during any  
20 12 consecutive calendar months out of the immediately preceding 24 calendar  
21 months Net Revenue was at least equal to 1.25 times the projected Maximum  
22 Annual Debt Service for all Parity Bonds plus the Bonds.

23 2.2 Other Findings. The City specifies, adopts, and orders to be  
24 carried out the system or plan of additions to and betterments and extensions of  
25 the Water System (the "Plan of Additions" and each element thereof an  
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1 "Addition") as generally provided for in the capital portions of the 2011-2012  
2 Biennial Budgets (the "2011-2012 Budgets") and as provided in subsequent  
3 budgets if Bond proceeds are available after 2012, and described as follows:  
4 capital improvements to the Water System, including construction and  
5 installation of a new filtration system and other supply system improvements.

6 The Bond proceeds will be used to finance and reimburse the City for costs of  
7 the Plan of Additions.

8         The estimated cost of the Plan of Additions to be financed with Bond  
9 proceeds is \$74,200,000.

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11         The Plan of Additions shall include any amendments, updates,  
12 supplements, or replacements to the Water System comprehensive plan or  
13 budget, all of which shall constitute amendments to the Plan of Additions. The  
14 Plan of Additions also may be modified to include other improvements if the City  
15 determines by ordinance or resolution that those amendments or other  
16 improvements constitute a system or plan of additions to and betterments and  
17 extensions of the Water System.

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19         The Plan of Additions includes the purchase and installation of all  
20 materials, supplies, appliances, equipment (including, but not limited to, data  
21 processing hardware and software and conservation equipment) and facilities,  
22 the acquisition of all permits, franchises, property and property rights, other  
23 capital assets, and all engineering, consulting, and other professional services  
24 and studies (whether performed by the City or by other public or private entities)  
25 necessary or convenient to carry out the Plan of Additions.  
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1           Section 3.    Authorization and Description of Bonds.  For the purpose of  
2 providing all or a part of the money required to:  (a) pay part of the cost of  
3 carrying out the Plan of Additions; (b) provide for a reserve for the Bonds; (c) to  
4 refund all or part of the 2001 Bonds if interest rates are favorable; and (d) pay  
5 the costs of issuance of the Bonds, the City shall issue the Bonds in the  
6 principal amount of not to exceed \$120,000,000.  The Bonds shall be  
7 designated Water System Revenue Bonds, 2010 and may be issued in one or  
8 more series, one series of which may be designated as Build America Bonds,  
9 shall be dated as specified in the Bond Sale Resolution, shall be in  
10 denominations of \$5,000 or any integral multiple thereof within a single maturity  
11 of each series or such other denomination within each maturity of a series as  
12 specified in the Bond Sale Resolution, shall be numbered separately in the  
13 manner and with any additional designation as the Bond Registrar deems  
14 necessary for the purpose of identification, shall bear interest at such rate or  
15 rates (computed on the basis of a 360-day year of 12 30-day months) as shall  
16 be specified in and approved by the Bond Sale Resolution payable  
17 semiannually on the dates as specified in the Bond Sale Resolution; and shall  
18 mature on the dates and in years and amounts as specified in the Bond Sale  
19 Resolution.  
20  
21

22           Section 4.    Bond Sale Resolution.  The City Council may adopt the  
23 Bond Sale Resolution and, in that resolution, provide for the matters described  
24 in this ordinance and such other matters that the City Council deems necessary  
25 and appropriate to carry out the purposes of this ordinance.  
26



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

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

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

16  
17  
18 Section 5. Registration and Transfer or Exchange of Bonds.

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



1 authorized, on behalf of the City, to authenticate and deliver Bonds transferred  
2 or exchanged in accordance with the provisions of such Bonds and this  
3 ordinance and to carry out all of the Bond Registrar's powers and duties under  
4 this ordinance. The Bond Registrar shall be responsible for its representations  
5 contained in the Bond Registrar's Certificate of Authentication on the Bonds.

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

14  
15       5.3 Transfer or Exchange of Registered Ownership; Change in  
16 Denominations. The registered ownership of any Bond may be transferred or  
17 exchanged, but no transfer of any Bond shall be valid unless it is surrendered to  
18 the Bond Registrar with the assignment form appearing on the Bond duly  
19 executed by the registered owner or such registered owner's duly authorized  
20 agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the  
21 Bond Registrar shall cancel the surrendered Bond and shall authenticate and  
22 deliver, without charge to the registered owner or transferee, a new Bond (or  
23 Bonds at the option of the new registered owner) of the same series, date,  
24 maturity, and interest rate and for the same aggregate principal amount in any  
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1 authorized denomination, naming as registered owner the person or persons  
2 listed as the assignee on the assignment form appearing on the surrendered  
3 Bond, in exchange for such surrendered and canceled Bond. Any Bond may be  
4 surrendered to the Bond Registrar and exchanged, without charge, for an equal  
5 aggregate principal amount of Bonds of the same series, date, maturity, and  
6 interest rate in any authorized denomination. The Bond Registrar shall not be  
7 obligated to transfer or exchange any Bond during a period beginning at the  
8 opening of business on the 15<sup>th</sup> day of the month next preceding any interest  
9 payment date and ending at the close of business on such interest payment  
10 date, or, in the case of any proposed redemption of the Bonds, after the mailing  
11 of notice of the call of such Bonds for redemption.  
12

13       5.4    Bond Registrar's Ownership of Bonds. The Bond Registrar may  
14 become the registered owner of any Bond with the same rights it would have if  
15 it were not the Bond Registrar, and to the extent permitted by law, may act as  
16 depository for and permit any of its officers or directors to act as member of, or  
17 in any other capacity with respect to, any committee formed to protect the rights  
18 of the registered owners of the Bonds.  
19

20       5.5    Registration Covenant. The City covenants that, until all Bonds  
21 have been surrendered and canceled, it will maintain a system for recording the  
22 ownership of each Bond that complies with the provisions of Section 149 of the  
23 Code.  
24

25       Section 6.    Lost or Destroyed Bonds. If any Bonds are lost, stolen, or  
26 destroyed, the Bond Registrar may authenticate and deliver a new Bond or



1 Bonds of like series, amount, maturity, and tenor to the registered owner upon  
2 the owner paying the expenses and charges of the Bond Registrar and the City  
3 in connection with preparation and authentication of the replacement Bond or  
4 Bonds and upon his or her filing with the Bond Registrar and the City evidence  
5 satisfactory to both that such Bond or Bonds were actually lost, stolen, or  
6 destroyed and of his or her ownership, and upon furnishing the City and the  
7 Bond Registrar with indemnity satisfactory to both.

8           Section 7.    Payment of Bond Principal and Interest. Both principal of  
9 and interest on the Bonds shall be payable in lawful money of the United States  
10 of America. Interest on the Bonds shall be paid by checks or drafts mailed by  
11 the Bond Registrar on the interest payment date to the registered owners at the  
12 addresses appearing on the Bond Register on the 15<sup>th</sup> day of the month  
13 preceding the interest payment date or, at the request of an owner of  
14 \$1,000,000 or more in aggregate principal amount of Bonds, by wire transfer to  
15 an account in the United States designated in writing by such owner prior to the  
16 record date. Principal of the Bonds shall be payable upon presentation and  
17 surrender of the Bonds by the registered owners at either of the principal offices  
18 of the Bond Registrar at the option of the owners. The Bonds shall be payable  
19 solely out of the Bond Fund and shall not be general obligations of the City.

20 Notwithstanding the foregoing, as long as the Bonds are registered in the name  
21 of DTC or its nominee, payment of principal of and interest on the Bonds shall  
22 be made in the manner set forth in the Letter of Representations.  
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Section 8. Redemption and Open Market Purchase of Bonds.

1  
2 8.1 Optional Redemption. All or some of the Bonds may be subject to  
3 redemption at the option of the City at the times and on the terms set forth in  
4 the Bond Sale Resolution.

