



RESOLUTION NO. U-11378

1 A RESOLUTION relating to Tacoma Power; approving a Supplemental Ordinance;
2 authorizing a second amendment to the Note Purchase Agreement related
3 to the City's Electric System Subordinate Revenue Note, Series 2020
(Taxable); delegating the authority to approve the final terms of the
4 amendment; and approving other matters related thereto.

5 WHEREAS pursuant to Ordinance No. 28295 adopted on April 21, 2015, as
6 amended (the "Master Subordinate Ordinance"), and Ordinance No. 28669,
7 adopted on May 5, 2020 (the "First Supplemental Ordinance"), the City of Tacoma,
8 Washington (the "City"), acting through its Department of Public Utilities, Light
9 Division (d/b/a "Tacoma Power") issued its Electric System Subordinate Revenue
10 Note, Series 2020 (Taxable), to evidence a revolving line of credit in the principal
11 amount of not to exceed \$100,000,000 outstanding at any time (the "2020 Note"),
12 and
13

14 WHEREAS the 2020 Note was sold to and purchased by KeyBank National
15 Association ("KeyBank"), pursuant to the terms of the Note Purchase Agreement
16 dated May 21, 2020 (the "Original Note Purchase Agreement"), between KeyBank
17 and the City, acting by and through its Public Utilities Board (the "Board"), and
18

19 WHEREAS pursuant to Ordinance No. 28772, adopted on August 3, 2021,
20 and the First Amendment to Note Purchase Agreement dated September 16, 2021
21 (the "First Amendment" and together with the Original Note Purchase Agreement,
22 the "Amended Note Purchase Agreement"), the City and the KeyBank agreed to
23 reduce the available principal amount of the 2020 Note to \$50,000,000, to extend
24 the final maturity of the 2020 Note and to amend certain provisions of the Original
25 Note Purchase Agreement, as set forth therein, and
26



1 WHEREAS implementation of the 2020 Note and the Amended Note
2 Purchase Agreement has provided liquidity and financial sustainability and
3 increased Tacoma Power's fiscal position, all of which are consistent with City
4 policy and fundamental to sound long range planning and government
5 performance, and
6

7 WHEREAS the 2020 Note currently bears interest at a variable rate based
8 on the London Interbank Offered Rate ("LIBOR"), and
9

10 WHEREAS LIBOR is scheduled to be discontinued as of June 30, 2023,
11 and
12

13 WHEREAS in anticipation of the pending unavailability of LIBOR, the
14 Amended Note Purchase Agreement reflected certain terms related to alternate
15 benchmark rates, including the Secured Overnight Financing Rate ("SOFR"), and
16

17 WHEREAS Tacoma Power has requested that the interest rate on the 2020
18 Note be converted to an index rate based on SOFR and the Board hereby finds
19 that it would be beneficial to enter into a second amendment to the Amended Note
20 Purchase Agreement (the "Second Amendment," and the Amended Note Purchase
21 Agreement, and as it may be further amended, is referred to as the "Note
22 Purchase Agreement") to reflect the terms, and
23

24 WHEREAS pursuant to Tacoma City Charter Section 4.11, the Board is
25 required to initiate and approve all matters related to the incurrence of
26 indebtedness and the issuance of bonds on behalf of Tacoma Power, and then
forward such matters to the Council of the City for concurring approval, and



1 WHEREAS the form of authorizing ordinance (the "Supplemental
2 Ordinance") has been presented to the Board and a copy of such document is on
3 file with the Clerk of the Board, and
4

5 WHEREAS the Board hereby recommends to the Council of the City that it
6 is in the best interest of the citizens of Tacoma that the Supplemental Ordinance
7 be approved by the Board and passed by the Council of the City to accomplish the
8 purposes set forth therein; Now, Therefore,
9

10 BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

11 Sec. 1. Subject to the parameters set forth in Section 2 of this resolution,
12 the request to amend the Amended Note Purchase Agreement to reflect the
13 impending unavailability of the LIBOR Index Rate and the replacement of such
14 index for purposes of calculating the interest accrued on the 2020 Note with an
15 index rate based on SOFR is hereby approved.
16

17 Sec. 2. The Board requests that the City Council delegate to the Director of
18 Utilities and the Tacoma Power Superintendent, or their designees (each, a
19 "Designated Representative") for a limited time the authority to approve the terms
20 of the Second Amendment, so long as:

21 (a) The available principal amount of the 2020 Note that may be
22 outstanding at any time remains not to exceed \$50,000,000;
23

24 (b) The final maturity of the 2020 Note remains no later than
25 December 1, 2024; and
26



(c) The interest rate on draws on the line of credit represented by the 2020 Note does not exceed a variable rate equal to the Term SOFR Rate (as defined in the Second Amendment) plus 54 basis points for funds used, and 20 basis points for funds not drawn under the Note Purchase Agreement, as such terms may be adjusted under the Note Purchase Agreement; provided, that the 2020 Note may be subject to a standby letter of credit fee of not to exceed 125 basis points and an issuance fee of not to exceed \$200 for the portion, if any, of the 2020 Note converted to a letter of credit in accordance with the Note Purchase Agreement, and to a default rate upon the occurrence and continuation of an Event of Default as provided for in the Note Purchase Agreement.

Sec. 3. The terms and conditions of the proposed Supplemental Ordinance and the conversion of the interest rate index on the 2020 Note are hereby approved, and the Council of the City is requested to concur in this approval by the passage of the same at the earliest opportunity in the final form approved by the City Attorney's Office.

Upon passage of the Supplemental Ordinance, each Designated Representative is delegated authority to approve the final terms and conditions of the Second Amendment in coordination with Bond Counsel, the Municipal Advisor and the City Attorney's Office subject to the terms set forth herein and in the Supplemental Ordinance, and to execute and implement the Second Amendment (including the payment of any financing costs associated with the delivery of the Second Amendment) and any other certificates or other documents in connection therewith.



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Sec. 4. This resolution shall become effective immediately upon its adoption.

Approved as to form:

Chair

Pacifica Law Group LLP,
Bond Counsel

Secretary

Clerk

Adopted



Board Action Memorandum

TO: Jackie Flowers, Director of Utilities
COPY: Charleen Jacobs, Director and Board Offices
FROM: Chris Robinson, Tacoma Power Superintendent/COO
MEETING DATE: April 26, 2023
DATE: April 14, 2023

SUMMARY:

Tacoma Power requests approval by the Public Utility Board to amend the borrowing benchmark index and corresponding spread used for pricing the KeyBank Note Purchase Agreement.

