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6 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
7 **IN AND FOR PIERCE COUNTY**

8 PORT OF TACOMA, a Washington State
9 Municipal Corporation, ECONOMIC
10 DEVELOPMENT BOARD FOR TACOMA-
11 PIERCE COUNTY, a Washington State Non-
12 profit Corporation, and the TACOMA-
13 PIERCE COUNTY CHAMBER, a Washington
14 State Non-profit corporation.

15 Plaintiffs,

16 vs.

17 SAVE TACOMA WATER, a Washington
18 political committee, DONNA WALTERS,
19 sponsor and Treasurer of SAVE TACOMA
20 WATER, JON AND JANE DOES 1-5,
21 (Individual sponsors and officers of SAVE
22 TACOMA WATER), CITY OF TACOMA, a
23 Washington State Municipal Corporation,
24 and JULIE ANDERSON, IN HER CAPACITY
25 AS PIERCE COUNTY AUDITOR

Defendants.

No.

**COMPLAINT FOR
DECLARATORY JUDGMENT
& INJUNCTIVE RELIEF**

19 **I. INTRODUCTION**

20 1. On or around March 7, 2016, Defendants SAVE TACOMA WATER, a
21 Washington political action committee, DONNA WALTERS, sponsor and Treasurer of

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1 SAVE TACOMA WATER, and JON AND JANE DOES (Individual sponsors and officers
2 of SAVE TACOMA WATER) 1-5 (collectively “STW”) submitted what became “Charter
3 Amendment 5” (“Charter Initiative”). See Copy **Attachment A**. The Charter Initiative 5
4 seeks that any land use proposal requiring water consumption of 1336 CCF (one million
5 gallons) of water or more daily from Tacoma be submitted to a public vote prior to “the
6 City” “providing water service” for such a project. (Section 4.24 (A)). STW’s Charter
7 Initiative expressly purports to elevate its proposed Charter amendment above state law,
8 by pronouncing that “all laws adopted by the legislature of the State of Washington, and
9 rules adopted by any state agency, shall be the law of the City of Tacoma only to the
10 extent that they do not violate the rights or mandates of this Article. (Section 4.24 (B)).
11 STW’s Charter Initiative expressly also purports to overrule and/or disavow the United
12 States Constitution, along with “international, federal [and] state laws” that “interfere”
13 with the proposed amendment. (Section 4.24 (C)). STW’s Charter Initiative further
14 expressly purports to curtail the jurisdiction of state and federal courts, and to eliminate
15 certain rights of corporations, in conflict with the Washington and Federal
16 Constitutions, as well as U.S. Supreme Court rulings. STW apparently seeks all of these
17 results by proclamations sought to be contained in the Tacoma City Charter.

18 2. On or around April 15, 2016, STW submitted what became “Initiative 6”
19 (“Code Initiative”). STW’s Code Initiative seeks to amend the City of Tacoma Municipal
20 Code Title 12 to require that any proposal which will use 1336 CCF (one million gallons)
21 of water or more daily from Tacoma be submitted to a public vote prior to “the City”

22 “providing water service” for such a project. The Code Initiative repeats all the same

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defective provisions of the Charter Initiative, which conflict with the US and Washington Constitutions and state and federal law.

3. The Plaintiffs Port of Tacoma (“Port”), Economic Development Board for Tacoma-Pierce County (“EDB”) and the Tacoma-Pierce County Chamber (“Chamber”) seek a declaration that both the Charter Initiative and Code Initiative are beyond the proper scope of the local initiative power, and seek injunctive relief.

4. Local initiatives are limited in permissible scope.

5. The City of Tacoma's Charter provides that the "initiative shall be exercised ... in accordance with the general laws of the state." *Tacoma Charter* 2.19.

6. Local initiatives that exceed the scope of the initiative power of a city in any manner are invalid and should not be placed on the ballot. Pre-election challenges to the scope of the initiative power are both permissible and appropriate.

7. STW’s proposed Charter and Code Initiatives are beyond the scope of local initiative power for one or more of the following reasons:

- a. STW’s Charter and Code Initiatives invalidly attempt to administer a proprietary function of Tacoma, which exceeds the scope of initiative powers.
- b. STW’s Charter and Code Initiatives improperly attempt to oversee and classify utility customers which delve into an expressly legislative matter and thus exceed the valid scope of initiative powers.
- c. The operation of Tacoma City utilities exceeds the scope of initiative power given to the electorate.

- 1 d. STW's Charter and Code Initiatives are flatly inconsistent with the plain terms
2 of Tacoma's Charter. Tacoma's Charter delegates the power to operate its
3 water utility to the Tacoma Public Utility ("TPU") Board. *Tacoma Charter*
4 4.10.
- 5 e. STW's Charter and Code Initiatives fail because their provisions are directly
6 contrary to the water rights system established by the State.
- 7 f. STW's Charter and Code Initiatives conflict with Washington law that holds
8 zoning and development matters are not subject to initiative power.
- 9 g. STW's Initiatives impermissibly seek to interfere with Tacoma's role as a
10 regional water service provider, which role extends beyond the territorial
11 jurisdiction of the City of Tacoma.
- 12 h. STW's Initiatives impermissibly seek to transfer grants of property rights from
13 Tacoma's water utility to the "people".
- 14 i. STW's Initiatives are an invalid attempt to interfere with the authority vested
15 in the Tacoma City Council to control Tacoma's budget.
- 16 j. STW's Initiatives conflict with state law by attempting to apportion between
17 classes of utility users.
- 18 k. STW's Initiatives seek to strip the legal rights of any corporation that
19 "violates" the "rights" sought to be established in Tacoma's Charter and Code
20 by these Initiatives, which directly conflicts with the US and Washington state
21 Constitutions and the United States Supreme Court's ruling in *Citizens United*

1 Ed. 2d 753 (2010), which held corporations have rights under the federal
2 constitution.

3 l. STW's Initiatives must be invalidated because they expressly and
4 impermissibly purport to disavow such superior law as state laws, state rules,
5 federal laws, the United States Constitution, and the Washington State
6 Constitution.

7 m. STW's Initiatives are wholly invalid and cannot be severed, salvaged, or
8 salvaged in part.

9 8. The Plaintiffs seek resolution of these legal issues in accordance with the
10 Washington State Supreme Court ruling in *Philadelphia II v. Gregoire*, 128 Wash.2d
11 707 (1996), which held that the proper method for resolving whether a proposed local
12 initiative exceeds the scope of local initiative power as seeking a judicial determination
13 under Washington's Uniform Declaratory Judgment Act, RCW Ch. 7.24, before the
14 County Auditor validates signatures and or places the matters on a ballot.

15 9. The Court should declare the Charter and Code Initiatives invalid and
16 enjoin the County Auditor from (a) validating Petition signatures and (b) from placing
17 the Initiatives on the 2016 November general election ballot.

18 II. PARTIES, JURISDICTION AND VENUE

19 10. Plaintiff Port is a special purpose public port district organized under the
20 laws of the State of Washington. The Port has a legislative mandate to foster economic
21 development in Tacoma and Pierce County. The Port has standing to challenge

22 Defendants' Charter and Code Initiatives because the Port also is owner of land both

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1 within and outside of Tacoma city limits. A critical segment of the Port's state
2 mandated mission, use of tax dollars and business is to lease lands to tenants, which
3 tenants can and do include industrial entities that may and do use over one million
4 gallons of water a day.

5 11. More than 29,000 jobs are generated by Port activity, which also provides
6 \$195 million per year in state and local taxes to support education, roads and police and
7 fire protection for our community. [Port Economic Impact Study, 2014]. The Tacoma-
8 Puyallup Industrial Subarea's 21,300 jobs make up 4 percent of the Puget Sound
9 Region's industrial employment. [PSRC Industrial Lands Analysis, 2015]. These jobs
10 pay an average \$80,000 a year. [PSRC Industrial Lands Analysis, 2015].

11 12. The state legislatively-mandated mission of the Port will be adversely
12 affected by the passage of the Charter Initiative and Code Initiatives which, if adopted,
13 would interfere with Tacoma's administration of its longstanding program to provide
14 necessary water service to industrial and commercial users throughout Pierce County.