5 8.2 Mandatory Redemption. The Finance Director may designate  
6 Term Bonds with mandatory redemption amounts as he deems necessary or  
7 advisable all to be provided by the Bond Sale Resolution. The City shall  
8 redeem any such Term Bonds, if not redeemed under the optional redemption  
9 provisions or purchased in the open market at par plus accrued interest on the  
10 dates and in the years and principal amounts and by the method as set forth in  
11 the Bond Sale Resolution.  
12

13 If the City shall redeem Term Bonds under the optional redemption  
14 provisions or purchase Term Bonds in the open market, the par amount of the  
15 Term Bonds so redeemed or purchased (irrespective of their actual redemption  
16 or purchase prices) shall be credited against one or more scheduled mandatory  
17 redemption amounts for those Term Bonds (as allocated by the City) beginning  
18 not earlier than 60 days after the date of the optional redemption or purchase,  
19 and the City shall promptly notify the Bond Registrar in writing of the manner in  
20 which the credit for the Term Bonds so redeemed or purchased has been  
21 allocated.  
22

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



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

6       8.4   Purchase for Cancellation. The City reserves the right and option  
7 to purchase any or all of the Bonds for cancellation at any time at any price  
8 acceptable to the City plus accrued interest to the date of purchase. The  
9 principal amount of Term Bonds purchased pursuant to this section shall be  
10 credited at the par amount thereof against the next mandatory redemption  
11 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  
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1 offices in New York, New York, to any Bond Insurer for the Bonds, and to such  
2 other person and with such additional information as the Finance Director shall  
3 determine or as shall be specified in the Bond Sale Resolution, but these  
4 additional mailings shall not be a condition precedent to the redemption of  
5 Bonds. The Bond Registrar shall provide additional notice of redemption (at  
6 least 30 days) to the MSRB.

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

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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Section 11. Form and Execution of Bonds.

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 [AND REFUNDING] BOND, 2010  
[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 \_\_\_\_\_, 2010, 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 December 1, 2010, and semiannually thereafter on the first days of each succeeding June 1 and December 1. 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 of and interest hereon 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 15<sup>th</sup> 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 (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 \_\_\_\_\_, 2010, and adopted by  
6 the City Council on \_\_\_\_\_, 2010, respectively, to finance or refinance capital  
7 improvements to the Water System, to provide for a reserve fund, [to refund  
8 certain outstanding revenue bonds of the Water System] and to pay costs of  
9 issuance. [The Bonds are being issued simultaneously with the City's Water  
10 System Revenue [and Refunding] Bonds, 2010 [A/B (Taxable Build America  
11 Bonds – Direct Payment)] (the "2010[A/B] Bonds").

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

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

11 The Bonds are payable solely from the special fund of the City known as  
12 the Water Revenue Bond Fund of the Water Division Fund (the "Bond Fund"),  
13 created by Ordinance No. 25392. The City has irrevocably obligated and bound  
14 itself to pay into the Bond Fund out of Net Revenue of the Water System or  
15 from such other money as may be provided for such purpose certain amounts  
16 necessary to pay and secure the payment of the principal and interest on the  
17 Outstanding Parity Bonds, the Bonds, [the 2010[A/B] Bonds,] and any Future  
18 Parity Bonds.

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

19 To the extent more particularly provided by the Bond Ordinance, the  
20 amounts so pledged to be paid out of the Gross Revenue of the System into the  
21 Bond Fund shall be a lien and charge thereon equal in rank to the lien and  
22 charge upon such Gross Revenue of the amounts required to pay and secure  
23 the payment of the City's Outstanding Parity Bonds, the 2010[A/B] Bonds and  
24 any Future Parity Bonds, and superior to all other liens and charges of any kind  
25 or nature, except subject to the Operation and Maintenance Expenses of the  
26 Water System.

24 The City has further bound itself to maintain the Water System in good  
25 repair, working order and condition, to operate the same in an efficient manner  
26 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



1 same shall become due, Net Revenue in an amount at least equal to the  
2 Coverage Requirement. The City hereby covenants that it will perform all the  
3 covenants of this Bond and of the Bond Ordinance, and reference is hereby  
4 made to the Bond Ordinance for a complete statement of such covenants.

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

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

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

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

21 This Bond is transferable only on the records maintained by the Bond  
22 Registrar for that purpose upon the surrender of this Bond by the Registered  
23 Owner or his or her duly authorized agent and only if endorsed in the manner  
24 provided hereon, and a new fully registered Bond of like principal amount,  
25 maturity, and interest rate shall be issued to the transferee in exchange. Such  
26 exchange or transfer shall be without cost to the Registered Owner or  
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 15<sup>th</sup> 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



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performed and that the issuance of this bond and the bonds of this series does 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 \_\_\_\_\_, 2010.

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 [and Refunding] Bonds, 2010[A/B (Taxable Build America Bonds – Direct Payment)] of the City of Tacoma, Washington, dated \_\_\_\_\_, 2010, 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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18  
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  
25 agent for the Bonds, and to carry out all of the Bond Registrar's powers and  
26



1 duties under this ordinance and Ordinance No. 22999, establishing a system of  
2 registration for the City's bonds and obligations.

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

12 Section 13. Continuing Disclosure.

13 13.1 Contract/Undertaking. To meet the requirements of United States  
14 Securities and Exchange Commission ("SEC") Rule 15c2-12(b)(5) (the "Rule"),  
15 as applicable to a participating underwriter for the Bonds, the City makes the  
16 following written undertaking (the "Undertaking") for the benefit of holders of the  
17 Bonds:  
18

19 (a) Financial Statements/Operating Data. The City agrees to  
20 provide, or cause to be provided, either directly or through a designated agent,  
21 to the MSRB as designated by the SEC in accordance with the Rule, in  
22 electronic format as prescribed by the MSRB, accompanied by identifying  
23 information as prescribed by the MSRB, the following annual financial  
24 information and operating data for the prior fiscal year (commencing in 2011 for  
25 the fiscal year ended December 31, 2010):  
26



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

6 (ii) Principal amount of outstanding Parity Bonds and  
7 debt service coverage;

8 (iii) Water rates; and

9 (iv) Number of customers and water sales.  
10

11 The information and data described above shall be provided on or before  
12 nine months after the end of the City's fiscal year. The City's current fiscal year  
13 ends December 31. The City may adjust such fiscal year by providing written  
14 notice of the change of fiscal year to the MSRB. Such information may be  
15 provided in a single or multiple documents, and may be incorporated by specific  
16 reference to documents available to the public on the Internet website of the  
17 MSRB or filed with the SEC.  
18

19 If not provided as part of the annual financial information discussed  
20 above, the City shall provide the City's audited annual financial statement  
21 prepared in accordance with the Budget Accounting and Reporting System  
22 prescribed by the Washington State Auditor, pursuant to RCW 43.09.200 (or  
23 any successor statute) when and if available to the MSRB.  
24

25 (b) Material Events. The City agrees to provide or cause to be  
26 provided, in a timely manner, to the MSRB notice of the occurrence of any of



1 the following events with respect to the Bonds (as currently defined below or as  
2 redefined by MSRB in the future), if material:

3 (i) Principal and interest payment delinquencies;

4 (ii) Non payment related defaults;

5 (iii) Unscheduled draws on debt service reserves

6 reflecting financial difficulties;

7 (iv) Unscheduled draws on credit enhancements

8 reflecting financial difficulties;

9 (v) Substitution of credit or liquidity providers, or their

10 failure to perform;

11 (vi) Adverse tax opinions or events affecting the tax

12 exempt status of the Bonds, if applicable;

13 (vii) Modifications to the rights of Bond owners;

14 (viii) Bond calls (optional, contingent, or unscheduled

15 Bond calls other than scheduled sinking fund redemptions for which notice is  
16 given pursuant to Exchange Act Release 34 23856);

17 (ix) Defeasances;

18 (x) Release, substitution, or sale of property securing

19 repayment of the Bonds; and

20 (xi) Rating changes.

21 (c) Notification Upon Failure to Provide Financial Data. The

22 City agrees to provide, or cause to be provided, in a timely manner, to the  
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1 MSRB notice of its failure to provide the annual financial information described  
2 in Subsection (b) above on or prior to the date set forth in Subsection (b) above.

3 (d) Amendment of Undertaking. The Undertaking is subject to  
4 amendment after the primary offering of the Bonds without the consent of any  
5 holder of any Bond, or of any broker, dealer, municipal securities dealer,  
6 participating underwriter, rating agency or the MSRB, under the circumstances  
7 and in the manner permitted by the Rule.

8 The City will give notice to the MSRB of the substance (or provide a  
9 copy) of any amendment to the Undertaking and a brief statement of the  
10 reasons for the amendment. If the amendment changes the type of annual  
11 financial information to be provided, the annual financial information containing  
12 the amended financial information will include a narrative explanation of the  
13 effect of that change on the type of information to be provided.