The proposed Supplemental Ordinance and Resolution that amends the KeyBank Note Purchase Agreement has been drafted by Tacoma Power's Bond Counsel, Pacifica Law LLC (Pacifica), in collaboration with Tacoma Power's staff, attorney and Montague DeRose, and Associates (MDA), its Municipal Advisor.

STRATEGIC DIRECTIVE PRIORITY:

The strategic directive that best aligned to this action is "Financial Sustainability."

The Note Purchase Agreement (NPA) with KeyBank provides general liquidity for any purpose deemed necessary. The liquidity agreement helps maintain financial flexibility and limit rate increases over the next biennium. It is viewed by two of the three rating agencies as enhanced liquidity to meet our Electric Rate and Financial Policy goal of maintaining financial metrics of an AA-level utility. Additionally, the agreement may be used to enable financial hedging and could be used for emergency purposes. Thus, the NPA is a low-cost option to achieve our financial metric targets and keep rates low.

BACKGROUND:

General Liquidity Note Purchase Agreement

In 2020, Tacoma Power entered the year with lower revenues, increased expenses, and a lower cash position from a near-critical water year in 2019. In addition, the COVID-19 pandemic was expected to create an economic downturn that would reduce Tacoma Power's revenues and liquidity.

At the request of Tacoma Power, MDA solicited pricing from several banks for a new short-term agreement to meet liquidity financial metrics and assist with operational expenses. Tacoma Power entered in to a \$100 million bank NPA with KeyBank. On September 16, 2021, the KeyBank NPA was amended to not to exceed \$50 million and extended through December 1, 2024. In addition, the NPA was modified to give Tacoma Power the option to utilize the notional amount as a letter of credit, should Tacoma Power need to provide a



Board Action Memorandum

guarantee of performance under a power contract in the Wholesale market, or for any other reason.

The KeyBank NPA utilizes the London Interbank Offered Rate (LIBOR), which is a borrowing benchmark used globally, to calculate interest rates paid on amounts borrowed in bank lending agreements. However, the LIBOR benchmark will discontinue pricing on June 30, 2023. Our Municipal Advisor has indicated that the financial market has settled on an alternative interest rate benchmark, the Secured Overnight Financing Rate (SOFR). KeyBank has agreed to an index based on one-month SOFR plus a spread that is the equivalent to the one-month LIBOR index pricing in the existing KeyBank NPA, without a change in other terms to the current agreement.

Tacoma Power seeks approval for the delegation of authority to the Director of Utilities and Power Superintendent to amend the borrowing benchmark index terms of the Electric System Subordinate Revenue Note with KeyBank within limits defined by the Subordinate Ordinance.



TO: Elizabeth Pauli, City Manager
FROM: Jackie Flowers, Director of Utilities, Tacoma Public Utilities
Chris Robinson, Superintendent, Tacoma Power
COPY: City Council and City Clerk
SUBJECT: Proposed Resolution – Amend Tacoma Power KeyBank Note Purchase Agreement
DATE: April 18, 2023

SUMMARY AND PURPOSE:

Tacoma Power requests approval by the City Council to amend the borrowing benchmark index and corresponding spread used for pricing Tacoma Power's Note Purchase Agreement with KeyBank under the supplemental Ordinance No. 28772, dated September 16, 2021.

BACKGROUND:

Tacoma Power's recommendation is based on the June 30, 2023 discontinuation of the London Interbank Offered Rate (LIBOR) borrowing index utilized in the KeyBank NPA. The financial market has settled on an alternative interest rate benchmark, the Secured Overnight Financing Rate (SOFR). KeyBank has agreed to an index based on one-month SOFR plus a spread that is the equivalent to the one-month LIBOR index pricing in the existing KeyBank NPA, without a change in other terms to the current agreement.

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

This proposal does not affect the community so engagement and research with the community/customers did not shape Tacoma Power's recommendation.

ALTERNATIVES:

Presumably, your recommendation is not the only potential course of action; please discuss other alternatives or actions that City Council or staff could take. Please use table below.

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. Amend the expiration date of the KeyBank NPA to June 29, 2023.	Annual savings of budgeted \$100,000 of unutilized fees in 2023 and 2024.	Tacoma Power would no longer be able to utilize the KeyBank NPA, if needed.

EVALUATION AND FOLLOW UP:

A successful amendment would result in a replacement index and spread that is the equivalent to the one-month LIBOR index pricing and terms in the existing KeyBank NPA. At the request of Tacoma Power, Montague DeRose and Associates, (Tacoma Power's financial advisor), calculated and negotiated with KeyBank, a one-month SOFR plus a spread that is the equivalent to the one-month LIBOR index pricing in the existing KeyBank NPA, without a change in other terms to the current agreement.

STAFF/SPONSOR RECOMMENDATION:

Tacoma Power recommends approval by the City Council to amend the borrowing benchmark index and spread used for pricing the KeyBank NPA from LIBOR to SOFR with the following preliminary terms:



	<u>Existing Agreement</u>	<u>Proposal</u>
Maturity:	December 1, 2024	same
Notional Amount:	\$50,000,000	same
Interest Benchmark:	LIBOR (London Interbank Offered Rate)	SOFR (Secured Overnight Financing Rate)
Utilized fee:	100% of one-month LIBOR + 0.50% on drawn amount	100% of one-month SOFR + 0.54% on drawn amount
Unutilized fee:	0.20% fee annually (approx. \$100,000 if not used)	same
Standby Letter of Credit Option	1.25% fee annually + \$200 issuance fee	same

FISCAL IMPACT:

Please provide a short summary of the fiscal impacts associated with the grant, agreement, policy action, or other action.

Fund Number & Name	COST OBJECT (CC/WBS/ORDER)	Cost Element	Total Amount
1.Bond Counsel Fee	Cost Center 561100	6615000	\$50,000
2.			
TOTAL			



What Funding is being used to support the expense?

The expenses not budgeted will be covered by Tacoma Power's revenues.

Are the expenditures and revenues planned and budgeted in this biennium's current budget?

NO, PLEASE EXPLAIN BELOW

Expenditures for external Financial Advisory services were included in the 2023/2024 budget (\$250,000).

Expenditures for Bond Counsel, estimated at \$50,000, are not included in the 2023/2024 budget.