15 13. Plaintiff EDB is a nonprofit Washington corporation headquartered in
16 Tacoma, Washington. The EDB receives funding by its member investors, including
17 businesses, individuals, municipalities, and other governmental entities. The EDB's
18 mission is to retain, expand and recruit primary company jobs in, to, and within
19 Tacoma-Pierce County. To accomplish its mission and annual work plan, the EDB
20 actively engages in public advocacy, business and economic development, physical
21 improvement projects, public safety, beautification, and marketing programs. Each of

22 these programs is intended to ensure the continued success of Tacoma and Pierce

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County's economic vibrancy. The EDB's member investors have pledged approximately \$500,000 toward the EDB's five-year work plan, which necessarily includes active engagement of elected officials, as well as businesses and industrial entities that may use over one million gallons of water a day. The EDB and its member investors have interests they are seeking to protect that are within the zone of interests (determination of water availability and interests) that the proposed Initiatives seek to protect or regulate. Moreover, the EDB and its member investors would suffer economic impact and injury should the Initiatives pass and serve to restrict the EDB's funded work plan to recruit, expand, and retain primary company jobs in Tacoma-Pierce County. Further, individual members of the EDB include Tacoma residents who are eligible to vote.¹ As such, the EDB has standing to challenge the Initiatives because the mission of the EDB and the economic interests of its member investors would be adversely affected by the passage of legislation in any form which interferes with Tacoma's administration of its longstanding program to provide necessary water service to industrial and commercial users throughout Pierce County.

14. Plaintiff Chamber is a nonprofit Washington corporation headquartered in Tacoma, Washington. The Chamber serves as a Tacoma/ Pierce County economic advocate, and strives to lead the way to exceptional business and community growth. It is dedicated to enhancing the quality and economic vitality of Tacoma and Pierce

¹ *Mukilteo Citizens for Simple Government v. City of Mukilteo*, 174 Wn.2d 41, 46, 272 P.3d 227 (2012), finding that an association of city residents had standing to challenge a proposed initiative because the individual members had standing as "Mukilteo residents who are eligible to vote."

County. The Chamber is involved in public advocacy, business and economic development, physical improvement projects, public safety, beautification, and marketing programs, all of which contribute to building a prosperous community. Each of these programs is intended to ensure the continued success of Tacoma and Pierce County's economic vibrancy, growth and prosperity. The Chamber's membership includes individuals and businesses throughout the City of Tacoma and Pierce County and the surrounding area. On behalf of its membership, the Chamber engages elected officials, (including elected members of the Tacoma City government and candidates for elected office) and promotes efforts to attract and support investment in Tacoma and Pierce County, which can include industrial entities that may use over one million gallons of water a day. Further, individual members of the Chamber include Tacoma residents who are eligible to vote.² The mission of the Chamber would be adversely affected by the passage of legislation which interferes with Tacoma's administration of its longstanding program to provide necessary water service throughout Pierce County.

15. Even in the unlikely event that the Court finds that one or more Plaintiffs lack standing, the Court should still address the issues raised in the matter because the issues of the validity of the two local initiatives involve significant importance that merit judicial resolution. *American Traffic Solutions, Inc., v. The City of Bellingham et al*, *Washington Campaign For Liberty et al* , 163 Wn. App. 427; 260 P.3d 245;(2011), see also *See Farris v. Munro*, 99 Wn.2d 326, 330, 662 P.2d 821 (1983)

² *Id.*

1 (addressing challenge to state lottery even though plaintiff lacked standing); *see also*
2 *Wash. Natural Gas Co. v. Pub. Util. Dist. No. 1 of Snohomish County*, 77 Wn.2d 94,
3 96, 459 P.2d 633 (1969).

4 16. Defendant SAVE TACOMA WATER by information and belief is a political
5 action committee, listing an address of 5020 South Asotin, Tacoma, WA 98408 on its
6 Washington state Political Committee Registration. STW claims to exist for the sole
7 purpose of advocating Tacoma Initiative No. 1 for the 2016 election year.³

8 17. Defendant Donna Walters is listed as the “sponsor” and “treasurer” of
9 SAVE TACOMA WATER.

10 18. Defendants Jon and Jane Does 1-5⁴ are the officers and/or responsible
11 leaders connected to the political committee SAVE TACOMA WATER. Under
12 Washington law, initiative drafters and sponsors are proper defendants in
13 challenges to the scope of an initiative.

14 19. This Court has personal jurisdiction over Defendants STW, Donna Walters
15 and Jon and Jane Does 1-5 because these Defendants have registered as a Washington
16 state Political Committee, or as Officer or Manager thereof and/or maintain offices and
17 transact business in Pierce County, and seek results within Pierce County.

18
19 ³ STW claims in its PDC Registration to handle less than \$5,000. (“No more than \$5,000 will be raised
or spent and no more than \$500 in the aggregate will be accepted from any one contributor”).

20 ⁴ State law requires SAVE TACOMA WATER to register with the Public Disclosure Commission, and
21 nominate “The names, addresses, and titles of its officers; or if it has no officers, the names, addresses,
and titles of its responsible leaders....” RCW 42.17A.025(9)(c). Plaintiffs may seek to name additional
Jon and Jane Doe defendants meeting the description set forth in RCW 42.17A.0255, as those persons
become known.

20. Defendant Tacoma is a first class charter city and a municipal corporation organized and existing under the laws of the State of Washington and does business in Pierce County, Washington.

21. Tacoma must be named as a defendant because a challenge concerning the local initiative power necessarily involves the issues of the City's authority to consider and enact legislation that conflicts with federal and state laws, and Tacoma's own Charter.

22. This Court has personal jurisdiction over Tacoma because Tacoma maintains offices and transacts business in the State of Washington.

23. Defendant Julie Anderson, in her capacity as Pierce County Auditor, must be named as a defendant because the local initiative process involves the County Auditor. Defendant Pierce County Auditor Anderson is responsible for certifying the Initiatives for the election ballots. RCW § 35.09.020 requires the Auditor take certain actions with regards to a petition for a city charter amendment petition. RCW § 35A.29.170 requires the Auditor take certain actions with regards to a petition for a city ordinance initiative petition.

24. This Court has jurisdiction over the Pierce County Auditor because the Auditor maintains offices and transacts business in Pierce County, Washington.

25. Because Plaintiffs seek a determination of the validity of the Charter and Code Initiatives, the Court has subject matter jurisdiction over this matter under RCW 7.24 et seq.

26. The Court's grant of declaratory and injunctive relief to (1) declare the
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1 Initiatives invalid and out outside the lawful scope of local initiative powers, and (2)
2 to enjoin the Auditor's time, work and expense in validating petition signatures and
3 (3) to enjoin the Auditor from placing the Initiatives on the November 2016 ballot
4 and (4) enjoining the Defendant City of Tacoma from placing the Ordinance
5 Initiative before the City Council for consideration and from submitting the
6 proposal to the people at any municipal or general election will directly redress the
7 harms caused by the Initiatives.

8 27. Venue is proper in Pierce County pursuant to RCW 4.12.020.

9 **III. BACKGROUND FACTS**

10 28. The City of Tacoma ("Tacoma") is a first class, charter city organized and
11 operating under Title 35 RCW and the Tacoma City Charter.⁵

12 29. Tacoma has operated a municipal water system for over one hundred
13 twenty three years.⁶ Under the Tacoma City Charter, Tacoma Water is a
14 regional water utility established in the City's Department of Public Utilities.

15 30. Tacoma has a lengthy history of administering the supply of water to
16 commercial, manufacturing, technological and industrial consumers.

18 ⁵ "A first class city is a city with a population of 10,000 or more at the time of organization or
19 reorganization that has adopted a charter". RCW 35.01.010, 35.22.010. "The form of the organization
20 and the manner and mode in which cities of the first class shall exercise the powers, functions and
21 duties conferred upon them by law, with respect to their own government, shall be as provided in the
22 charters thereof". RCW 35.22.020.

23 ⁶ *Griffin v. Tacoma*, 49 Wn. 524, 526-7, 95 P. 1107 (1908) ("Under the terms of Ordinance No. 790 the
24 electors of the city [of Tacoma] did hold an election in 1893 to determine, among other things, whether
25 the city should purchase of the Tacoma Light and Water Company its water works and all sources of
water supply then owned or operated by said company as part of its water system..").

1 31. Tacoma's Charter, Section 2.19, includes a citizen initiative process⁷.

2 32. The Defendants STW and/or the individual officers or sponsors of STW
3 named as Defendants have attempted several times to file initiative petitions seeking in
4 one way or another, to have the Tacoma City Council enact an ordinance for Tacoma
5 Municipal Code amendments entitled "Large Water Use Ordinance", "The People's

6 _____
7 ⁷ Section 2.19 – Citizens of Tacoma may by initiative petition ask the voters to approve or reject
8 ordinances or amendments to existing ordinances, subject to any limitation on topics in state law, by the
9 following process:

10 (a) The petitioners shall file an Initiative Petition with the City Clerk.