14 (e) Beneficiaries. The Undertaking evidenced by this section  
15 shall inure to the benefit of the City and any owners and beneficial owners of  
16 Bonds, and shall not inure to the benefit of or create any rights in any other  
17 person.  
18

19 (f) Termination of Undertaking. The City's obligations under  
20 this Undertaking shall terminate upon the legal defeasance of all of the Bonds.  
21 In addition, the City's obligations under this Undertaking shall terminate if those  
22 provisions of the Rule which require the City to comply with this Undertaking  
23 become legally inapplicable in respect of the Bonds for any reason, as  
24 confirmed by an opinion of nationally recognized bond counsel or other counsel  
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1 familiar with federal securities laws delivered to the City, and the City provides  
2 timely notice of such termination to the MSRB.

3 (g) Remedy for Failure to Comply with Undertaking. As soon  
4 as practicable after the City learns of any failure to comply with the Undertaking,  
5 the City will proceed with due diligence to cause such noncompliance to be  
6 corrected. No failure by the City or other obligated person to comply with the  
7 Undertaking shall constitute a default in respect of the Bonds. The sole remedy  
8 of any holder of a Bond shall be to take such actions as that holder deems  
9 necessary, including seeking an order of specific performance from an  
10 appropriate court, to compel the City or other obligated person to comply with  
11 the Undertaking.  
12

13 (h) Designation of Official Responsible to Administer  
14 Undertaking. The Finance Director of the City (or such other officer of the City  
15 who may in the future perform the duties of that office) or his or her designee is  
16 authorized and directed in his or her discretion to take such further actions as  
17 may be necessary, appropriate or convenient to carry out the Undertaking of  
18 the City in respect of the Bonds set forth in this section and in accordance with  
19 the Rule, including, without limitation, the following actions:  
20

21 (i) Preparing and filing the annual financial information  
22 undertaken to be provided;

23 (ii) Determining whether any event specified in  
24 Section 13.1(b) has occurred, assessing its materiality with respect to the  
25 Bonds, and, if material, preparing and disseminating notice of its occurrence;  
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(iii) Determining whether any person other than the City is an "obligated person" within the meaning of the Rule with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of material events for that person in accordance with the Rule;

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

(v) Effecting any necessary amendment of the Undertaking.

Section 14 Bond Fund. The Bond Fund has been created in the Water Division Fund, known as the Water Revenue Bond Fund, and is further divided into two accounts: the Principal and Interest Account and the Reserve Account. So long as any Parity Bonds are outstanding, the City shall set aside and pay into the Bond Fund out of the Net Revenue, certain fixed amounts without regard to any fixed proportion, namely

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



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

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

4 Except for withdrawals therefrom and payments over time as authorized  
5 herein, the Reserve Account shall be maintained at the Reserve Requirement,  
6 as it is adjusted from time to time, at all times so long as any Parity Bonds are  
7 outstanding. For the purpose of determining the amount credited to the  
8 Reserve Account, obligations in which money in the Reserve Account has been  
9 invested shall be valued at the greater of cost or accreted value.  
10

11 In the event that there shall be a deficiency in the Principal and Interest  
12 Account to meet maturing installments of either principal or interest or  
13 mandatory redemption requirements, as the case may be, that deficiency shall  
14 be made up from the Reserve Account by the withdrawal of cash or draws on  
15 the Reserve Insurance therefrom for that purpose. Any deficiency created in  
16 the Reserve Account by reason of any such withdrawal shall, within 12 months,  
17 be made up from Net Revenue available after making necessary provisions for  
18 the required payments into the Principal and Interest Account.  
19

20 The money in the Reserve Account may be applied to the payment of the  
21 last outstanding Parity Bonds payable out of the Bond Fund, except that any  
22 money in the Reserve Account (including investment earnings) in excess of the  
23 Reserve Requirement may be withdrawn and deposited in the Principal and  
24 Interest Account and spent for the purpose of retiring Parity Bonds or may be  
25 deposited in any other fund or account and spent for any other lawful Water  
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System purpose. When the total amount in the Bond Fund (including investment earnings) shall equal the total amount of principal and interest for all Parity Bonds to the last maturity thereof, no further payment need be made into the Bond Fund.

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

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

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



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

5 Once the 2001 Bonds, the 2003 Bonds and the 2005 Bonds are no  
6 longer outstanding, a supplemental ordinance may establish a separate reserve  
7 account for a series of Future Parity Bonds, in which case the Reserve Account  
8 shall not secure such Future Parity Bonds.

9 The City may create sinking fund accounts or other accounts in the Bond  
10 Fund for the payment or securing the payment of Parity Bonds, as long as the  
11 maintenance of such accounts does not conflict with the rights of the owners of  
12 such Parity Bonds.

13  
14 Section 15. Construction Fund and Deposit of Bond Proceeds. There  
15 is created in the Water Division Fund a fund known as the 2010 Water Division  
16 Construction Fund (the "Construction Fund"). The principal proceeds of the  
17 sale of the Bonds remaining after: (a) the deposit of the amount necessary to  
18 refund the Refunded Bonds into the escrow account; (b) the deposit of any  
19 proceeds as determined by the Bond Sale Resolution into the Reserve Account;  
20 and (c) the deposit to the Construction Fund of the amounts set forth in the  
21 Bond Sale Resolution, shall be deposited into the Construction Fund as  
22 determined by the Director of Utilities to be used for the purpose of paying part  
23 of the costs of carrying out the Plan of Additions and to pay for the costs of  
24 issuance of the Bonds. Money in the Construction Fund may be used to  
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1 reimburse the Water Division Fund for prior expenditures in connection with the  
2 Plan of Additions described and ordered to be carried out in Section 2. Until  
3 needed to pay such costs, the City may invest principal proceeds and interest  
4 thereon temporarily in any legal investment, and the investment earnings may  
5 be retained in the Construction Fund and be spent for the purposes of those  
6 funds or may be deposited in the Bond Fund.

7           Section 16. Rate Stabilization Account. There has previously been  
8 established in the Water Division Fund a Rate Stabilization Account. The City  
9 may, at any time, as determined by the City and as consistent with Section 20  
10 of this ordinance, deposit in the Rate Stabilization Account Gross Revenue and  
11 any other money received by the Water System and available to be used  
12 therefor, excluding principal proceeds of Parity Bonds or other borrowing. Net  
13 Revenue for a fiscal year shall not include deposits into the Rate Stabilization  
14 Account. The City may withdraw money from the Rate Stabilization Account for  
15 inclusion in the Net Revenue for any fiscal year of the Water System, except  
16 that: (a) the total amount withdrawn from the Rate Stabilization Account in any  
17 fiscal year of the Water System may not exceed the total debt service of the  
18 Water System in that year; and (b) the Net Revenue in that fiscal year,  
19 disregarding the amounts withdrawn from the Rate Stabilization Account, must  
20 equal at least 1.0 times the Annual Debt Service that year on all Parity Bonds.  
21 Such deposits or withdrawals may be made up to and including the date  
22 90 days after the end of the fiscal year for which the deposit or withdrawal will  
23 be included as Net Revenue for that fiscal year.  
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1 Earnings from investments in the Rate Stabilization Account shall be  
2 deposited in that fund or another Water System fund and shall not be included  
3 as Net Revenue unless and until withdrawn from that fund as provided herein.

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

7 Section 17. Finding as to Sufficiency of Gross Revenue. The City finds  
8 that the Gross Revenue and benefits to be derived from the operation and  
9 maintenance of the Water System of the City at the rates to be charged for  
10 water and other services and commodities from the Water System will be more  
11 than sufficient to meet all Operation and Maintenance Expenses and to permit  
12 the setting aside into the Bond Fund out of the Gross Revenue of amounts  
13 sufficient to pay the principal of and interest on the Bonds and any mandatory  
14 redemption requirements when due. The City further declares that in creating  
15 the Bond Fund and in fixing the amounts to be paid into the Bond Fund it has  
16 exercised due regard for Operation and Maintenance Expenses, and the City  
17 has not bound and obligated itself to set aside and pay into the Bond Fund a  
18 greater amount or proportion of the Gross Revenue than in the judgment of the  
19 City will be available over and above the Operation and Maintenance  
20 Expenses.  
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23 Section 18. Pledge of Net Revenue and Lien Position. The Net  
24 Revenue of the Water System and all money and investments held in the Bond  
25 Fund, the Rate Stabilization Account, and the Construction Fund (except money  
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1 and investments held in a separate fund or account created for the purpose of  
2 compliance with rebate requirements under the Code), is pledged to the  
3 payment of the Parity Bonds and to make payments into the Reserve Account  
4 required by this ordinance, the Parity Bond Authorizing Ordinances and the  
5 Bond Sale Resolution, and this pledge shall constitute a lien and charge upon  
6 the Net Revenue prior and superior to any other charges whatsoever.