The estimated annual debt service cost of the current KeyBank NPA is \$100,000 (unutilized) and was included in the Tacoma Power 2023/2024 budget. The estimated costs for utilizing the KeyBank NPA as a letter of credit in 2024, should it be needed, would be a maximum of \$312,500 and are not included in the Tacoma Power 2023/2024 budget.

Are there financial costs or other impacts of not implementing the legislation?

YES

If the amendment to the pricing index and spread is not implemented, Tacoma Power would still have to amend the expiration date of the KeyBank NPA, regardless. Expenditures for Bond Counsel, estimated at \$50,000, are not included in the 2023/2024 budget.

Will the legislation have an ongoing/recurring fiscal impact?

No

The estimated annual debt service cost of the current KeyBank NPA is \$100,000 (unutilized) and was included in the Tacoma Power 2023/2024 budget. This cost will not change.

Will the legislation change the City's FTE/personnel counts?

No

No additional personnel are required to the amend the pricing benchmark and spread of the KeyBank NPA.

ATTACHMENTS:

- Ordinance
- KeyBank Note Purchase Agreement Amendment



Board Action Memorandum

PRELIMINARY TERMS:

Pricing for the \$50 million Note Purchase Agreement with KeyBank is as follows compared to the existing agreement:

	<u>Existing Agreement</u>	<u>Proposal</u>
Maturity:	December 1, 2024	same
Notional Amount:	\$50,000,000	same
Interest Benchmark:	LIBOR (London Interbank Offered Rate)	SOFR (Secured Overnight Financing Rate)
Utilized fee:	100% of one-month LIBOR + 0.50% on drawn amount	100% of one-month SOFR + 0.54% on drawn amount
Unutilized fee:	0.20% fee annually (approx. \$100,000 if not used)	same
Standby Letter of Credit Option	1.25% fee annually + \$200 issuance fee	same

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED?

Expenditures for external Financial Advisory services were included in the 2023/2024 budget (\$250,000). Expenditures for Bond Counsel, estimated at \$50,000, are not included in the 2023/2024 budget.

The estimated annual debt service cost of the current KeyBank NPA is \$100,000 (unutilized) and was included in the Tacoma Power 2023/2024 budget. The estimated costs for utilizing the KeyBank NPA as a letter of credit in 2024 would be a maximum of \$312,500 and are not included in the Tacoma Power 2023/2024 budget.

IF THE EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW THEY ARE TO BE COVERED.

The expenses not budgeted will be covered by Tacoma Power's revenues.

ATTACHMENTS: Ordinances and Resolutions

CONTACT: Ying Hall, Power Rates, Planning, and Analysis Manager, 206.393.2231
Michelle Rhubright, Power Budget and Financial Planning Manager, 253.719.3198
Michelle Brown, Power Financial Planning Supervisor, 253.219.8209



Req. # _____

SUPPLEMENTAL ORDINANCE NO.

1 A SUPPLEMENTAL ORDINANCE of the City of Tacoma, Washington, relating to
2 Tacoma Power; authorizing a second amendment to the Note Purchase
3 Agreement related to the City's Electric System Subordinate Revenue Note,
4 Series 2020 (Taxable); delegating the authority to approve the final terms of
the amendment; and approving certain other matters in connection
therewith.

5 WHEREAS the City of Tacoma, Washington ("City"), by Ordinance
6 No. 23514, passed on November 20, 1985 (as amended and supplemented,
7 including as amended and restated by Ordinance No. 28146, passed on April 30,
8 2013, collectively, the "Senior Bond Ordinance"), authorized electric system
9 revenue bonds of the City ("Senior Bonds") to be issued in series having a parity of
10 lien and charge on the Revenues of the Electric System after the payment of
11 Operating Expenses (as those terms are defined therein), if certain conditions are
12 met, and made covenants in connection with the issuance of such Senior Bonds,
13 and
14 and

15
16 WHEREAS the Senior Bond Ordinance permits the City to issue obligations
17 that are junior and subordinate to the payment of the Senior Bonds and that are
18 payable out of Revenues of the Electric System, after payment of Operating
19 Expenses, only after the prior payment of all amounts required to be paid or set
20 aside under the Senior Bond Ordinance for the Senior Bonds, as the same shall
21 become due at the times and in the manner as required in the Senior Bond
22 Ordinance, and
23

24 WHEREAS on April 21, 2015, the City Council passed Ordinance No. 28295
25 (as amended, the "Master Subordinate Ordinance") to authorize a new issue of
26



1 revenue bonds of the City, junior and subordinate to the Senior Bonds, to be
2 known as the City of Tacoma Electric System Subordinate Revenue Bonds
3 ("Subordinate Bonds") in one or more series to finance costs of the Electric
4 System, and

5
6 WHEREAS pursuant to the Master Subordinate Ordinance and Ordinance
7 No. 28669 adopted on May 5, 2020 (the "First Supplemental Ordinance"), the City,
8 acting through its Department of Public Utilities, Light Division (d/b/a "Tacoma
9 Power") issued its Electric System Subordinate Revenue Note, Series 2020
10 (Taxable), to evidence a revolving line of credit in the principal amount of not to
11 exceed \$100,000,000 outstanding at any time (the "2020 Note"), and
12

13 WHEREAS the 2020 Note was sold to and purchased by KeyBank National
14 Association ("Purchaser") pursuant to the terms of the Note Purchase Agreement
15 dated May 21, 2020 (the "Original Note Purchase Agreement"), between the
16 Purchaser and the City, acting by and through its Public Utilities Board (the
17 "Board"), and
18

19 WHEREAS pursuant to Ordinance No. 28772 adopted on August 3, 2021
20 (the "Second Supplemental Ordinance") and the First Amendment to Note
21 Purchase Agreement dated September 16, 2021 (the "First Amendment" and
22 together with the Original Note Purchase Agreement, the "Amended Note
23 Purchase Agreement"), the City and the Purchaser agreed to reduce the available
24 principal amount of the 2020 Note to \$50,000,000, to extend the final maturity of
25 the 2020 Note and to amend certain provisions of the Original Note Purchase
26 Agreement, as set forth therein, and



1 WHEREAS implementation of the 2020 Note and the Amended Note
2 Purchase Agreement has provided liquidity and financial sustainability and
3 increased Tacoma Power's fiscal position, all of which are consistent with City
4 policy and fundamental to sound long range planning and government
5 performance, and
6