11 (b) The City Clerk shall forward the petition to the City Attorney within one (1) working day of receipt.

12 (c) Within ten (10) working days of receipt, the City Attorney shall review the petition and make contact
13 with the petitioner as necessary, and if the petition is proper in terms of form and style, the City
14 Attorney will write a concise, true, and impartial statement of the purpose of the measure, not to exceed
15 the number of words as allowed under state law for local initiatives. The statement will be phrased in
16 the form of a positive question.

17 (d) The City Attorney shall file this concise statement with the City Clerk as the official ballot title.

18 (e) The City Clerk shall assign an initiative number to the ballot title and notify the petitioner that the
19 ballot title becomes final and signature gathering may begin in ten (10) working days if there is no
20 judicial review. Notification of the ballot title shall be posted at City Hall and on the City's web page.

21 (f) Persons dissatisfied with the ballot title prepared by the City Attorney may seek judicial review by
22 petitioning the Pierce County Superior Court within ten (10) working days of the notification of the
23 ballot title having been posted as required under (e). The Court shall endeavor to promptly review the
24 statements and render a decision as expeditiously as possible. The decision of the Court is final.

25 (g) Petitions must include the final, approved ballot title, initiative number, the full text of the
ordinance, or amendment to existing ordinance, that the petitioners seek to refer to the voters, and all
other text and warnings required by state law.

(h) Petitioners have one hundred and eighty (180) calendar days to collect signatures from registered
voters.

(i) The number of valid signatures shall be equal to ten percent (10%) of the votes cast in the last
election for the office of Mayor.

(j) The City Clerk shall forward the signatures to the County Auditor to be verified. Based on the
Auditor's review, the City Clerk shall determine the validity of the petition. If the petition is validated,
the City Council may enact or reject the Initiative, but shall not modify it. If it rejects the Initiative or
within thirty (30) calendar days fails to take final action on it, the City Council shall submit the proposal
to the people at the next Municipal or General Election that is not less than ninety (90) days after the
date on which the signatures on the petition are validated.

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1 Right to Water Protection Ordinance”, “The People’s Right to Water Protection
2 Amendment” or have the Tacoma City Council amend the Tacoma City Charter, or
3 submit measures to a vote of the residents of Tacoma.

4 33. Upon knowledge and belief, STW is presently circulating for signatures
5 two active Initiative Petitions in Tacoma.

6 34. On or around March 7, 2016, STW filed an Initiative to have the City
7 Council enact the changes to the Tacoma City Charter. **Attachment A.**

8 35. On or around March 17, 2016, the Tacoma City Clerk published the
9 Initiative No. 5 Ballot Title, which finalized the Charter Initiative. Upon knowledge and
10 belief, STW commenced signature gathering for the Charter Initiative shortly
11 thereafter.

12 36. On or around April 15, 2016, STW filed an Initiative to require Tacoma to
13 put to the voters amendments to the Tacoma Municipal Code Title 12. **Attachment B.**

14 37. On or around April 25, 2016, the Tacoma City Clerk published the
15 Initiative No. 6 Ballot Title, which finalized the Code Initiative. Upon knowledge and
16 belief, STW commenced signature gathering for the Code Initiative shortly thereafter.

17 **IV. THE INITIATIVES EXCEED VALID LOCAL INITIATIVE**
18 **POWER**

19 38. State Statute Authorizes Local Initiatives. First class charter cities such
20 as Tacoma are authorized by state statute to provide in their charter "for direct
21 legislation by the people through the initiative and referendum upon any matter
22 within the scope of the powers, functions, or duties of the city." RCW 35.22.200.

39. Tacoma's Charter Authorizes Local Initiatives, Subject to State Law. The City of Tacoma's Charter provides that the power of "initiative shall be exercised ... in accordance with the general laws of the state." Tacoma City Charter Section 2.19.

40. Local Initiatives are Limited in Permissible Scope. Cities may not adopt local initiatives that exceed the City's authority to legislate. For example, cities may not adopt local initiatives that purport to create local laws conflicting with the United States or Washington constitutions, or with other state or federal laws. Similarly, cities may not adopt local initiatives involving powers delegated by the Washington legislature to a city council or other local board, rather than the city itself. In addition, cities may not adopt local initiatives that are administrative, rather than legislative, in nature.

41. Invalid Initiatives Should Not Appear on the Ballot. Local initiatives that exceed the scope of the initiative power of a city in any manner are invalid and should not be placed on the ballot.

42. Pre-Election Challenges To The Scope Of The Initiative Power Are Both Permissible And Appropriate. Courts generally refrain from reviewing the validity of a proposed law, including an initiative or referendum, before it has been enacted. *Coppernoll v. Reed*, 155 Wash.2d 290, 297, 119 P.3d 318 (2005); *see also Futurewise v. Reed*, 161 Wash.2d 407, 410, 166 P.3d 708 (2007). But, "It is well established, however, that a pre-election challenge to the scope of the initiative power is both permissible and appropriate". *Am. Traffic Sols., Inc. v. City of Bellingham*, 163

Wn.App. 427, at 432, 260 P.3d 245 (Div. 1, 2011), *review denied*, 173 Wn.2d 1029;

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1 *citing Futurewise*, 161 Wn.2d at 411; *Coppernoll*, 155 Wash.2d at 299, 119 P.3d 318;
2 *City of Sequim v. Malkasian*, 157 Wash.2d 251, 255, 138 P.3d 943 (2006).

3 V. CLAIMS

4 43. STW's proposed Charter and Code Initiatives are beyond the scope of local
5 initiative power for one or more of the following reasons:

6 A. STW's Charter and Code Initiatives invalidly attempt to administer a
7 proprietary function of Tacoma, which exceeds the scope of local initiative powers.
8 Initiatives may validly address only legislative subjects. An administrative subject falls
9 outside the scope of the local initiative power in a charter city. Washington State's
10 Supreme Court has held that the operation of the municipal water system vests in the
11 city's legislature as a proprietary administrative function. *City of Port Angeles v. Our*
12 *Water-Our Choice*, 145 Wn. App. 869, 188 P.3d 533 (Div. 2, 2008). Washington's
13 Supreme Court has long held that setting water rates for the city's utility also constitutes
14 "administrative" action. *State ex rel. Haas v. Pomeroy*, 50 Wn.2d 23, 28, 308 P.2d 684
15 (1957), and not a governmental function. The operation of the Tacoma City water
16 system, including the authority to contract to provide for water service and what
17 quantities and by what means, are all administrative functions. These functions are
18 beyond the scope of local initiative powers.

19 B. STW's Charter and Code Initiatives improperly attempt to oversee and
20 classify utility customers which delve into an expressly legislative matter and exceed the
21 valid scope of local initiative powers. Even if, for argument, the law deemed operation

22 of the Tacoma City water system a legislative matter, Washington's state laws vest

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1 operation of the City water system in the Tacoma City Council. For a matter to be
2 subject to petition and initiative, the legislative power sought to be exercised must be
3 expressly delegated by the legislature to “the city” and not to the “legislative body” or
4 “legislature” of the city. “An initiative is beyond the scope of the initiative power if the
5 initiative involves powers granted by the legislature to the governing body of a city,
6 rather than the city itself.” *Am. Traffic Sols., Inc. v. City of Bellingham*, 163 Wn. App.
7 427, 433, 260 P.3d 245 (Div. 1, 2011), review denied 173 Wn.2d 1029. State law
8 specifically vests the right to operate City utilities in the legislative authority of the City,
9 via the City Council. The Initiatives in this case attempt to thwart the legislative purpose
10 of “classifying customers served or service furnished” as embedded in RCW 35.92.010⁸.
11 The attempt by STW’s Charter and Code Initiatives to classify utility customers thus
12 delves into an expressly legislative matter and exceeds the scope of local initiative

13 ⁸ A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain and
14 operate waterworks, including fire hydrants as an integral utility service incorporated within general
15 rates, within or without its limits, for the purpose of furnishing the city and its inhabitants, and any
16 other persons, with an ample supply of water for all purposes, public and private, including water power
17 and other power derived therefrom, with full power to regulate and control the use, distribution, and
price thereof: PROVIDED, That the rates charged must be uniform for the same class of customers or
service. Such waterworks may include facilities for the generation of electricity as a by-product and such
electricity may be used by the city or town or sold to an entity authorized by law to distribute electricity.
Such electricity is a by-product when the electrical generation is subordinate to the primary purpose of
water supply.