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

9 19.1 Operation and Maintenance. It will at all times maintain, preserve,  
10 and keep the properties of the Water System in good repair, working order, and  
11 condition; will make all necessary and proper additions, betterments, renewals,  
12 and repairs thereto, and improvements, replacements, and extensions thereof;  
13 and will at all times operate or cause to be operated the properties of the Water  
14 System and the business in connection therewith in an efficient manner and at  
15 a reasonable cost.  
16

17 19.2 Establishment and Collection of Rates and Charges and Other  
18 Covenants. It will establish, maintain, and collect rates and charges for  
19 services and facilities provided by the Water System which will be fair and  
20 equitable, and will adjust those rates and charges from time to time so that:  
21

22 (a) The Gross Revenue will be sufficient to: (A) pay all  
23 Operation and Maintenance Expenses; (B) pay when due all amounts that the  
24 City is obligated to pay into the Bond Fund and the accounts therein; and  
25 (C) pay all taxes, assessments, or other governmental charges lawfully  
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1 imposed on the Water System or the revenue therefrom or payments in lieu  
2 thereof and any and all other amounts which the City may now or hereafter  
3 become obligated to pay from the Gross Revenue by law or contract; and

4 (b) The Net Revenue of the Water System in each fiscal year  
5 of the Water System will be at least equal to the Coverage Requirement; and

6 (c) The failure of the City to comply with subparagraphs (a)  
7 and (b) of this Section 19.2 shall not be an Event of Default as defined in  
8 Section 29 of this ordinance if the City promptly retains an Independent  
9 Consulting Engineer or, once the Outstanding Parity Bonds are no longer  
10 Outstanding, an independent certified public accountant, to recommend to the  
11 City Council adjustments in the rates of the Water System necessary to meet  
12 the requirements of those subparagraphs and if the City Council adopts the  
13 recommended modifications within 180 days of the date the failure become  
14 known to the City Council.  
15

16 (d) Sale, Transfer, or Disposition of the Water System. It will  
17 sell, transfer, or otherwise dispose of any of the works, plant, properties,  
18 facilities, or other part of the Water System or any real or personal property  
19 comprising a part of the Water System only upon approval by ordinance and  
20 only consistent with one or more of the following:  
21

22 (i) The City may exchange any of the works, plant,  
23 properties, facilities, or other part of the Water System for works, plant,  
24 properties, or facilities of substantially the same type, use and value; or  
25  
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1 (ii) The City, in its discretion, may carry out such a sale,  
2 transfer, or disposition (each, as used in this subparagraph, a "transfer") if the  
3 facilities or property transferred are not material to the operation of the Water  
4 System, or shall have become unserviceable, inadequate, obsolete or unfit to  
5 be used in the operation of the Water System or are no longer necessary,  
6 material, or useful to the operation of the Water System; or

7 (iii) The City, in its discretion, may carry out such a  
8 transfer if the aggregate depreciated cost value of the facilities or property being  
9 transferred under this subparagraph (iii) in any fiscal year of the Water System  
10 comprises no more than three percent of the total assets of the Water System;  
11 or  
12

13 (iv) The City may sell, lease, mortgage, or otherwise  
14 dispose of the Water System, including all additions to and betterments and  
15 extensions thereof at any time made, that are used, useful, or material in the  
16 operation of the Water System, if provision is made for the replacement thereof  
17 or if the City receives from the purchaser or transferee an amount equal to or  
18 greater than the greatest of the following:  
19

20 (A) An amount which will be in the same  
21 proportion to the net amount of Parity Bonds then outstanding (defined as the  
22 total amount of the Parity Bonds less the amount of cash and investments in the  
23 Bond Fund and accounts therein) that the Gross Revenue of the Water System  
24 from the portion of the Water System sold or disposed of for the preceding year  
25 bears to the total Gross Revenue of the Water System for that period;  
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(B) An amount which will be in the same proportion to the net amount of Parity Bonds then outstanding (as defined above) that the Net Revenue from the portion of the Water System sold or disposed of for the preceding year bears to the total Net Revenue of the Water System for such period; or

(C) An amount which will be in the same proportion to the net amount of Parity Bonds then outstanding (as defined above) that the depreciated cost value of the portion of the Water System sold or disposed of bears to the depreciated cost value of the entire Water System immediately prior to such sale or disposition.

The amount required to be paid to the City under this paragraph may be reduced by any "equity credits" or similar amounts based on prior capital contributions or other payments to the City which, under any contract between the City and the purchaser or transferee, are allowed as a setoff against the purchase or transfer price that would otherwise be payable to the City.

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



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

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

(g) Books and Accounts. It will keep proper books, records, and accounts with respect to the operations, income, and expenditures of the Water System in accordance with generally accepted accounting practices relating to municipal utilities and any applicable rules and regulations prescribed by the State, and will cause those books, records, and accounts to be audited on an annual basis by the State Auditor and/or Independent Auditor (or, if such audit is not made by the State Auditor within 270 days after the close of any fiscal year of the Water System, by a certified public accountant selected by the City). It will prepare annual financial and operating statements as soon as



1 practicable after the close of each fiscal year of the Water System showing in  
2 reasonable detail the financial condition of the Water System as of the close of  
3 the previous year, and the income and expenses for such year, including the  
4 amounts paid into the Bond Fund and into any and all special funds or accounts  
5 created pursuant to the provisions of this ordinance, the status of all funds and  
6 accounts as of the end of such year, and the amounts expended for  
7 maintenance, renewals, replacements, and capital additions to the Water  
8 System. Such statements shall be sent to the owner of any Parity Bonds upon  
9 written request therefor being made to the City. The City may charge a  
10 reasonable cost for providing such financial statements.  
11

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

16 (i) Maintenance of Insurance. It at all times will carry fire and  
17 extended coverage, public liability and property damage and such other forms  
18 of insurance with responsible insurers and with policies payable to the City on  
19 such of the buildings, equipment, works, plants, facilities and properties of the  
20 Water System as are ordinarily carried by municipal or privately owned utilities  
21 engaged in the operation of like systems, and against such claims for damages  
22 as are ordinarily carried by municipal or privately owned utilities engaged in the  
23 operation of like systems, or it will self insure or will participate in an insurance  
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1 pool or pools with reserves adequate, in the reasonable judgment of the City, to  
2 protect the Water System and the owners of the Parity Bonds against loss.

3 (j) Condemnation Awards and Insurance Proceeds. If the City  
4 receives any condemnation awards or proceeds of an insurance policy in  
5 connection with any loss of or damage to any property of the Water System, it  
6 shall apply the condemnation award or insurance proceeds, in the City's sole  
7 discretion, either: (A) to the cost of replacing or repairing the lost or damaged  
8 properties; (B) to the payment, purchase or redemption of Parity Bonds; or  
9 (C) to the cost of improvements to the Water System.  
10

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

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

15 (b) To pay interest on Parity Bonds and net payments on  
16 Parity Payment Agreements when due;

17 (c) To pay the principal of Parity Bonds as it comes due at  
18 maturity or as the principal is required to be paid pursuant to mandatory  
19 redemption requirements applicable to Term Bonds, and to make payments due  
20 under any reimbursement agreement with a Bond Insurer which agreement  
21 requires those payments to be treated on a parity of lien with the Parity Bonds;  
22

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

4 (e) To make all payments required to be made into any  
5 revenue bond, note, warrant, or other revenue obligation redemption fund, debt  
6 service account, or reserve account created to pay or secure the payment of  
7 the principal of and interest on any revenue bonds, notes, warrants, or other  
8 obligations of the City having a lien upon the revenue of the Water System  
9 junior and inferior to the lien thereon for the payment of the principal of and  
10 interest on the Parity Bonds, including the Public Works Trust Fund loans; and  
11

12 (f) To retire by redemption or purchase in the open market any  
13 outstanding revenue bonds or other revenue obligations of the Water System;  
14 to make necessary additional betterments, improvements, and repairs to or  
15 extensions and replacements of the Water System; to make deposits into the  
16 Rate Stabilization Account; or for any other lawful Water System purposes,  
17 including payment of gross earnings taxes to the City's General Fund.  
18

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

23 Section 21. Provisions for Future Parity Bonds. The City reserves the  
24 right to issue Future Parity Bonds and to enter into Parity Payment Agreements  
25 for purposes of the Water System or to refund a portion of the Parity Bonds if  
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1 the following conditions are met and complied with at the time of the issuance of  
2 those Future Parity Bonds or entering into the Parity Payment Agreement:

3 (a) There shall be no deficiency in the Bond Fund and no  
4 Event of Default as defined in Section 29 shall have occurred and be  
5 continuing.