7 WHEREAS the 2020 Note currently bears interest at a variable rate based
8 on the London Interbank Offered Rate ("LIBOR"), and

9 WHEREAS LIBOR is scheduled to be discontinued as of June 30, 2023,
10 and
11

12 WHEREAS in anticipation of the pending unavailability of LIBOR, the
13 Amended Note Purchase Agreement reflected certain terms related to alternate
14 benchmark rates, including the Secured Overnight Financing Rate ("SOFR"),
15

16 WHEREAS Tacoma Power has requested that the interest rate on the 2020
17 Note be converted to an index rate based on SOFR and the Board has initiated
18 and recommended to the City Council for its approval a second amendment to the
19 Amended Note Purchase Agreement (the "Second Amendment," and the
20 Amended Note Purchase Agreement, and as it may be further amended, is
21 referred to as the "Note Purchase Agreement") to reflect the terms, and
22

23 WHEREAS the City Council now desires to authorize the execution of the
24 Second Amendment and related documents subject to the terms and conditions
25 set forth in this Supplemental Ordinance; Now, Therefore,
26



1 BE IT ORDAINED BY THE CITY OF TACOMA:

2 ARTICLE I

3 DEFINITIONS

4 Section 1.1. Definitions and Interpretation of Terms. Unless otherwise
5 defined in the recitals and elsewhere in this Supplemental Ordinance, capitalized
6 terms used herein shall have the meanings set forth in the Master Subordinate
7 Ordinance, as previously amended.
8

9 ARTICLE II

10 PARITY AND OTHER FINDINGS

11 Section 2.1. Parity Findings. In connection with the 2020 Note, the City
12 hereby makes the following findings:
13

14 A. There is, and as of the effective date of the Second Amendment there
15 will be, no deficiency in the Bond Fund, and no Event of Default has occurred or
16 shall have occurred and being continuing.
17

18 B. The principal of and interest on the 2020 Note shall continue to be paid
19 out of the Bond Fund and subject to the terms of the Master Subordinate
20 Ordinance, the First Supplemental Ordinance, the Second Supplemental
21 Ordinance, this Supplemental Ordinance and the Note Purchase Agreement.
22

23 C. On the effective date of the Second Amendment, there will be on file
24 with the City, if necessary, a certificate satisfying the conditions set forth in
25 Section 6.1 of the Master Subordinate Ordinance.

26 Section 2.2. Findings as to Sufficiency of Gross Revenue. The City hereby
confirms, finds, and determines that the Revenues of the Electric System at the



1 rates to be charged for power and other services and commodities from the
2 Electric System will be more than sufficient to meet all Operating Expenses, to
3 make all required payments with respect to the Senior Bonds, and to permit the
4 setting aside into the Bond Fund out of the Revenues of amounts sufficient to pay
5 the principal of and interest on the 2020 Note when due at maturity and upon any
6 mandatory sinking fund redemption thereof. The City further finds and determines
7 that in creating the Bond Fund and in fixing the amounts to be paid into the Bond
8 Fund, it has exercised due regard for Operating Expenses, and the City has not
9 bound and obligated itself to set aside and pay into the Bond Fund a greater
10 amount or proportion of the Revenues than in the judgment of the City will be
11 available over and above the Operating Expenses.
12
13

14 ARTICLE III

15 AUTHORIZATION

16 Section 3.1. Authorization.

17
18 A. The City Council has determined that it would be in the best interest of
19 the City to delegate to the Director of Public Utilities and the Tacoma Power
20 Superintendent (each, a "Designated Representative"), for a limited time the
21 authority to approve the terms of the Second Amendment, as provided herein.
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1 Subject to the terms and conditions set forth in this Section 3.1, each
2 Designated Representative is hereby authorized to approve the final terms of
3 the Second Amendment and to agree to any additional terms and covenants
4 that are in the best interest of the City and consistent with this Supplemental
5 Ordinance, provided that
6

7 (a) The available principal amount of the 2020 Note that may be
8 outstanding at any time remains not to exceed \$50,000,000;

9 (b) The final maturity of the 2020 Note remains no later than
10 December 1, 2024; and
11

12 (c) The interest rate on draws on the line of credit represented by the
13 2020 Note does not exceed a variable rate equal to the Term SOFR Rate (as
14 defined in the Second Amendment) plus 54 basis points for funds used, and 20
15 basis points for funds not drawn under the Note Purchase Agreement, as such
16 terms may be adjusted under the Note Purchase Agreement; provided, that the
17 2020 Note may be subject to a standby letter of credit fee of not to exceed 125
18 basis points and an issuance fee of not to exceed \$200 for the portion, if any, of
19 the 2020 Note converted to a letter of credit in accordance with the Note Purchase
20 Agreement, and to a default rate upon the occurrence and continuation of an Event
21 of Default as provided for in the Note Purchase Agreement.
22
23

24 Subject to the terms and conditions set forth in this Section 3.1, each
25 Designated Representative is hereby authorized to approve the final terms and
26 conditions of the Second Amendment in coordination with Bond Counsel, the
Municipal Advisor and the City Attorney's Office, to agree to any additional



1 terms and covenants that are in the best interest of the City and consistent with
2 this Supplemental Ordinance, and to execute and implement the Second
3 Amendment (including the payment of any financing costs associated with the
4 delivery of the Second Amendment), and such approval shall be conclusively
5 evidenced by such individual's execution thereof.
6

7 The authority granted to the Designated Representatives by this section
8 shall expire on July 1, 2023. If the Second Amendment has not been executed
9 by such date, the authorization provided herein shall be rescinded, and the
10 Second Amendment shall not be executed unless such authority has been re-
11 authorized by ordinance of the City Council at the request of the Board.
12

13 B. The terms of the 2020 Note shall otherwise be as set forth in the Note
14 Purchase Agreement. The principal of and interest on the 2020 Note shall be due
15 and payable at the rates, on the dates, and in the manner as set forth in the Note
16 Purchase Agreement.
17

18 ARTICLE IV

19 MISCELLANEOUS

20 Section 4.1. Ratification of Prior Acts. Any action taken consistent with the
21 authority and prior to the effective date of this Supplemental Ordinance is ratified,
22 approved, and confirmed.
23

24 Section 4.2. General Authorization. Upon the passage and approval of this
25 Supplemental Ordinance, the proper officials of the City including the Designated
26 Representatives, the Borrower Representatives, the Mayor, the City Treasurer, the
Finance Director, the Assistant Finance Director/Controller and the City Clerk are



1 authorized and directed to undertake all action necessary for the prompt execution
2 and delivery of the Second Amendment and further to execute all closing
3 certificates, agreements, and other documents required to effect the delivery of the
4 Second Amendment in accordance with the terms of this Supplemental Ordinance.