18 **In classifying customers served or service furnished, the city or town governing body may**
19 **in its discretion consider any or all of the following factors:** The difference in cost of service to
20 the various customers; location of the various customers within and without the city or town; the
21 difference in cost of maintenance, operation, repair, and replacement of the various parts of the system;
the different character of the service furnished various customers; the quantity and quality of the water
furnished; the time of its use; the achievement of water conservation goals and the discouragement of
wasteful water use practices; capital contributions made to the system including, but not limited to,
assessments; and any other matters which present a reasonable difference as a ground for distinction.
No rate shall be charged that is less than the cost of the water and service to the class of customers
served.

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1 powers. The operation of Tacoma City utilities falls outside the scope of local initiative
2 power given to the electorate.

3 C. STW's Charter and Code Initiatives are flatly inconsistent with the plain
4 terms of Tacoma's Charter. Tacoma's Charter delegates the power to operate its water
5 utility to the Tacoma Public Utility ("TPU") Board. *Tacoma Charter* 4.10: "The Public
6 Utility Board, subject only to the limitations imposed by this charter and the laws of
7 this state, shall have full power to construct, condemn and purchase, acquire, add to,
8 maintain, and operate the electric, water, and belt line railway utility systems". An
9 ordinance that requires a vote of the people in order to operate certain aspects of the
10 water system would usurp the TPU Board's authority. The subject Initiatives which
11 attempt to direct a public vote on certain aspects of the operation of Tacoma's water
12 system are flatly inconsistent with the plain terms of Tacoma's Charter.

13 D. STW's Charter and Code Initiatives fail because their provisions are
14 directly contrary to the water rights system established by the State. These local
15 Initiatives that purport to allow a public vote on whether to grant or deny water service
16 with in TPU's water service area conflict with State law. TPU has a legal obligation
17 under state laws (RCW 80.28.110, 80.04.010, 80.04.380, and 80.04.385) to serve
18 water demand within its service territories, and to acquire supplies and develop
19 facilities (if necessary) to do so. The proposed local Initiatives includes
20 pronouncements that go beyond the scope of Tacoma's city limits, affecting hundreds
21 if not thousands of customers outside the Tacoma City limits, which STW concedes:

22 "Residents of Tacoma, Fife, Milton, Kent, Covington, Lakewood, Bonney Lake, Federal
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23 & INJUNCTIVE RELIEF --17 of 27

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Way, the Muckleshoot and Puyallup Reservations and portions of Auburn and Des Moines are dependent on fresh water from Tacoma Public Utility....” Initiative Petitions, **Attachments A & B.** “While the inhabitants of a municipality may enact legislation governing local affairs, they cannot enact legislation which conflicts with state law”. *Seattle Bldg. & Constr. Trades Council v. Seattle*, 94 Wn.2d 740, 747, 620 P.2d 82 (1980); *citing* Wash. Const. Art. 11 § 10.

E. STW’s Charter and Code Initiatives conflict with Washington law that holds zoning and development matters are not subject to initiative power. The local Initiatives are an indirect attempt to assert initiative powers over what is essentially a zoning/permitting decision over certain types of water users which use one million gallons of water or more. Tacoma’s TMC Chapter 13 *Land Use Regulatory Code* establishes comprehensive planning and policies under the terms of the State Growth Management Act and other applicable federal, state, regional and local mandates.

Tacoma also is the lead agency and responsible official conducting the State Environmental Policy Act (SEPA) review for most Tacoma developments. Any issues involving water and power supply will be addressed in Tacoma’s permitting and SEPA process. Public comments and discussion on those issues will be dealt with in that SEPA process. TPU works with Tacoma to provide information and analysis on those issues related to TPU utility services.

Washington's general law grants and limits the zoning power to the legislative body of charter cities as well as code cities". *Lince v. Bremerton*, 25 Wn. App. 309,

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311, 607 P.2d 329 (Div. 2, 1980). Both zoning and platting power are delegated to the legislative body and, therefore, initiative is not permitted in those areas. See RCW 35.63.110 and RCW 58.17.070. "The initiative law and the zoning law are hopelessly inconsistent and in conflict as to the manner of the preparation and adoption of a zoning ordinance". *Lince* at 25 Wn. App. at 313 (quoting *Hurst v. Burlingame*, 207 Cal. 134, 141, 277 P. 308, 311 (1929)). *Save Our State Park v. Bd. of Clallam Cty. Comm'Rs*, 74 Wash. App. 637, 645-46, 875 P.2d 673, 678 (1994). STW's Initiatives are an indirect attempt to assert local initiative powers over what is essentially are zoning/permitting decisions, and as such are beyond the valid scope of local initiative powers.

F. STW's Initiatives Impermissibly Seek to Regulate Matters Beyond the Territorial Jurisdiction of the City of Tacoma. STW's attempt through the local Initiatives to regulate the authority of Tacoma to provide water service also exceeds local initiative power because the water resources extend far beyond the borders and jurisdiction of the City of Tacoma to serve millions of people in different cities and throughout the County and State. The local Initiatives' reach would extend far beyond the City of Tacoma boundaries because TPU's water service area extends beyond city borders and would affect hundreds if not thousands of people in the non-Tacoma areas that depend on these resources. Tacoma cannot validly be compelled through local initiative to enact regulations that limit the rights of other jurisdictions to access Tacoma's water service.

1 G. STW's Initiatives impermissibly seek to transfer grants of property rights
2 from Tacoma's water utility to the "people". STW's Initiatives seek to grant a new
3 property right that it does not exist now, and seeks to do so without consideration, in
4 violation of Article VIII §7 of the Washington State Constitution.

5 H. STW's Initiatives are an invalid attempt to interfere with the authority
6 vested in the Tacoma City Council to control the budget of the City. Tacoma is a first
7 class charter city governed under Title 35 RCW and its Charter. Both the Charter and
8 Chapter 35.33 RCW provide that the Tacoma city legislative authority (the City Council)
9 alone is authorized to budget. The City Council alone may make changes and
10 adjustments to the budget. TPU, a division of the City of Tacoma accounts for forty-one
11 percent of Tacoma's budget. STW's Initiatives would interfere with the budgeting power
12 of the Tacoma City Council because the Initiatives would, outside of the statutory budget
13 process, create a significant revenue impact upon the City.

14 I. STW's Charter and Code Initiatives Conflict With State law by Attempting
15 to Apportion Between Classes of Users. The Charter and Code Initiatives also purport to
16 improperly apportion water between various classes of users:

- 17 • The people want policies and contractual requirements made to industry
18 secondary to the human needs of the citizens and households, schools,
19 hospitals, and homes for the aged for fresh potable water that should take
20 priority except in the case of emergency fire-fighting needs or any other natural
21 disaster that cannot reasonably be forecasted;
- 22 • Industrial users that would require excessive amounts of water to operate will
23 have potential long-term negative impacts on the local and regional
24 environment and future community development in the Tacoma;
- 25 • Industries that use large amounts of water daily would place human, economic,
environmental and homeland securities at risk....; and

- Community developments must take into account droughts that will become more frequent in the Pacific Northwest as the result of climate change....

See Petition language for Charter and Code Initiatives, **Attachments A & B**. The proposed local Initiatives fail because their provisions are directly contrary to the water rights system established by the State and are outside the scope of the local initiative power. See: *Spokane Entrepreneurial Ctr. v. Spokane Moves to Amend the Constitution*, 185 WA 2d. 97 (Feb. 4, 2016).

J. STW's Initiatives must be invalidated because they expressly and impermissibly purport to disavow such superior law as state laws, state rules, federal laws, and the United States Constitution. STW's local Initiatives in several instances expressly violate the maxim that "Where a statewide initiative creates new state law, binding upon all, a local initiative can create only new law that is not inconsistent with or inapposite to state and federal law". *City of Port Angeles v. Our Water-Our Choice*, 145 Wn. App. 869, 879, 188 P.3d 533 (Div. 2, 2008); citing *Seattle Bldg. & Constr. Trades Council*, 94 Wn.2d at 747.

First, STW's Initiatives are invalid because they expressly purport to strip and/or disavow state and federal law:

To prevent subsequent denial of the People's Right to Water Protections by state law preemption, all laws adopted by the legislature of the State of Washington, and rules adopted by any state agency, shall be the law of the City of Tacoma only to the extent that they do not violate the rights or mandates of this Ordinance.

Proposed Ordinance § B and Proposed Charter § 4.24(B).