6 (b) The Parity Bond Authorizing Ordinance shall provide that  
7 all assessments and interest thereon that may be levied in any utility local  
8 improvement district created for the purpose of paying, in whole or in part, the  
9 principal of and interest on those Future Parity Bonds, shall be paid directly into  
10 the Bond Fund, except for any prepaid assessments permitted by law to be paid  
11 into a construction fund or account.  
12

13 (c) The Parity Bond Authorizing Ordinance shall provide for the  
14 payment of the principal thereof and interest thereon out of the Bond Fund.

15 (d) The Parity Bond Authorizing Ordinance shall provide for the  
16 payment of amounts into the Bond Fund to meet mandatory redemption  
17 requirements applicable to any Term Bonds to be issued and for regular  
18 payments to be made for the payment of the principal of such Term Bonds on  
19 or before their maturity, or, as an alternative, the mandatory redemption of  
20 those Term Bonds prior to their maturity date from money in the Principal and  
21 Interest Account.  
22

23 (e) The Parity Bond Authorizing Ordinance shall provide for the  
24 deposit into the Reserve Account of: (i) an amount, if any, necessary to fund  
25 the Reserve Requirement upon the issuance of those Future Parity Bonds from  
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1 Future Parity Bond proceeds or other money legally available; or (ii) Reserve  
2 Insurance or an amount plus Reserve Insurance necessary to fund the Reserve  
3 Requirement upon the issuance of those Future Parity Bonds; or (iii) amounts  
4 necessary to fund the Reserve Requirement from Net Revenue within five years  
5 from the date of issuance of those Future Parity Bonds, in five approximately  
6 equal annual payments.

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

8 (i) A certificate of the Finance Director demonstrating  
9 that during any 12 consecutive calendar months out of the immediately  
10 preceding 24 calendar months Net Revenue was at least equal to 1.25 times  
11 the projected Maximum Annual Debt Service for all Parity Bonds including the  
12 Future Parity Bonds proposed to be issued; or

13 (ii) A certificate of an Independent Consulting Engineer  
14 or, once the Outstanding Parity Bonds are no longer Outstanding, an  
15 independent certified public accountant, that, in his or her opinion, the Net  
16 Revenue will be at least equal to 1.25 times the projected Average Annual Debt  
17 Service for all Parity Bonds including the Future Parity Bonds proposed to be  
18 issued. In providing that certificate, the Independent Consulting Engineer, or  
19 independent certified public accountant, may take into account the following  
20 adjustments:  
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23 (A) Any changes in rates in effect and being  
24 charged, or rates expected to be charged in accordance with a program of  
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1 specific rates, rate levels, or increases in overall rate revenue approved by  
2 ordinance or resolution;

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

8 (C) The Independent Consulting Engineer's, or  
9 independent certified public account's, estimate of customers anticipated to be  
10 served by facilities or improvements financed in substantial part by those Future  
11 Parity Bonds (or additional Parity Bonds expected to be issued during the five-  
12 year period); and

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

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19 If the Future Parity Bonds proposed to be issued are for the sole purpose  
20 of refunding outstanding bonds payable from the Bond Fund, no such coverage  
21 certification shall be required if the Annual Debt Service on the Parity Bonds  
22 after the issuance of the Future Parity Bonds is not, for any year in which Parity  
23 Bonds are outstanding, more than \$5,000 over the Annual Debt Service on the  
24 Parity Bonds prior to the issuance of those Future Parity Bonds.  
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1 Nothing contained herein shall prevent the City from issuing Future  
2 Parity Bonds to refund maturing Parity Bonds, money for the payment of which  
3 is not otherwise available, or revenue bonds that are a charge or lien upon the  
4 Gross Revenue subordinate to the charge or lien of the Parity Bonds, or from  
5 pledging the payment of utility local improvement district assessments into a  
6 bond redemption fund created for the payment of the principal of and interest on  
7 those junior lien bonds as long as such utility local improvement district  
8 assessments are levied for improvements constructed from the proceeds of  
9 those junior lien bonds.  
10

11 Section 22. Reimbursement Obligations. If the City elects to meet the  
12 Reserve Requirement or any portion thereof through the use of Reserve  
13 Insurance or elects to secure any issue of Parity Bonds through the use of Bond  
14 Insurance, the City may contract with the entity providing such Reserve  
15 Insurance or Bond Insurance to the effect that the City's reimbursement  
16 obligation, if any, to such entity ranks on a parity of lien with the Parity Bonds.  
17

18 Section 23. Separate Utility Systems. The City may create, acquire,  
19 construct, finance, own, and operate one or more additional systems for water  
20 supply, transmission, treatment, or other commodity or service. The Regional  
21 System has been created as a separate system. The revenue of any separate  
22 utility system shall not be included in the Gross Revenue of the Water System  
23 and may be pledged to the payment of revenue obligations issued to purchase,  
24 construct, condemn, or otherwise acquire or expand the separate utility system.  
25 Neither the Gross Revenue nor the Net Revenue of the Water System shall be  
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1 pledged by the City to the payment of any obligations of a separate utility  
2 system except: (a) as a Contract Resource Obligation upon compliance with  
3 Section 24; and/or (b) with respect to the Net Revenue, on a basis subordinate  
4 to the lien of the Parity Bonds on that Net Revenue.

5 Section 24. Contract Resource Obligations. The City may at any time  
6 enter into one or more contracts or other obligations for the acquisition, from  
7 facilities to be constructed, of water supply, transmission, treatment, or other  
8 commodity or service relating to the Water System. The City's obligation with  
9 respect to the Regional System is a Contract Resource Obligation. The City  
10 may determine that such contract or other obligation is a Contract Resource  
11 Obligation, and may provide that all payments under that Contract Resource  
12 Obligation (including payments prior to the time that water supply, transmission,  
13 treatment or other commodity or service is being provided, or during a  
14 suspension or after termination of supply or service) shall be Operation and  
15 Maintenance Expenses if the following requirements are met at the time such  
16 Contract Resource Obligation is entered into:  
17

18 (a) No Event of Default as defined in Section 29 of this  
19 ordinance has occurred and is continuing.  
20

21 (b) There shall be on file a certificate of an Independent  
22 Consulting Engineer or, once the Outstanding Parity Bonds are no longer  
23 Outstanding, an independent certified public accountant, stating that: (i) the  
24 payments to be made by the City in connection with the Contract Resource  
25 Obligation are reasonable for the supply, transmission, treatment, or other  
26



1 service rendered; (ii) the source of any new supply, and any facilities to be  
2 constructed to provide the supply, transmission, treatment, or other service, are  
3 sound from a water or other commodity supply or transmission planning  
4 standpoint, are technically and economically feasible in accordance with  
5 prudent utility practice, and are likely to provide supply or transmission or other  
6 service no later than a date set forth in the Independent Consulting Engineer's,  
7 or independent certified public accountant's, certification; and (iii) the Net  
8 Revenue (further adjusted by the Independent Consulting Engineer's, or  
9 independent certified public accountant's, estimate of the payments to be made  
10 in accordance with the Contract Resource Obligation) for the five fiscal years  
11 following the year in which the Contract Resource Obligation is incurred, as  
12 such Net Revenue is estimated by the Independent Consulting Engineer, or  
13 independent certified public accountant (with such estimate based on such  
14 factors as he or she considers reasonable), will be at least equal to the  
15 Coverage Requirement.  
16

17  
18         Payments required to be made under Contract Resource Obligations  
19 shall not be subject to acceleration.