5
6 Notwithstanding anything herein or in the Master Subordinate Ordinance to
7 the contrary, the signature of one authorized official, including but not limited to the
8 Designated Representatives, shall be sufficient to bind the City.

9 Section 4.3. Terms of 2020 Note Subject to the Master Subordinate
10 Ordinance, as amended; Ratification. Except as expressly provided herein, every
11 term and condition contained in the Master Subordinate Ordinance, the First
12 Supplemental Ordinance and the Second Supplemental Ordinance shall apply to
13 this Supplemental Ordinance and the 2020 Note with the same force and effect as
14 if the same were herein set forth at length, with such omissions, variations and
15 modification as may be appropriate to make the same conform to this
16 Supplemental Ordinance.
17

18
19 In the event of any inconsistency between the terms and provisions
20 provided for in this Supplemental Ordinance and the Master Subordinate
21 Ordinance, the First Supplemental Ordinance and/or the Second Supplemental
22 Ordinance, the terms and provisions of this Supplemental Ordinance shall control.
23

24 Except as supplemented and amended by this Supplemental Ordinance,
25 the Master Subordinate Ordinance, the First Supplemental Ordinance and the
26 Second Supplemental Ordinance are hereby ratified, approved and confirmed and



1 shall continue in full force and effect in accordance with the terms and provisions
2 thereof, as amended and supplemented.

3 Section 4.4. Provisions of Note Purchase Agreement. The terms and
4 provisions of the 2020 Note as set forth in the Note Purchase Agreement shall
5 control over any inconsistent provision of this Supplemental Ordinance.
6

7 Section 4.5. Effective Date of Ordinance. This Supplemental Ordinance
8 shall take effect and be in force 10 days after its passage, approval and
9 publication as required by law.
10

11 Passed _____

12
13 _____
Mayor

14 Attest:
15
16 _____

17 City Clerk

18 Approved as to form and legality:
19

20 Pacifica Law Group LLP
21 Bond Counsel

22 By _____
23
24
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CLERK'S CERTIFICATE

1 I, the undersigned, City Clerk of the City of Tacoma, Washington, DO
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HEREBY CERTIFY:

1. That the attached is a true and correct copy of Supplemental Ordinance
No. ____ (the "Ordinance") of the City, duly passed at a regular meeting of the City
Council (the "Council") of the City held on _____, 2023.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the
official seal of the City as of this ____ day of _____, 2023.

City Clerk
City of Tacoma, Washington

SECOND AMENDMENT TO NOTE PURCHASE AGREEMENT

This SECOND AMENDMENT TO NOTE PURCHASE AGREEMENT (this "*Amendment*") is dated _____, 2023 (the "*Amendment Date*"), between the CITY OF TACOMA, WASHINGTON, a municipal corporation duly organized and existing under the laws of the State of Washington, acting by and through its Public Utilities Board (the "*Borrower*"), and KEYBANK NATIONAL ASSOCIATION, a national banking association (the "*Purchaser*"). All capitalized terms used herein and not defined herein shall have the meanings set forth in the hereinafter defined Agreement.

WITNESSETH

WHEREAS, the Borrower and the Purchaser, as the initial purchaser, entered into that certain Note Purchase Agreement dated May 21, 2020, as amended by the First Amendment to Note Purchase Agreement dated September 16, 2021 (together, the "*Agreement*"); and

WHEREAS, pursuant to Section 9.03 of the Agreement, the Agreement may be amended by a written amendment thereto executed by the Borrower and Purchaser; and

WHEREAS, the parties have agreed to make certain amendments to the Agreement subject to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the premises, the parties hereto hereby agree as follows:

Section 1. Definitions. Unless otherwise specified herein, including in the recitals hereto, all capitalized terms used in this Amendment shall have the meanings specified in the Agreement.

Section 2. Amendments to the Agreement. Upon the satisfaction of the conditions precedent set forth in Section 3 of this Amendment, the Agreement is hereby amended as follows:

2.01. Amendments, Additions and Deletions to Definitions. The following definitions in Section 1.01 of the Agreement are hereby inserted or amended as follows (deletions are ~~stricken~~ and additions are double underlined):

"Amendment Date" means the date that this Amendment becomes effective as provided in Section 3 of the Second Amendment.

"Applicable Margin" shall be 0.10% (10 basis points), subject to adjustment pursuant to Section 2.07, hereof.

"Base Rate" means, for any day, a fluctuating rate per annum equal to the highest of (a) the rate of interest in effect for such day as established from time to time by the Purchaser as its "prime rate," whether or not publicly announced, which interest rate may or may not be the lowest rate

charged by it for commercial loans or other extensions of credit and (b) the Floor.

“Benchmark” means, initially, Term SOFR; provided that if a Benchmark Transition Event has occurred with respect to the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.07.

“Benchmark Replacement” means, with respect to any Benchmark Transition Event for the then-current Benchmark, the sum of: (a) the alternate benchmark rate that has been selected by the Purchaser, with the consent of the Borrower, as the replacement for such Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for such Benchmark for credit facilities of similar size denominated in U.S. Dollars at such time and (b) the related Benchmark Replacement Adjustment, if any; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the Note. ~~means the sum of: (a) the alternate benchmark rate (which may include Term SOFR or Daily Simple SOFR) that has been selected by the Purchaser, in consultation with the Borrower and subject to any amendment necessary to effect the Benchmark Replacement as contemplated in Section 2.07(a) and (c) hereof, giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR for U.S. dollar-denominated syndicated or bilateral credit facilities, and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than 0.5%, then Benchmark Replacement will be deemed to be 0.5% for the purposes of this Agreement. If the Purchaser and the Borrower have entered into a Related Swap, in selecting the alternate benchmark rate, as described above, the Purchaser shall also give due consideration to any Related Swap and the benchmark rate set forth therein, as the same may be replaced or amended in connection with a Benchmark Transition Event or otherwise, and the timing thereof. Notwithstanding the foregoing, the Purchaser makes no representation nor guaranty of any kind that the alternate benchmark rate for the Note, or the date it becomes effective, shall be the same as the benchmark rate of the Related Swap or the date of effectiveness thereof.~~