Second, STW's Initiatives are invalid because they purport to adjudicate rights

protected by the United States Constitution, and directly conflict with the United States Supreme Court ruling in *Citizens United v. Federal Election Commission*, 558 U.S. 310, 342-43, 130 S. Ct. 876, 175 L. Ed. 2d 753 (2010), which held corporations have rights under the federal constitution:

In addition, corporations that violate, or seek to violate the rights or mandate of this Ordinance shall not be deemed “persons” to the extent that such treatment would interfere with the rights or mandates enumerated by this Ordinance, nor shall corporations possess any other legal rights, powers, privileges, immunities, or duties that would interfere with the rights or mandates enumerated by this Ordinance....”

Proposed New Ordinance § C and Proposed Charter § 4.24(C).

Third, STW’s Initiatives are also invalid because they purport to strip at least Washington State and Federal Courts of jurisdiction conferred by their respective constitutions:

[N]o government actor, including the courts, will recognize as valid any permit, license, privilege, charter, or other authorization, that [sic] would violate the rights or mandate of this Article, issued for any corporation, by any state, federal or international entity.

Proposed new Ordinance § C and Proposed Charter § 4.24(c).

Fourth, STW’s Initiatives also are invalid because they *also* purport to create a new legal cause of action against anyone “violating” the provisions:

The City or any resident of the City may enforce this Ordinance through an action brought in any court possessing jurisdiction over activities occurring within the City of Tacoma, including, but not limited to, seeking an injunction to stop prohibited practices.

Proposed New Ordinance § D and Proposed Charter § 4.24(D). The local Charter and Code Initiatives should be invalidated, since they expressly seek to supersede state and

1 federal laws and state city administrative matters.

2 44. An actionable and substantial controversy exists between the Plaintiffs
3 Port, EDB and Chamber and the Defendants SAVE TACOMA WATER, Donna Walters
4 and Jon & Jane Does 1-5 regarding whether the local Charter and Code Initiatives are
5 within the proper scope of local initiative power, which adjudication by this Court would
6 resolve.

7 **VI. DECLARATORY JUDGMENT ACTION**

8 45. Plaintiffs incorporate the previous allegations in Paragraph 1-44 as if fully
9 set forth herein.

10 46. Pursuant to the Washington Declaratory Judgment Act, RCW 7.24 et seq.,
11 this Court may declare the validity of a proposed initiative.

12 47. The matter is ripe for declaratory relief because an actual and substantial
13 dispute exists as to the validity of the two Initiatives.

14 48. A declaratory judgment action is proper to determine whether STW's
15 Initiatives exceed valid local initiative power and thus whether they may be submitted to
16 the qualified electors at election.

17 **VII. INJUNCTIVE RELIEF**

18 49. Plaintiffs incorporate the previous allegations in Paragraph 1-48 as if fully
19 set forth herein.

20 50. Plaintiffs Port, EDB, and Chamber would be adversely affected by the passage
21 of legislation in any form that interferes with Tacoma's administration of its

22 longstanding program to provide necessary water service to industrial and commercial

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1 users throughout Pierce County.

2 51. Plaintiff Port will suffer injury and irreparable harm if the Initiatives are
3 placed on the ballots or adopted because the Initiatives will interfere with the Port's
4 state legislative mandate to foster economic development in Tacoma and Pierce
5 County. A critical segment of the Port's mission to use public tax dollars is to lease
6 lands to tenants, which tenants can and do include manufacturing, technological and
7 industrial entities that may and do use over one million gallons of water a day from
8 TPU.

9 52. Plaintiff EDB will suffer injury and irreparable harm if the Initiatives are
10 placed on the ballots or adopted because the Initiatives will interfere with the EDB's
11 mission as a Tacoma/ Pierce County economic advocate, which is dedicated to
12 enhancing the quality and economic vitality of and supporting a diverse manufacturing,
13 technological and industrial base within Tacoma and Pierce County, which prospective
14 businesses can and do include entities that may and do use over one million gallons of
15 water a day supplied by TPU.

16 53. Plaintiff Chamber will suffer injury and irreparable harm if the Initiatives
17 are placed on the ballots or adopted because the Initiatives will interfere with Tacoma's
18 administration of its longstanding program to provide necessary water service
19 throughout Pierce County, including to new prospective businesses that use over one
20 million gallons of water a day to be supplied by TPU.

21 54. All Plaintiffs will be injured by the Initiatives' requirement for a public
22 vote on the designated water service users and the Initiatives' grant of "enforcement

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24 160606.f. complaint

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1 powers” to “the people” without any further clarifying definition or defined process
2 because the Initiatives will:

- 3 • Inject uncertainty into already complicated and costly zoning requirements,
- 4 • Prevent Plaintiffs from completing real estate and construction projects
already underway, or from entering into and attracting new real estate and
construction projects,
- 5 • Surrender important community developments to the subjective and
unpredictable will of unidentified "majorities," and
- 6 • Expose the Port or its tenants to litigation over legitimate water uses.

7 55. All Plaintiffs have a well-grounded fear of immediate invasion of their
8 rights, based on the current signature gathering actions which are aimed at
9 placing the two Initiatives on the ballot or before the City Council for passage.

10 56. No adequate remedy at law exists to remedy the invasion of Plaintiffs’
11 rights caused by the adoption or placement of the Charter and Code Initiatives on the
12 ballot.

13 57. Mere damages would not remedy the harm which would result if the
14 Initiatives appeared on the ballot or were adopted. The Port, EDB and Chamber also
15 have a strong interest in avoiding the confusion that would result from voting on invalid
16 initiatives that would ultimately lack legal effect and from enduring post-election
17 litigation over the invalidity of enacted initiatives.

18 58. Plaintiffs also have a clear and equitable right in these issues, because
19 Plaintiffs have a strong likelihood to prevail on the merits. *Kucera, et al., v. The*
20 *Department Of Transportation, et al., 140 Wn.2d 200; 995 P.2d 63; (2000).*

21 59. Washington courts have long exercised their power to grant private

parties' requests to enjoin invalid initiatives from appearing on ballots. *See Seattle Bldg. & Constr. Trades Council*. 94 Wn.2d at 749.

60. The Court should enjoin Defendant Auditor Anderson from validating petition signatures and placing the Charter or Code Initiatives on the ballot for the November 2016 general election.

61. The Court should enjoin Defendant City of Tacoma from placing the Ordinance Initiative before the City Council for consideration and/or from submitting the proposal to the people at any municipal or general election.

VIII. REQUEST FOR RELIEF

Plaintiffs Port of Tacoma, EDB and the Chamber request that the Court grant the following relief:

1. Declare that STW's Charter and Code Initiatives, in their entirety, are invalid because each is beyond the scope of the local initiative power, and therefore are null and void.

2. Entry of an Order enjoining the County Auditor from (a) undertaking to validate any submitted Initiative signatures and (b) placing the Initiatives on the November 2016 general election ballot.

3. Entry of an Order enjoining the Defendant City of Tacoma from placing the Ordinance Initiative before the City Council for consideration and from submitting the proposal to the people at any municipal or general election.

4. Enter judgment against STW and awarding Plaintiffs Port of Tacoma, EDB

1 and Chamber their fees, costs and disbursements in this action as allowed by law and
2 equity.

3 5. For such other relief as the Court may find appropriate.

4 DATED this __6th__ day of June 2016. GOODSTEIN LAW GROUP PLLC

5 By /s/Carolyn A. Lake

6 By /s/Seth Goodstein

7 Carolyn A. Lake, WSBA #13980

Seth Goodstein, WSBA #45091

Attorneys for Plaintiff Port of Tacoma

8 DATED this _6th__ day of June 2016. LEDGER SQUARE LAW, P.S.

9 By: /s/ Jason M. Whalen

10 Jason M. Whalen, WSBA #22195

Attorneys for Plaintiff EDB

11 DATED this _6th__ day of June 2016. GORDON THOMAS HONEYWELL LLP.

12 By: /s/Shelly Andrew

13 Shelly Andrew, WSBA # 41195

Attorneys for Plaintiff Chamber

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Tacoma Charter Amendment 5

I will volunteer!