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

5 Section 25 Tax Covenants.

6 25.1 Preservation of Tax Exemption on Bonds. The City covenants  
7 that it will take all actions necessary to prevent interest on any series of Bonds  
8 issued as tax-exempt obligations from being included in gross income for  
9 federal income tax purposes, and it will neither take any action nor make or  
10 permit any use of proceeds of such series of Bonds or other funds of the City  
11 treated as proceeds of such series of Bonds at any time during the term of such  
12 series of Bonds which will cause interest on such series of Bonds to be included  
13 in gross income for federal income tax purposes. The City also covenants that  
14 it will, to the extent the arbitrage rebate requirement of Section 148 of the Code,  
15 is applicable to any series of Bonds, take all actions necessary to comply (or to  
16 be treated as having complied) with that requirement in connection with such  
17 series of Bonds, including the calculation and payment of any penalties that the  
18 City has elected to pay as an alternative to calculating rebatable arbitrage, and  
19 the payment of any other penalties if required under Section 148 of the Code to  
20 prevent interest on such series of Bonds from being included in gross income  
21 for federal income tax purposes.  
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25 25.2 Designation of Bonds as "Build America Bonds." The City also  
26 covenants that it will not take or permit to be taken on its behalf any action that



1 would adversely affect the entitlement of the City to receive from the United  
2 States Treasury the applicable federal direct payments in respect of any series  
3 of Bonds sold and issued as Build America Bonds. Without limiting the  
4 generality of the foregoing, the City will comply with the provisions of the Code  
5 compliance with which would result in the interest of Build America Bonds being  
6 excluded from gross income for federal tax purposes but for the City's  
7 irrevocable election to have Section 54AA of the Code apply to such Bonds.

8           25.3 Refunding or Defeasance of Bonds. The City may issue refunding  
9 bonds pursuant to the laws of the State or use money available from any other  
10 lawful source to pay the principal of and interest on the Bonds, or such portion  
11 thereof included in a refunding or defeasance plan, as the same become due  
12 and payable and to redeem and retire, release, refund, or defease the Bonds  
13 (the "Defeased Bonds") and to pay the costs of such refunding or defeasance.  
14 In the event that money and/or Government Obligations sufficient in amount,  
15 together with known earned income from the investments thereof, to redeem  
16 and retire, release, refund, or defease the defeased Bonds in accordance with  
17 their terms, are set aside irrevocably in a special fund for and pledged  
18 irrevocably to such redemption, retirement, or defeasance (the "trust account"),  
19 then all right and interest of the owners of the defeased Bonds in the covenants  
20 of this ordinance and in the Net Revenue and the funds and accounts pledged  
21 to the payment of such defeased Bonds, other than the right to receive the  
22 funds so set aside and pledged, thereafter shall cease and become void. Such  
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1 owners thereafter shall have the right to receive payment of the principal of and  
2 interest or redemption price on the defeased Bonds from the trust account.

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

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

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19 Section 26. Provisions for Sale. The Finance Director may provide for  
20 the sale of the Bonds by public sale or by a negotiated sale with the  
21 underwriters chosen through a selection process determined by the Finance  
22 Director. The terms of that sale shall be consistent with this ordinance and  
23 confirmed by the Bond Sale Resolution. The Bonds will be delivered to the  
24 purchasers as provided in the Bond Sale Resolution immediately upon payment  
25 to the City of the purchase price plus accrued interest to the date of closing in  
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1 immediately available federal funds in Seattle, Washington, or at another time  
2 or place upon which the Finance Director and the purchasers may mutually  
3 agree.

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

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

14 Section 27. Approval of Preliminary Official Statement. For the  
15 purposes of the underwriter's compliance with Securities and Exchange  
16 Commission Rule 15c2-12(b)(1), the Finance Director and Superintendent of  
17 the Water Division or their designees are authorized to "deem final" the  
18 preliminary official statement prepared in connection with the sale of the Bonds,  
19 as of its date, except for the omission of information as to offering prices,  
20 interest rates, selling compensation, aggregate principal amount, principal  
21 amount per maturity, maturity dates, options of redemption, delivery dates,  
22 ratings, and other terms of the Bonds dependent on such matters. The Finance  
23 Director and Superintendent of the Water Division, or their designees, are  
24 further authorized to approve and execute the final official statement.  
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Section 28. Amendatory and Supplemental Ordinances.

1  
2 28.1 This ordinance shall not be modified or amended in any respect  
3 subsequent to the initial issuance of the Bonds, except as provided in and in  
4 accordance with and subject to the provisions of this section.

5 28.2 Modification without Bondholder Consent. The City, from time to  
6 time, and at any time, without the consent of or notice to the registered owners  
7 of the Bonds, may pass supplemental or amendatory ordinances as follows:

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

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

16 (iii) To add to the covenants and agreements of, and  
17 limitations and restrictions upon, the City in this ordinance, other covenants,  
18 agreements, limitations, and restrictions to be observed by the City which are  
19 not contrary or inconsistent with this ordinance as theretofore in effect;

20 (iv) To confirm, as further assurance, any pledge under,  
21 and the subjection to any claim, lien, or pledge created or to be created by this  
22 ordinance of any other money, securities, or funds;

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

6 (vi) To modify, alter, amend, or supplement this  
7 ordinance in any other respect which is not materially adverse to the registered  
8 owners of the Parity Bonds and which does not involve a change described in  
9 Section 28.3;

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

13 (viii) To add to the covenants and agreements of, and  
14 limitations and restrictions upon, the City in this ordinance, other covenants,  
15 agreements, limitations, and restrictions to be observed by the City which are  
16 requested by a Bond Insurer or provider of Reserve Insurance and which are  
17 not materially adverse to the registered owners of the Parity Bonds.  
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19  
20 Before the City shall adopt any such supplemental ordinance pursuant to  
21 this subsection, there shall have been delivered to the City and the Bond  
22 Registrar an opinion of Bond Counsel, stating that such supplemental ordinance  
23 is authorized or permitted by this ordinance and, upon the execution and  
24 delivery thereof, will be valid and binding upon the City in accordance with its  
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1 terms and will not adversely affect the exclusion from gross income for federal  
2 income tax purposes of interest on the tax-exempt Bonds.

3           28.3 Modification with Bondholder Consent.

4           (a) Except for any supplemental ordinance entered into  
5 pursuant to Section 28.2, subject to the terms and provisions contained in this  
6 Section 28.3 and not otherwise, registered owners of not less than 60% in  
7 aggregate principal amount of the Parity Bonds shall have the right from time to  
8 time to consent to and approve the passage by the City of any supplemental  
9 ordinance deemed necessary or desirable by the City for the purpose of  
10 modifying, altering, amending, supplementing, or rescinding, in any particular,  
11 any of the terms or provisions contained in this ordinance; except that, unless  
12 approved in writing by the registered owners of all Parity Bonds, nothing  
13 contained in this section shall permit, or be construed as permitting:

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

19                           (ii) A preference of priority of any Parity Bond or Bonds  
20 or any other bond or bonds; or

21                           (iii) A reduction in the aggregate principal amount of  
22 Parity Bonds, the consent of the registered owners of Parity Bonds of which is  
23 required for any such supplemental ordinance.  
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1 (b) If, at any time, the City shall pass any supplemental  
2 ordinance for any of the purposes of this Section 28.3, the Bond Registrar shall  
3 cause notice of the proposed supplemental ordinance to be given by first-class  
4 United States mail to all registered owners of the Parity Bonds, to any Bond  
5 Insurer, and to the Rating Agencies if the Bonds are rated by those agencies.  
6 Such notice shall briefly set forth the nature of the proposed supplemental  
7 ordinance and shall state that a copy thereof is on file at the office of the Bond  
8 Registrar for inspection by all registered owners of the Parity Bonds.

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

18 (d) If registered owners of not less than the percentage of  
19 Parity Bonds required by this Section 28.3 shall have consented to and  
20 approved the execution and delivery thereof as herein provided, no owner of  
21 the Parity Bonds shall have any right to object to the passage of such  
22 supplemental ordinance, or to object to any of the terms and provisions  
23 contained therein or the operation thereof, or in any manner to question the  
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1 propriety of the passage thereof, or to enjoin or restrain the City or the Bond  
2 Registrar from passing the same or from taking any action pursuant to the  
3 provisions thereof.