“Benchmark Replacement Adjustment” means, with respect to any replacement of any then-current Benchmark with an Unadjusted Benchmark Replacement for the one month term rate, the spread

adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero), if any, that has been selected by the Purchaser, upon consent of the Borrower, giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. Dollar denominated syndicated credit facilities. means, with respect to any replacement of LIBOR with an Unadjusted Benchmark Replacement for each applicable LIBOR Interest Rate Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Purchaser, in consultation with the Borrower and subject to any amendment necessary to effect the Benchmark Replacement as contemplated in Section 2.07(a) and (c) hereof, giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated or bilateral credit facilities at such time. If the Purchaser and the Borrower have entered into a Related Swap, in selecting the spread adjustment, or method for calculating or determining such spread adjustment, as described above, the Purchaser shall also give due consideration to any Related Swap and the benchmark rate set forth therein, as the same may be replaced or amended in connection with a Benchmark Transition Event or otherwise, and any spread adjustment related thereto, and the timing thereof. Notwithstanding the foregoing, the Purchaser makes no representation nor guaranty of any kind that the alternate benchmark rate for the Note, or the date it becomes effective, shall be the same as the benchmark rate of the Related Swap or the date of effectiveness thereof.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “SOFR Business Day,” the defined interest period or any similar or analogous definition (or the addition of a concept of “interest period”) (collectively, “Interest Period”), the timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, and other technical,

administrative or operational matters) that the Purchaser, after consultation with the Borrower, decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Purchaser in a manner substantially consistent with market practice (or, if the Purchaser, after consultation with the Borrower, decides that adoption of any portion of such market practice is not administratively feasible or if the Purchaser, after consultation with the Borrower, determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Purchaser, after consultation with the Borrower, decides is reasonably necessary in connection with the administration of this Agreement or the Note). ~~means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "LIBOR Interest Rate Period," timing and frequency of determining rates and making payments of interest and other administrative matters) that the Purchaser decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Purchaser in a manner substantially consistent with market practice (or, if the Purchaser decides that adoption of any portion of such market practice is not administratively feasible or if the Purchaser determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Purchaser decides is reasonably necessary in connection with the administration of this Agreement). Any determination, decision or election made by the Purchaser in relation to Benchmark Replacement Conforming Changes shall be made in consultation with the Borrower and subject to any amendment necessary to effect the Benchmark Replacement as contemplated in Section 2.07(a) and (c) hereof.~~

"Benchmark Replacement Date" means the earlier to occur of the following events with respect to the then-current Benchmark; LIBOR:

(i) in the case of clause (i) or (ii) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide the one month term rate of such Benchmark (or such component thereof); or

(ii) in the case of clause (iii) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (iii)

and even if any one month term rate of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (A) if the event giving rise to the Benchmark Replacement Date for any Benchmark occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such Benchmark and for such determination and (B) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (i) or (ii) of the definition of “Benchmark Transition Event,” with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current one month term rate of such Benchmark (or the published component used in the calculation thereof).

(a) — July 1, 2023;

(b) — the date that the 30-day tenor of US dollar-based LIBOR has either permanently or indefinitely ceased to be provided by the regulatory supervisor of US dollar-based LIBOR’s administrator (“IBA”) or has been announced by the Financial Conduct Authority (“FCA”) pursuant to public statement or publication of information to be no longer representative;

(c) — an Early Opt-in Election.

“Benchmark Transition Event” means, with respect to the then-current Benchmark, the occurrence of one or more of the following events with respect to such Benchmark:

(i) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide the one month term rate of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any one month term rate of such Benchmark (or such component thereof);

(ii) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such

Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide the one month term rate of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any one month term rate of such Benchmark (or such component thereof); or

(iii) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that the one month term rate of such Benchmark (or such component thereof) is no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current one month term rate of such Benchmark (or the published component used in the calculation thereof).

~~means the occurrence of one or more of the following events with respect to LIBOR:~~

~~(a) — the date of July 1, 2023;~~

~~(b) — the 30-day tenor of US-dollar-based LIBOR has either permanently or indefinitely ceased to be provided by the regulatory supervisor of US-dollar-based LIBOR’s administrator (“IBA”) or has been announced by the Financial Conduct Authority (“FCA”) pursuant to public statement or publication of information to be no longer representative;~~

~~(c) — an Early Opt-in Election.~~

“Benchmark Transition Start Date” means, with respect to any Benchmark, in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication). ~~means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such~~

prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication), and (b) in the case of an Early Opt-in Election, the date specified by the Purchaser by notice to the Borrower.

“Benchmark Unavailability Period” means, with respect to any then-current Benchmark, the period (if any) (a) beginning at the time that a Benchmark Replacement Date with respect to such Benchmark has occurred if, at such time, no Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Related Document and (b) ending at the time that a Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under this Agreement. ~~means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR and solely to the extent that LIBOR has not been replaced with a Benchmark Replacement (or if the parties have not reached agreement on the amendment necessary to effect the Benchmark Replacement as contemplated in Section 2.07(a) and (c) hereof), the period beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced LIBOR for all purposes hereunder in accordance with Section 2.07 hereof (or if the parties have not reached agreement on the amendment necessary to effect the Benchmark Replacement as contemplated in Section 2.07(a) and (c) hereof), and ending at the time that a Benchmark Replacement has replaced LIBOR for all purposes hereunder pursuant to Section 2.07.~~

“Business Day” means a day which is (a) not a Saturday, Sunday or legal holiday on which banking institutions in Tacoma, Washington or New York, New York or the states where the principal corporate office of the Borrower or the principal corporate trust office of the Paying Agent is located are authorized by law to close, (b) not a day on which the New York Stock Exchange or the Federal Reserve Bank is closed, (c) not a day on which the principal offices of the Calculation Agent or the principal office of the Purchaser is closed or (d) with respect to all notices and determinations in connection with, and payments of principal and interest on, the Note, any day that is a Business Day described in clauses (a), (b) and (c) and that is also a day for trading by and between banks in Dollar deposits in the London interbank market; provided, with respect to any matters relating to calculation of the interest rate based on SOFR, a SOFR Business Day shall be used in lieu of a Business Day.

“CBA” means CME Group Benchmark Administration Limited.