- Please send me more petitions QTY
- I have enclosed a SASE, please rush my petition(s) to me!
- I will donate \$5 \$10 \$25 \$50 \$100 \$500 Other \$
- Make checks payable to: Save Tacoma Water
- Collecting signatures at Farmer's Markets, running events and grocery stores
- Office work Data entry Register voters
- Yard sign Raising money
- I endorse this campaign, you may use my name/business name publicly

SIGNATURE DATE

Endorsement from my group or business

Keep me informed, add me to your email list

For more information call Donna Walters at (253) 209-7988 or email the campaign at SaveTacomaWater@gmail.com or visit our web site www.SaveTacomaWater.org

Fold petition and place in envelope and mail petition in as soon as you have the signatures you intend to collect - we hope the sheet is full with 20 signatures! Please do this before June 15, 2016, to help us reach our signature goal of 9,000. Thank you! Volunteers, please fill out before mailing:

Name

Address

City State Zip

Contact number ()

Email

Save Tacoma Water

OUR WATER. OUR RESOURCES. OUR VOICES. OUR VOTE.

P.O. Box 8841

Tacoma WA 98419

ATTN Donna Walters, Treasurer

COMPLETE TEXT OF CHARTER AMENDMENT 5 - 2016

The People's Right to Water Protection Amendment

WHEREAS, the Residents of Tacoma do not want to return to our polluted past; and

WHEREAS, since 1980, Tacoma has spent an immense amount of money, time and effort cleaning up the Superfund Sites left behind by the Asarco copper smelter, Occidental Chemical, Kaiser Aluminum and others; and

WHEREAS, City residents use almost half of the water produced by City-owned Tacoma Public Utilities; and

WHEREAS, the City of Tacoma is projecting, and preparing for, an increase in population of 127,000 more residents by 2040; and

WHEREAS, a 2009 state survey of public utilities shows that the Pierce County Large Water Users Sector is 13.7% while in King County the Large Water Users Sector is only 1.9%; and

WHEREAS, the City of Tacoma is responsible to the city's residents and small businesses first and must use all caution when issuing water utility services to any potential water user that wants to use more than one million gallons of water per day; and

WHEREAS, the Tacoma Public Utility gets water from the Green River Watershed and the concerns for the environmental impacts of large water users are valid as more increasing demands for water for people and community development must take into account droughts that will become more frequent in the Pacific Northwest as the result of climate change; and

WHEREAS, the people want policies and contractual requirements to make industry secondary to the human needs of the citizens and households, schools, hospitals, and homes for the aged, for fresh potable water should take priority except in the case of emergency fire fighting needs or any other natural disaster that cannot be reasonably forecasted; and

WHEREAS, the sustained availability of affordable and potable water for the residents and businesses of Tacoma must be paramount over considerations such as potential tax revenues or investor profits; and

WHEREAS, industrial users that would require excessive amounts of water to operate will have potential long-term negative impacts on the local and regional environment and future community development in the City of Tacoma; and

WHEREAS, residents and businesses of Tacoma have been asked in the recent past and may be required in the future to conserve water; and

WHEREAS, large water users pay discounted rates while residents as ratepayers carry an extra financial burden for the conservation, maintenance, protection and development of potable water sources; and

WHEREAS, industries that use large amounts of water daily

would place human, economic, environmental and homeland securities at risk; and

WHEREAS, the Citizens of Tacoma have recently shown a huge desire to be involved when our affordable fresh water is at risk; and

WHEREAS, the Citizens of Tacoma want to encourage clean and renewable energy industries operating in the City of Tacoma; and

WHEREAS, the Citizens of Tacoma find that a proposed methanol refinery does not meet the requirements of a clean, renewable and sustainable energy production facility; and

WHEREAS, the City of Tacoma Charter provides for Initiative and Referendum rights which provides the city's citizens the right to place this Charter amendment before the voters; and

WHEREAS, the people of the City of Tacoma possess an inherent and inalienable right to govern our own community as secured by the Declaration of Independence's affirmation of the right of people to alter or abolish their government if it renders self-government impossible, and this inherent right is reaffirmed in the Tacoma City Charter, the Washington State Constitution, and the United States Constitution;

Therefore be it ordained by the voters in the City of Tacoma that:

(1) The people of Tacoma adopt the following amendments to the Tacoma City Charter, Article IV (Public Utilities):

Section 4.24 – The People's Right to Water Protection

(A) People's Vote on Large Water Use Applications. The people of the City of Tacoma find that there is a compelling need to carefully consider the consequences of providing water utility service to an applicant that intends to use large amounts of fresh water. Before providing water utility service to any applicant for 1336 CCF (one million gallons), or more, of water daily from the City, the City shall place the applicant's request for water utility service before the voters on the next available General Election Ballot, in a manner substantially conforming to the rules for Section 2.22 of this Charter. The applicant shall pay for the costs of the vote of the people. Only if a majority of the voters approve the water utility service application and all other application requirements are met may the City provide the service. The vote by the people is binding, and not advisory. Any water users currently authorized to use 1336 CCF or more of water daily are grandfathered in, however, their water utility service is not transferable.

(B) Sustainable Water Protection is an Inviolable Right that Government Cannot Infringe. The people of the City of Tacoma protect their right to water through their inherent and inalienable right of local community self-government, and in recognition that clean fresh water is essential to life, liberty, and happiness, and the City of Tacoma has a foundational duty to maintain a sustainable provision of water for the people. The People's Right to Water Protection

vote provides a democratic safeguard, on top of the City's existing application process, to ensure that large new water users do not threaten the sustainability of the people's water supply. To prevent subsequent denial of the People's Right to Water Protection by state law preemption, all laws adopted by the legislature of the State of Washington, and rules adopted by any state agency, shall be the law of City of Tacoma only to the extent that they do not violate the rights or mandates of this Article.

(C) Water Protection supersedes Corporate Interests. As the People's Right to Water Protection is foundational to the people's health, safety, and welfare, and must be held inviolate, no government actor, including the courts, will recognize as valid any permit, license, privilege, charter, or other authorization, that would violate the rights or mandate of this Article, issued for any corporation, by any state, federal, or international entity. In addition, corporations that violate, or seek to violate the rights and mandates of this Article shall not be deemed "persons" to the extent that such treatment would interfere with the rights or mandates enumerated by this Article, nor shall corporations possess any other legal rights, powers, privileges, immunities, or duties that would interfere with the rights or mandates enumerated by this Article. "Rights, powers, privileges, immunities, and duties" shall include the power to assert international, federal, or state preemptive laws in an attempt to overturn this Article, and the power to assert that the people of the City of Tacoma lacked the authority to adopt this Article.

(D) Enforcement. The City or any resident of the City may enforce this section through an action brought in any court possessing jurisdiction over activities occurring within the City of Tacoma, including, but not limited to, seeking an injunction to stop prohibited practices. In such an action, the City of Tacoma or the resident of the City of Tacoma shall be entitled to recover damages and all costs of litigation, including, without limitation, expert, and attorney's fees.

(2) In enacting this Charter Amendment through our Initiative Power, the people of Tacoma declare our intent that:

(A) The provisions of this Charter Amendment are severable, and the petitioners intend that all valid provisions of the initiative be placed on the ballot and enacted into law even if some provisions are found invalid.

(B) The provisions of this Charter Amendment be liberally construed to achieve the defined intent of the voters.

(C) We support each of the provisions of this section independently, and our support for this section would not be diminished if one or more of its provisions were to be held invalid, or if any of them were adopted by the City Council and the others sent to the voters for approval.

(D) This section shall take effect 15 (fifteen) days after election certification. The City shall not accept any applications for water utility service for 1336 CCF or more between the election and effective date.

—END—

ENDORSED BY

PARTIAL LIST

John Weymer, Tacoma Weekly Publisher

Jerry Gibbs, Pierce County Building Referendum sponsor

Want to be added to this list?

Call Donna (253) 209-7988

LOCATIONS TO PICK UP PETITION SHEETS OR SIGN PETITION

Partial list visit www.SaveTacomaWater.org for the most current list

Lincoln Hardware 3726 S G St • Tacoma

Purified Water To Go 5401 Sixth Ave K807 • Tacoma

7701 S Hosmer • Tacoma

2800 Milton Way Suite 21 • Milton

Tacoma Lamp Repair & Sales 1524 Tacoma Ave S • Tacoma

STOP the methanol refinery

Residents of Tacoma, University Place, Ruston, Fife, Milton, Kent, Covington, Bonney Lake, Lakewood, Steilacoom, Federal Way, the Muckleshoot and Puyallup Reservations and portions of Des Moines and Auburn are dependent on fresh water from Tacoma Public Utility, as well as the proposed methanol refinery. The proposed methanol refinery originally estimated needing to use 14 to 22 million gallons of fresh water every day (that number keeps changing), equal to what 185,000 to 291,000 residents use daily (Tacoma 2015 Population: 198,397).