4           28.4 Upon the execution and delivery of any supplemental ordinance  
5 pursuant to the provisions of this Section 28, this ordinance shall be, and be  
6 deemed to be, modified and amended in accordance therewith, and the  
7 respective rights, duties, and obligations under this ordinance of the City, the  
8 Bond Registrar and all registered owners of Parity Bonds, shall thereafter be  
9 determined, exercised and enforced under this ordinance subject in all respects  
10 to such modifications and amendments.

12           Section 29. Defaults and Remedies.

13           29.1 Events of Default. The following shall constitute "Events of  
14 Default" with respect to the Bonds.

15           (a) If a default is made in the payment of the principal of or  
16 interest on any of the Bonds when the same shall become due and payable. If  
17 the City defaults in the observance and performance of any other of the  
18 covenants, conditions, and agreements on the part of the City set forth in this  
19 ordinance or any covenants, conditions, or agreements on the part of the City  
20 contained in any Parity Bond Authorizing Ordinance and such default or  
21 defaults have continued for a period of six months after the City has received  
22 from the Bondowners' Trustee (as defined below) or from the registered owners  
23 of not less than 25% in principal amount of the Parity Bonds, a written notice  
24 specifying and demanding the cure of such default. However, if the default in  
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1 the observance and performance of any other of the covenants, conditions, and  
2 agreements is one which cannot be completely remedied within the six months  
3 after written notice has been given, it shall not be an Event of Default with  
4 respect to the Bonds as long as the City has taken active steps within the  
5 six months after written notice has been given to remedy the default and is  
6 diligently pursuing such remedy.

7 (b) If the City files a petition in bankruptcy or is placed in  
8 receivership under any state or federal bankruptcy or insolvency law.

9  
10 29.2 Bondowners' Trustee. So long as such Event of Default has not  
11 been remedied, a bondowners' trustee (the "Bondowners' Trustee") may be  
12 appointed by the registered owners of 25% in principal amount of the Parity  
13 Bonds, by an instrument or concurrent instruments in writing signed and  
14 acknowledged by such registered owners of the Parity Bonds or by their  
15 attorneys in fact duly authorized and delivered to such Bondowners' Trustee,  
16 notification thereof being given to the City. That appointment shall become  
17 effective immediately upon acceptance thereof by the Bondowners' Trustee.

18 Any Bondowners' Trustee appointed under the provisions of this Section 29.2  
19 shall be a bank or trust company organized under the laws of the State of  
20 Washington, the State of New York, or a national banking association. The  
21 bank or trust company acting as Bondowners' Trustee may be removed at any  
22 time, and a successor Bondowners' Trustee may be appointed, by the  
23 registered owners of a majority in principal amount of the Parity Bonds, by an  
24 instrument or concurrent instruments in writing signed and acknowledged by  
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1 such registered owners of the Bonds or by their attorneys-in-fact duly  
2 authorized. The Bondowners' Trustee may require such security and indemnity  
3 as may be reasonable against the costs, expenses, and liabilities that may be  
4 incurred in the performance of its duties. In the event that any Event of Default  
5 in the sole judgment of the Bondowners' Trustee is cured and the Bondowners'  
6 Trustee furnishes to the City a certificate so stating, that Event of Default shall  
7 be conclusively deemed to be cured and the City, the Bondowners' Trustee and  
8 the registered owners of the Parity Bonds shall be restored to the same rights  
9 and position which they would have held if no Event of Default had occurred.  
10

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

15 30.3 Suits at Law or in Equity. Upon the happening of an Event of  
16 Default and during the continuance thereof, the Bondowners' Trustee may, and  
17 upon the written request of the registered owners of not less than 25% in  
18 principal amount of the Parity Bonds outstanding shall, take such steps and  
19 institute such suits, actions, or other proceedings, all as it may deem  
20 appropriate for the protection and enforcement of the rights of the registered  
21 owners of the Parity Bonds, to collect any amounts due and owing to or from  
22 the City, or to obtain other appropriate relief, and may enforce the specific  
23 performance of any covenant, agreement, or condition contained in this  
24 ordinance or in any of the Parity Bonds.  
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1 Nothing contained in this Section 29 shall, in any event or under any  
2 circumstance, be deemed to authorize the acceleration of maturity of principal  
3 on the Parity Bonds, and the remedy of acceleration is expressly denied to the  
4 registered owners of the Parity Bonds under any circumstances including,  
5 without limitation, upon the occurrence and continuance of an Event of Default.

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

7           29.3 Application of Money Collected by Bondowners' Trustee. Any  
8 money collected by the Bondowners' Trustee, at any time pursuant to this  
9 Section 29, shall be applied in the following order of priority:  
10

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

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

21           (c) Third, to the payment to the persons entitled thereto of the  
22 unpaid principal amounts of any Parity Bonds which shall have become due  
23 (other than Parity Bonds previously called for redemption for the payment of  
24 which money is held pursuant to the provisions hereto), whether at maturity or  
25 by proceedings for redemption or otherwise, in the order of their due dates and,  
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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.

29.4 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.

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



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

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

11 29.5 Suits by Individual Bondowners Restricted. Neither the registered  
12 owner nor the beneficial owner of any one or more of Parity Bonds shall have  
13 any right to institute any action, suit, or proceeding at law or in equity for the  
14 enforcement of same unless:

15 (a) An Event of Default has happened and is continuing;  
16 (b) A Bondowners' Trustee has been appointed;  
17 (c) Such owner previously shall have given to the Bondowners'  
18 Trustee written notice of the Event of Default on account of which such suit,  
19 action, or proceeding is to be instituted;

21 (d) The registered owners of 25% in principal amount of the  
22 Parity Bonds, after the occurrence of such Event of Default, have made written  
23 request of the Bondowners' Trustee and have afforded the Bondowners'  
24 Trustee a reasonable opportunity to institute such suit, action, or proceeding;  
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1 (e) There have been offered to the Bondowners' Trustee  
2 security and indemnity satisfactory to it against the costs, expenses, and  
3 liabilities to be incurred therein or thereby; and

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

6 No registered owner or beneficial owner of any Parity Bond shall have  
7 any right in any manner whatever by his action to affect or impair the obligation  
8 of the City to pay from the Net Revenue the principal of and interest on such  
9 Parity Bonds to the respective owners thereof when due.  
10

11 29.6 Payment Solely From Net Revenue and Certain Funds. Nothing  
12 in this Section 29 shall be deemed to require payment to Bondowners from any  
13 source other than the Net Revenue and money and investments in the funds  
14 pledged in Section 18 of this ordinance.

15 Section 30. Payment Agreements and Parity Payment Agreements.

16 30.1 Calculation of Debt Service on Parity Bonds With Respect to  
17 Which a Payment Agreement Is in Force. Debt service on Parity Bonds with  
18 respect to which a Payment Agreement is in force shall be calculated based on  
19 the net economic effect on the City expected to be produced by the terms of the  
20 Parity Bonds and the terms of the Payment Agreement, including, but not  
21 limited to, the effects that: (a) Parity Bonds that would, but for a Payment  
22 Agreement, be treated as obligations bearing interest at a Variable Interest  
23 Rate instead shall be treated as obligations bearing interest at a fixed interest  
24 rate; and (b) Parity Bonds that would, but for a Payment Agreement, be treated  
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1 as obligations bearing interest at a fixed interest rate instead shall be treated as  
2 obligations bearing interest at a Variable Interest Rate. Accordingly, the  
3 amount of interest deemed to be payable on any Parity Bonds with respect to  
4 which a Payment Agreement is in force shall be an amount equal to the amount  
5 of interest that would be payable at the rate or rates stated in those Parity  
6 Bonds plus Payment Agreement Payments minus Payment Agreement  
7 Receipts. For the purposes of calculating as nearly as practicable Payment  
8 Agreement Receipts and Payment Agreement Payments, under a Payment  
9 Agreement that includes a variable rate component determined by reference to  
10 a pricing mechanism or index that is not the same as the pricing mechanism or  
11 index used to determine the variable rate interest component on the Parity  
12 Bonds to which the Payment Agreement is related, it shall be assumed that the  
13 fixed rate used in calculating Payment Agreement Payments will be equal to  
14 105% of the fixed rate specified by the Payment Agreement and that the pricing  
15 mechanism or index specified by the Payment Agreement is the same as the  
16 pricing mechanism or index specified by the Parity Bonds.  
17  
18

19 30.2 Debt Service on Parity Payment Agreements. No additional debt  
20 service shall be taken into account with respect to a Parity Payment Agreement  
21 for any period during which Payment Agreement Payments on that Parity  
22 Payment Agreement are taken into account in determining Annual Debt Service  
23 on related Parity Bonds under Section 31.1. However, for any period during  
24 which Payment Agreement Payments are not taken into account in calculating  
25 Annual Debt Service on any outstanding Parity Bonds because the Parity  
26



1 Payment Agreement is not then related to any outstanding Parity Bonds, debt  
2 service on that Parity Payment Agreement shall be taken into account by  
3 assuming:

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

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

23 Section 31. Ratification of Prior Acts. Any action taken consistent with  
24 the authority and prior to the effective date of this ordinance is ratified,  
25 approved, and confirmed.  
26



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Section 32. Effective Date of Ordinance. This ordinance shall take effect and be in force 10 days from and after its publication.