“Computation Date” means for the Term SOFR Index Rate, the second SOFR Business Day immediately preceding each Term SOFR Index Reset Date. For the period beginning on the Amendment Date, to, but not including, the first Term SOFR Index Reset Date, the Computation Date shall be one SOFR Business Day prior to the Amendment Date. ~~means,~~

~~with respect to an Advance, the second London Banking Day immediately preceding each Libor Index Reset Date; provided that, if there are no Advances outstanding, then with respect to a new Advance, the initial Computation Date shall be the second London Banking Day immediately preceding the date of such Advance.~~

~~“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Purchaser in accordance with the conventions for this rate recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided, that if the Purchaser decides that any such convention is not administratively feasible for the Purchaser, then the Purchaser may establish another convention in its reasonable discretion.~~

~~“Early Opt in Election” means the occurrence of: (a) a determination by the Purchaser that at least five currently outstanding U.S. dollar denominated syndicated or bilateral credit facilities at such time contain (as a result of amendment or as originally executed) as a benchmark interest rate, in lieu of LIBOR, a new benchmark interest rate to replace LIBOR, and (b) the election by the Purchaser to declare that an Early Opt-in Election has occurred and the provision by the Purchaser of written notice of such election to the Borrower.~~

“Floor” means a rate of interest equal to 0.50%.

~~“Index Rate” means the Term SOFR Index Rate LIBOR Index Rate or the Default Rate, as applicable.~~

~~“Index Reset Date” means the Term SOFR Index Reset Date LIBOR Index Reset Date.~~

~~“LIBOR Business Day” means a day on which (a) banks are not required or authorized to close in Cleveland, Ohio, and (b) dealings are carried on in the London interbank Eurodollar market.~~

~~“LIBOR Fixed Rate” means the rate of interest per annum determined by the Calculation Agent based on the rate for United States dollar deposits for delivery on the LIBOR Index Reset Date for a period equal to one month as reported on Reuters Screen LIBOR01 page (or any successor page) at approximately 11:00 a.m., London time, on each Computation Date (or if not so reported, then as determined by the Calculation Agent from another recognized source of interbank quotation). Notwithstanding anything to the contrary in the foregoing, in the event that LIBOR shall be equal to or less than zero percent (0.00%), LIBOR shall be deemed to be zero percent (0.00%).~~

~~“LIBOR Interest Rate Period” means a period of one month, not to exceed the Commitment Expiration Date of the Note, or the Amortization End Date, should the Amortization Period be applicable.~~

~~“LIBOR Index Rate” means a per annum rate of interest established on each Computation Date equal to the LIBOR Fixed Rate plus 0.50%; provided, however, that immediately and upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuation of such Event of Default, the LIBOR Index Rate shall mean the Default Rate.~~

~~“LIBOR Index Reset Date” shall mean the first Business Day of each calendar month.~~

~~“Prime Rate” means the rate per annum from time to time established by Purchaser as Purchaser’s Prime Rate, whether or not such rate is publicly announced; the Prime Rate may not be the lowest interest rate charged by Purchaser for commercial or other extensions of credit. In the event of any change in the Prime Rate, the rate of interest applicable to the Borrower’s loans evidenced hereby shall be adjusted to immediately correspond with each such change. In the event that the Prime Rate, is determined to be less than 0.50%, such index shall be deemed to be 0.50% for purposes of computation of interest.~~

~~“Relevant Governmental Body” means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto. the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.~~

~~“Second Amendment” means the Second Amendment to Note Purchase Agreement, dated _____, 2023, between the Purchaser and the Borrower.~~

~~“SOFR Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.~~

~~“Term SOFR” or “Term SOFR Rate” means, with respect to any Computation Date, the forward-looking one month term rate based on the secured overnight financing rate that is published by the Term SOFR Administrator (“One Month Term SOFR”) and displayed on CME’s Market~~

Data Platform (or other commercially available source providing such quotations as may be selected by the Calculation Agent from time to time), at approximately 6:00 a.m. New York City time, on such Computation Date (and rounded to the nearest 1/16th of 1%); provided that if by 5:00 pm (New York City time) on any Computation Date, One Month Term SOFR for such day has not been published, then such One Month Term SOFR for such day will be such One Month Term SOFR as published in respect of the first preceding SOFR Business Day for which such rate was published; provided, further, that One Month Term SOFR determined pursuant to this sentence shall be utilized for purposes of calculation of One Month Term SOFR for no more than three consecutive SOFR Business Days means, for the applicable corresponding tenor, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Term SOFR Index Rate” means the rate per annum determined by the Calculation Agent on each Computation Date, equal to the sum of (a) the Term SOFR Rate, (b) 0.44% (44 basis points) and (c) the Applicable Margin. In the event that the Term SOFR Rate or any other index that may be used to calculate interest due under the terms of the Note is determined to be less than zero, such index shall be deemed to be zero for purposes of the Note.

“Term SOFR Administrator” means CBA (or a successor administrator of the forward-looking secured overnight financing rate).

“Term SOFR Index Reset Date” means the first day of each month, beginning the month following the Amendment Date.

“Unadjusted Benchmark Replacement” means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

2.02. Amendment to Section 2.01. Section 2.01 of the Agreement is hereby amended as follows (deletions are ~~stricken~~ and additions are double underlined):

Section 2.01. Issuance of Note; Commitment to Make Advances.

(a) This Agreement reflects the terms and conditions under which the Purchaser shall provide the Borrower with an operating revolving Line of Credit and, upon request of the Borrower, shall issue one or more Letters of Credit.

From the Effective Date through five Business Days prior to the Termination Date, and upon and subject to the terms and conditions and on the basis of the representations, warranties and agreements contained herein, the Purchaser hereby agrees, when requested by the Borrower

pursuant to this Agreement, to make Line of Credit Advances from time to time (but in no event more than two (2) per calendar month) and to issue Letters of Credit from time to time thereunder. The aggregate principal amount of all Line of Credit Advances and Letter of Credit Amounts outstanding at any time shall not to exceed the Initial Available Commitment.

The Borrower hereby agrees to issue the Note in an aggregate principal amount equal to \$50,000,000.00, to the Purchaser, under the terms and conditions of the Note Ordinance to evidence and secure the Borrower's obligations under this Agreement.