Yes! on 5

AMENDMENT

CHARTER AMENDMENT PETITION FOR SUBMISSION TO THE PEOPLE

To The City Council of Tacoma and Doris Sorum, City Clerk:

We, the undersigned registered and legal voters of the City of Tacoma, State of Washington, respectfully propose an Amendment to the City Charter that would require new industries in Tacoma that are large fresh water users needing one (1) million gallons or more of fresh water per day to pay for a vote of the people and if approved their application for water service could be granted if all other application requirements are met. This Charter Amendment shall be entitled:

The People's Right to Water Protection Amendment.

A full, true and correct copy of the proposed charter amendment is included herein and we petition that the City Council submit it to the qualified electors of the City of Tacoma for approval or rejection at the next regular election to be held on the 8TH day of November, 2016. Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the City of Tacoma as written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

PAID FOR BY

SAVE TACOMA WATER

OUR WATER. OUR RESOURCES.
OUR VOICES. OUR VOTE.

P.O. Box 8841
Tacoma, WA 98419
(253) 209-7988

www.SaveTacomaWater.org
SaveTacomaWater@gmail.com

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

TOP 10 LARGE FRESH WATER USERS

The proposed methanol refinery is actually a job loser as the data shows. Currently, 2,190 workers are employed locally by large fresh water businesses and this proves that far more jobs than 260 could be supported with the same amount of fresh water.

Company	Water Usage Per Day (MGD)	Employees	Water Usage Per Day per Employee
WestRock (Simpson)	15.52	400	38,800
US Oil & Refining Co	0.62	160	3,875
Graymont Western US Inc	0.38	35	10,857
Port of Tacoma	0.30	250	1,200
G. P. Gypsum	0.15	175	857
The Geo Group	0.08	300	267
General Metals of Tacoma	0.06	110	545
Darling International Inc	0.05	35	1,429
Manke Lumber Co Inc	0.05	375	133
McFarland Cascade Pole & Lumber	0.03	350	86
Proposed Methanol Facility (High)	22	260	84,615
Proposed Methanol Facility (Low)	14	260	53,846
Tacoma Residents	14.63	198,397	74
Top 10	17.24	2,190	7,872
Top 2-10	1.72	1,790	961

MILLIONS OF GALLONS PER DAY (MGD)

PLEASE USE INK • PLEASE DO NOT CUT — INVALIDATES SIGNATURES

PLEASE USE INK • PLEASE DO NOT CUT — INVALIDATES SIGNATURES

ONLY REGISTERED CITY OF TACOMA VOTERS MAY SIGN THIS PETITION

I WANT TO HELP ☒

DATE SIGNED	PLEASE SIGN YOUR NAME AS YOU ARE REGISTERED TO VOTE PETITIONER'S SIGNATURE	FOR IDENTIFICATION PURPOSES PRINT NAME HERE	STREET AND NUMBER RESIDENCE ADDRESS	CITY & COUNTY	OPTIONAL INFORMATION FOR VOLUNTEERS TELEPHONE / EMAIL
1					
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6					
7					
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RECEIVED

MAR 07 2016

CITY CLERK'S OFFICE

STOP THE METHANOL REFINERY

City of Tacoma Citizens' Initiative No. 6 Ballot Title

City of Tacoma Citizens' Initiative Measure No. 6 concerns requiring a public vote for large volume water service. If enacted, this measure would require all applications for water permits for one million gallons or more of water use per day to be placed on the ballot at the next general election for voter approval at the expense of the applicant. The measure provides that voter approval requirements will supersede conflicting state and federal laws and regulations.

Should this measure be enacted into law?

Yes []

No []

PAID FOR BY

SAVE TACOMA WATER

OUR WATER — OUR RESOURCES
OUR VOICES — OUR VOTE

P.O. Box 8841
Tacoma, WA 98419
(253) 209-7988

www.SaveTacomaWater.org
donna@SaveTacomaWater.org

SIGNATURE DEADLINE
June 15, 2016

CONCISE STATEMENT OF ORDINANCE

This initiative adds a new section to Title 12 of the Tacoma Municipal code that would require new industries in Tacoma that are large fresh water users needing one (1) million gallons of fresh water a day to pay for a vote of the people and if approved their application for water service could be granted if all other application requirements are met.

Yes! on 6

INITIATIVE
THE WATER ISSUE

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Residents of Tacoma, University Place, Ruston, Fife, Milton, Kent, Covington, Bonney Lake, Lakewood, Steilacoom, Federal Way, the Muckleshoot and Puyallup Reservations and portions of Auburn and Des Moines are dependent on fresh water from Tacoma Public Utility, as well as the proposed methanol refinery. The proposed methanol refinery originally estimated needing 14.4 million gallons of fresh water every day (that number keeps changing), equal to the amount of fresh water used daily by 194,595 people, or 96% of Tacoma's 2015 population.

INITIATIVE PETITION FOR SUBMISSION TO THE PEOPLE

To The City Council of Tacoma and Doris Sorum, City Clerk:
We, the undersigned registered and legal voters of Tacoma, Washington, respectfully propose and ask for the enactment of an ordinance of the measure known as Tacoma Initiative 6 entitled:

This Initiative shall be known as

"The People's Right to Water Protection Ordinance"

a full, true and correct copy of which is printed on the reverse side of this petition, for submission of Initiative No. 6 to the legal voters of the City of Tacoma at the General Election to be held on the 8TH day of November, 2016; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the City of Tacoma as written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

TOP 10 LARGE FRESH WATER USERS
The proposed methanol refinery is actually a job loser as the data shows. Currently, 2,190 workers are employed locally by businesses that are large fresh water users and this proves that far more jobs than 260 could be supported with the same amount of fresh water if used by other businesses.

Company	Millions of Gallons Per Day	Employees	Average Gallons Per Day Per Employee
WestRock (Simpson)	15.52	400	38,800
US Oil & Refining Co	0.62	160	3,875
Graymont Western US Inc	0.38	35	10,857
Port of Tacoma	0.30	250	1,200
G. P. Gypsum	0.15	175	857
The Geo Group	0.08	300	267
General Metals of Tacoma	0.06	110	545
Darling International Inc	0.05	35	1,429
Manke Lumber Co Inc	0.05	375	133
McFarland Cascade Pole & Lumber	0.03	350	86
Proposed Methanol Refinery	14.40	260	55,385
All Tacoma Residents	14.97	202,300	74
Total for Top 10 large fresh water users	17.24	2,190	7,872
Total for Top 2-10 large fresh water users	1.72	1,790	961

* From NW Innovation Works web site November, 2015

PLEASE USE INK • PLEASE DO NOT CUT — INVALIDATES SIGNATURES

PLEASE USE INK • PLEASE DO NOT CUT — INVALIDATES SIGNATURES

ONLY REGISTERED CITY OF TACOMA VOTERS MAY SIGN THIS PETITION

I WANT TO HELP ✓

DATE SIGNED	PLEASE SIGN YOUR NAME AS YOU ARE REGISTERED TO VOTE PETITIONER'S SIGNATURE	FOR IDENTIFICATION PURPOSES PRINT NAME HERE	STREET AND NUMBER RESIDENCE ADDRESS	CITY & COUNTY	OPTIONAL INFORMATION FOR VOLUNTEERS TELEPHONE / EMAIL
1					
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RECEIVED

APR 15 2016

CITY CLERK'S OFFICE

SIGNATURE GOAL: 4,700 (3,160 REQUIRED FROM REGISTERED TACOMA VOTERS BY JUNE 15, 2016)

Most volunteers turn in 3 to 10 signatures, we need you to do that as fast as you can. We have just eight weeks to collect the necessary number of signatures from registered Tacoma voters to place this Initiative to the People on the 2016 November ballot.

VOLUNTEERS: Please read through each line with a signature on it, if it is readable and includes the address, count it as good and put the total of good signatures in the top half of the box at right. Thank you!

ATTACHMENT B

Tacoma Initiative 6

I will
volunteer!

YES



- ☐ Please send me more petitions QTY _____
☐ I have enclosed a SASE, please rush my petition(s) to me!
☐ I will donate ☐ \$5 ☐ \$10 ☐ \$25 ☐ \$50 ☐ \$100 ☐ \$500 ☐ Other \$ _____
Make checks payable to: **Save Tacoma Water** NOT TAX DEDUCTIBLE
☐ Collecting signatures at Farmer's Markets, running events and grocery stores
☐ Office work ☐ Data entry ☐ Register voters
☐ Yard sign ☐ Raising money
☐ I endorse this campaign, you may use my name/business name publicly

SIGNATURE _____ DATE _____
☐ Endorsement from my group or business
☐ Keep me informed, add me to your email list

For more information call Donna Walters at (253) 209-7988
or email the campaign at donna@SaveTacomaWater.org or visit our web site
www.SaveTacomaWater.org

Fold petition and place in envelope and mail petition in as soon as you have the signatures you intend to collect - we hope the sheet is full with 20 signatures! Please do this ASAP but before the deadline: **June 15, 2016. We need 3,160 valid signatures** from City of Tacoma voters - our goal is 4,700 signatures to be sure we have enough.