INTRODUCED AND READ FOR THE FIRST TIME at a regular meeting of the City Council held the 13<sup>th</sup> day of July, 2010.

PASSED by the City Council of the City of Tacoma, Washington, and authenticated by its Mayor at a regular meeting of the Council held this 20<sup>th</sup> day of July, 2010.

Passed July 20, 2010

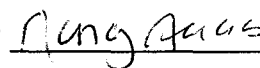
  
Mayor

Attest:

  
City Clerk

Approved as to form and legality:

FOSTER PEPPER PLLC  
Bond Counsel to the City of Tacoma

By 

Requested by Public Utility Board  
Resolution No. U-10394



CLERK'S CERTIFICATE

1  
2 I, the undersigned, the duly chosen, qualified City Clerk of the City of  
3 Tacoma, Washington, and keeper of the records of the City Council (herein called  
4 the "Council"), DO HEREBY CERTIFY:

5 1. That the attached Ordinance No. 27902 (herein called the  
6 "Ordinance") is a true and correct copy of an Ordinance of the Council, as finally  
7 passed at a regular meeting of the Council held on the 20<sup>th</sup> day of July,  
8 2010 and duly recorded in my office.

9  
10 2. That said meeting was duly convened and held in all respects in  
11 accordance with law, and to the extent required by law, due and proper notice of  
12 such meeting was given; that a legal quorum was present throughout the meeting  
13 and a legally sufficient number of members of the Council voted in the proper  
14 manner for the passage of said Ordinance; that all other requirements and  
15 proceedings incident to the proper adoption of said Ordinance have been duly  
16 fulfilled, carried out and otherwise observed, and that I am authorized to execute  
17 this certificate.  
18

19 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the  
20 official seal of the City as of this 22<sup>nd</sup> day of July, 2010.  
21

22 Doris Sorum  
23 City Clerk  
24 City of Tacoma, Washington  
25  
26



June 18, 2010

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

### **Proposed Water System Revenue Bonds, 2010**

#### **Request**

On August 10, 2010, the Public Utility Board and City Council will be asked to approve the sale of the City of Tacoma, Washington, Department of Public Utilities, Water Division, Water System Revenue Bonds, 2010, in an amount not to exceed \$120,000,000. The purpose of this bond issue is to provide funds for capital improvements to and extensions of the existing Water system and to fund the Tacoma Water System's financial obligation for the Phase I Filtration Project expenses. The estimated 2011/2012 capital improvement cost to be funded through this bond issue is \$40,536,000. The Filtration Project will be funded through two phases with Phase I providing funding for projected spending through 2013 and Phase II providing funding for the remaining project costs. The 2010 bond sizing for the Tacoma Water System share of the Phase I filtration Project cost is estimated to be \$33,675,300. The Regional Water Supply System through an accompanying bond ordinance will be responsible for the remaining costs for the filtration project. The 2010 bond sizing also includes the amount of \$31,615,000 for refunding of Tacoma Water 2001 bonds, if interest rates at the time of the sale result in a net present value savings of 5% in accordance with City policy.

#### **Background**

The Water Division last issued debt in October 2009 to provide funds for 2009/2010 capital improvements to the water system and to repay the System Development Fund which provided interim financing for 2007/2008 capital improvement projects. The Division now proposes to issue water system revenue bonds to fund portions of the 2011/2012 capital improvement program and the Tacoma Water System's Phase I obligation for the Filtration Project. The 2009 bonds were sold as taxable Build America Bonds through a negotiated sale process. The Build America Bonds were authorized by the American Reinvestment and Recovery Plan (ARRA) with the IRS providing to the issuer a rebate of 35% of each interest payment due. The result is that rates are significantly lower than if traditional tax-exempt bonds are sold. Tacoma Water is proposing a modification to past practice with the 2010 bonds being issued before the 2011/2012 capital budget has been approved. Favorable interest rates and the availability of Build America Bonds could provide a significant savings opportunity of \$1.4 million by issuing in August 2010 rather than December 2011.

#### **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-August 2010. 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 August 10, 2010, 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 (August 10, 2010) 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, August 10, 2010.

**Proposed Structure**

Our current estimated amount of the issue size is \$116,000,000. Major contributors to the proposed issuance include:

- \* \$33,675,300 that will fund the Tacoma Water obligation for the Filtration Project
- \* \$40,536,000 that will fund the 2011/2012 capital projects
- \* \$31,615,000 refunding of Tacoma Water 2001 Bonds, in accordance with City policy
- \* Approximately \$10,000,000 for debt service reserve accounts, costs of issuance and contingency funds.

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

Approved:



Bill Gaines  
Director of Utilities/CEO



REQUEST FOR
xx [X] ORDINANCE [ ] RESOLUTION

Request #: 12642
Ord./Res. #: 27902

RECEIVED

1. DATE: June 18, 2010

JUN 25 2010

CITY CLERK'S OFFICE

2. SPONSORED BY: COUNCIL MEMBER(S)

Form with sections 3a, 3b, 3c, 4a, 4b, 4c containing request details, contact information, and signatures.

5. REQUESTED COUNCIL DATE: JULY 13, 2010

To allow for an August 10, 2010 bond sale date.

Rey Arellano, Deputy City Manager & CIO

(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.)

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 \$120,000,000.

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 Water Division 2010 water system revenue bonds will fund Tacoma Water's financial obligation for Phase I of Filtration Project expenses. In addition, the bonds will fund a portion of Tacoma Water's proposed 2011/2012 capital projects.



Request #: 12642  
 Ord/Res #: 27902

**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:** Tacoma Water      **CONTACT PERSON/PHONE:** Linda McCrea, 502 8245      **OMBA CONSULTANT/PHONE:**

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 2010 Bond Construction Fund		To be determined	To be determined	Not to exceed \$120 million
<b>TOTAL</b>				

\* 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 2010 Bond Construction Fund			24XXXXX Wtr Sys Rev Bd 10	Not to exceed \$120 million
<b>TOTAL</b>				

**Notes:** The Fund and account 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 #:	12642
Ord/Res #:	27902

**LONG-TERM FINANCIAL IMPACT OF LEGISLATION:**

SPENDING PLAN & BUDGET	2009	2010	2011	2012	2013	TOTAL
Salaries/Benefits						
Start-up						
On-going						
Maintenance & Operations						
Capital		30 million	30 million	60 million		
<b>TOTAL</b>						

FUNDING SOURCE	2009	2010	2011	2012	2013	2014-2034
Ongoing Debt Service Principal						120 million
<b>TOTAL</b>						

**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]

Ordinance No. 27902

First Reading of Ordinance: JUL 13 2010

Final Reading of Ordinance: JUL 20 2010

Passed: JUL 20 2010

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Mr. Boe	α			
Mr. Campbell	α			
Mr. Fey	α			
Mr. Lonergan	α			
Mr. Manthou	α			
Mr. Mello	α			
Ms. Walker				α
Ms. Woodards	α			
Mayor Strickland	α			

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Mr. Boe				
Mr. Campbell				
Mr. Fey				
Mr. Lonergan				
Mr. Manthou				
Mr. Mello				
Ms. Walker				
Ms. Woodards				
Mayor Strickland				