Volunteers, please fill out below before mailing (*Thank you!*).

Name _____

Address _____

City _____ State _____ Zip _____

Contact number (_____) _____

Email _____

Save Tacoma Water

OUR WATER — OUR RESOURCES — OUR VOICES — OUR VOTE

P.O. Box 8841
Tacoma WA 98419

ATTN Donna Walters, Treasurer

COMPLETE TEXT OF TACOMA INITIATIVE 6 - 2016

The People's Right to Water Protection Ordinance

WHEREAS, the Residents of Tacoma do not want to return to our polluted past; and

WHEREAS, since 1980, Tacoma has spent an immense amount of money, time and effort cleaning up the Superfund Sites left behind by the Asarco copper smelter, Occidental Chemical, Kaiser Aluminum and others; and

WHEREAS, City residents use almost half of the water produced by City-owned Tacoma Public Utilities; and

WHEREAS, the City of Tacoma is projecting, and preparing for, an increase in population of 127,000 more residents by 2040; and

WHEREAS, a 2009 state survey of public utilities shows that the Pierce County Large Water Users Sector is 13.7% while in King County the Large Water Users Sector is only 1.9%; and

WHEREAS, the City of Tacoma is responsible to the city's residents and small businesses first and must use all caution when issuing water utility services to any potential water user that wants to use more than one million gallons of water per day; and

WHEREAS, the Tacoma Public Utility gets water from the Green River Watershed and the concerns for the environmental impacts of large water users are valid as more increasing demands for water for people and community development must take into account droughts that will become more frequent in the Pacific Northwest as the result of climate change; and

WHEREAS, the people want policies and contractual requirements to make industry secondary to the human needs of the citizens and households, schools, hospitals, and homes for the aged, for fresh potable water should take priority except in the case of emergency fire fighting needs or any other natural disaster that cannot be reasonably forecasted; and

WHEREAS, the sustained availability of affordable and potable water for the residents and businesses of Tacoma must be paramount over considerations such as potential tax revenues or investor profits; and

WHEREAS, industrial users that would require excessive amounts of water to operate will have potential long-term negative impacts on the local and regional environment and future community development in the City of Tacoma; and

WHEREAS, residents and businesses of Tacoma have been asked in the recent past and may be required in the future to conserve water; and

WHEREAS, large water users pay discounted rates while residents as ratepayers carry an extra financial burden for the conservation, maintenance, protection and development of potable water sources; and

WHEREAS, industries that use large amounts of water

daily would place human, economic, environmental and homeland securities at risk; and

WHEREAS, the Citizens of Tacoma have recently shown a huge desire to be involved when our affordable fresh water is at risk; and

WHEREAS, the Citizens of Tacoma want to encourage clean and renewable energy industries operating in the City of Tacoma; and

WHEREAS, the Citizens of Tacoma find that a proposed methanol refinery does not meet the requirements of a clean, renewable and sustainable energy production facility; and

WHEREAS, the City of Tacoma Charter provides for Initiative and Referendum rights which provides the city's citizens the right to place this ordinance before the voters; and

WHEREAS, the people of the City of Tacoma possess an inherent and inalienable right to govern our own community as secured by the Declaration of Independence's affirmation of the right of people to alter or abolish their government if it renders self-government impossible, and this inherent right is reaffirmed in the Tacoma City Charter, the Washington State Constitution, and the United States Constitution;

Therefore be it ordained by the voters in the City of Tacoma:

That a new Ordinance is adopted and a new section of Tacoma Municipal Code Title 12 is hereby adopted, which deals with issuing water utility service to any applicant for one million gallons, or more, of water daily from the City of Tacoma, and is to be known as "The People's Right to Water Protection Ordinance":

A. People's Vote on Large Water Use Applications. The people of the City of Tacoma find that there is a compelling need to carefully consider the consequences of providing water utility service to an applicant that intends to use large amounts of fresh water. Before providing water utility service to any applicant for 1336 CCF (one million gallons), or more, of water daily from the City, the City shall place the applicant's request for water utility service before the voters on the next available General Election Ballot. The applicant shall pay for the costs of the vote of the people. Only if a majority of the voters approve the water utility service application and all other application requirements are met may the City provide the service. The vote by the people is binding, and not advisory. Any water users currently authorized to use 1336 CCF or more of water daily are grandfathered in, however, their water utility service is not transferable.

B. Limitations on Government Infringement of the People's Inviolable Right of Sustainable Water Protection. The people of the City of Tacoma protect their right to water through their inherent and inalienable right of local community self-government, and in recognition

that clean fresh water is essential to life, liberty, and happiness, and the City of Tacoma has a foundational duty to maintain a sustainable provision of water for the people. The People's Right to Water Protection vote provides a democratic safeguard, on top of the City's existing application process, to ensure that large new water users do not threaten the sustainability of the people's water supply. To prevent subsequent denial of the People's Right to Water Protection by state law preemption, all laws adopted by the legislature of the State of Washington, and rules adopted by any state agency, shall be the law of City of Tacoma only to the extent that they do not violate the rights or mandates of this Ordinance.

C. Water Protection supersedes Corporate Interests. As the People's Right to Water Protection is foundational to the people's health, safety, and welfare, and must be held inviolate, no government actor, including the courts, will recognize as valid any permit, license, privilege, charter, or other authorization, that would violate the rights or mandate of this Ordinance, issued for any corporation, by any state, federal, or international entity. In addition, corporations that violate, or seek to violate the rights and mandates of this Ordinance shall not be deemed "persons" to the extent that such treatment would interfere with the rights or mandates enumerated by this Ordinance, nor shall corporations possess any other legal rights, powers, privileges, immunities, or duties that would interfere with the rights or mandates enumerated by this Ordinance. "Rights, powers, privileges, immunities, and duties" shall include the power to assert international, federal, or state preemptive laws in an attempt to overturn this Ordinance, and the power to assert that the people of the City of Tacoma lacked the authority to adopt this Ordinance.

D. Enforcement. The City or any resident of the City may enforce this Ordinance through an action brought in any court possessing jurisdiction over activities occurring within the City of Tacoma, including, but not limited to, seeking an injunction to stop prohibited practices. In such an action, the City of Tacoma or the resident of the City of Tacoma shall be entitled to recover damages and all costs of litigation, including, without limitation, expert, and attorney's fees.

E. Severability and Construction. The provisions of this Ordinance shall be liberally construed to achieve the defined intent of the voters. The provisions of this Ordinance are severable, and the petitioners intend that all valid provisions of the Initiative be placed on the ballot and enacted into law even if some provisions are found invalid. We - the people of Tacoma - support each of the provisions of this Ordinance independently, and our support for this Ordinance would not be diminished if one or more of its provisions were to be held invalid, or if any of them were adopted by the City Council and the others sent to the voters for approval.

F. Effect. This Ordinance shall take effect fifteen (15) days after either adoption or election certification. The City shall not accept any applications for water utility service for 1336 CCF or more between the adoption or election and the effective date of this Ordinance. -END-

ENDORSED BY

PARTIAL LIST

Puyallup Tribe of Indians
Senator Jeannie Darnelle, 27th District Democrat
Mayor Bill Baarsma
Mayor Brian Ebersole
Jim Merritt, former candidate for mayor of Tacoma
John Weymer, Tacoma Weekly Publisher
Jerry Gibbs, Pierce County
Building Referendum sponsor

PETITION LOCATIONS IN TACOMA

TO PICK UP PETITION SHEETS
OR SIGN PETITION

Purified Water To Go

5401 Sixth Ave K807

Lincoln Hardware

3726 S G St

Infinite Soups

445 Tacoma Ave South

Billy Bs Pub and Grub

1213 South 56th Street

The Spar in OldTown Tacoma

2121 North 30th

Dawson's Bar and Grill

5443 South Tacoma Way

Tacoma Lamp Repair & Sales

1524 Tacoma Ave S

Partial list

visit
SaveTacomaWater.org
for the most current list

Want to be
added to
this list?
Call Donna
(253) 209-7988