The Note evidences the Borrower's obligations under this Agreement, is authorized pursuant to the Note Ordinance, and is to be issued only for the purposes authorized under the Note Ordinance. The Note is issued as "Subordinate Bonds" under the Note Ordinance and, pursuant to the Note Ordinance, the principal of and interest on the Note is payable from and secured by a subordinate lien on and pledge of Revenues, subject to the terms and conditions of the Note Ordinance.

The Note shall contain a record on which each Advance and each Letter of Credit Amount shall be recorded by the Purchaser; *provided, however*, that the failure to do so or any other act or omission of the Purchaser shall not relieve the Borrower from its obligations as provided herein. Such record shall be conclusive as to such amounts absent manifest error.

(b) The amount available for Line of Credit Advances and Letter of Credit Amounts is \$50,000,000.00; provided, however, at no time shall the Letter of Credit Aggregate Amount exceed \$25,000,000.00.

(c) The obligations of the Borrower under this Agreement shall (i) be evidenced and secured by the Note, which will be delivered to the Purchaser on the Effective Date, (ii) be secured by the Revenues as set forth in the Note Ordinance, and (iii) mature on the Commitment Expiration Date. Each Line of Credit Advance made and each Letter of Credit issued under this Agreement shall be in a minimum principal amount of \$100,000; provided that Letter of Credit Advances shall be in the principal amount of the corresponding draw on the applicable Letter of Credit and shall not require submission of a Request for Line of Credit Advance or Letter of Credit. Interest on each Advance shall be calculated on the basis of a year of 360 days and actual days elapsed from the Advance Date.

(d) In the event of a Letter of Credit Advance due to a draw on a Letter of Credit, the Borrower may reinstate the applicable Letter of Credit to the original stated amount of the Letter of Credit Amount by written

instruction to the Purchaser to reinstatement the Letter of Credit Amount with the date of reinstatement and the payment of all Letter of Credit Advances with respect to such draws, with interest accruing on such Letter of Credit Advances to the date of reinstatement.

(e) The interest accruing on the Note, which is denominated in U.S. Dollars, may be determined by reference to a benchmark rate that is, or may in the future become, the subject of regulatory reform or cessation. The Purchaser does not warrant or accept responsibility for, and shall not have any liability with respect to (i) the administration of, submission of, calculation of or any other matter related to Term SOFR, any component definition thereof or rates referenced in the definition thereof or any alternative, comparable or successor rate thereto (including any then-current Benchmark or any Benchmark Replacement), including whether the composition or characteristics of any such alternative, comparable or successor rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Term SOFR or any other Benchmark, or (ii) the effect, implementation or composition of any Benchmark Replacement Conforming Changes.

2.03. Amendment to Section 2.03. Section 2.03 of the Agreement is hereby amended as follows (deletions are ~~stricken~~ and additions are double underlined):

Section 2.03. Method of Requesting Line of Credit Advances and Letters of Credit.

(a) Each Line of Credit Advance and each request for, or modification of, a Letter of Credit shall be made upon the Borrower's irrevocable notice to the Purchaser in the form of a Request for Line of Credit Advance or Letter of Credit with blanks appropriately completed and signed by a Borrower Representative.

Any Request for Line of Credit Advance shall specify: (1) the Line of Credit Advance Date which shall be a SOFR Business Day ~~LIBOR Business Day~~ and shall be at least three SOFR Business Days ~~LIBOR Business Days~~ after the date of the Request for Line of Credit Advance; and (2) the principal amount of the requested Advance.

Any Request for the issuance of a Letter of Credit, including a modification to an existing Letter of Credit, shall specify the Letter of Credit Amount, the beneficiary, the proposed delivery date or date of modification, as applicable, and the expiration date of such Letter of Credit, and describe the proposed terms of such Letter of Credit and the nature of the transactions proposed to be supported thereby. In addition, the Borrower shall complete such forms as the letter of credit department of the Purchaser requires. No

Letter of Credit may have an expiration date later than the earlier of (x) the fifth Business Day before the Termination Date and (y) one year after its issuance.

The aggregate principal amount of all Line of Credit Advances and Letter of Credit Amounts in all cases shall not exceed the Available Commitment as of the proposed Advance Date or Letter of Credit issue date, as applicable.

(b) Each Request for Line of Credit Advance must be received by the Purchaser not later than 12:00 noon Cleveland time three SOFR Business Days ~~LIBOR Business Days~~ immediately prior to the requested Advance Date. Upon receipt of such Request for Line of Credit Advance by the Purchaser, the Purchaser, subject to the terms and conditions of this Agreement, shall be required to make a Line of Credit Advance by 3:00 p.m. Cleveland time on the proposed Advance Date for the account of the Borrower in an amount equal to the amount of the requested Line of Credit Advance. Notwithstanding the foregoing, in the event such Request for Line of Credit Advance is received by the Purchaser after 12:00 noon Cleveland time on the Business Day which is three (3) SOFR Business Days ~~LIBOR Business Days~~ immediately prior to the day of the proposed Line of Credit Advance, the Purchaser shall be required to make the related Line of Credit Advance by 3:00 p.m. on the fourth SOFR Business Days ~~LIBOR Business Day~~ after receipt of the related Request for Line of Credit Advance. The Calculation Agent ~~Purchaser~~ shall determine the Term SOFR Index Rate ~~LIBOR Index Rate~~ with respect to any Request for Line of Credit Advance ~~two Business Days Advance Date based on the applicable Computation Date.~~

Each Request for the issuance or modification of a Letter of Credit must be received by the Purchaser not later than 12:00 noon Cleveland time three Business Days immediately prior to the requested delivery date. Upon receipt of such Request by the Purchaser, the Purchaser, subject to the terms and conditions of this Agreement, shall be required to issue the Letter of Credit by 3:00 p.m. Cleveland time on the proposed delivery date in an amount equal to the requested Letter of Credit Amount. Notwithstanding the foregoing, in the event such Request is received by the Purchaser after 12:00 noon Cleveland time on the Business Day which is three Business Days immediately prior to the day of the proposed delivery, the Purchaser shall be required to issue the Letter of Credit by 3:00 p.m. on the fourth Business Day after receipt of the related Request for said Letter of Credit. On or before the date of delivery of any Letter of Credit, the Borrower shall pay the Purchaser the Letter of Credit Issuance Fee. The Letter of Credit Fee shall accrue as of the date of delivery of the applicable Letter of Credit until such Letter of Credit is cancelled or otherwise terminated.

(c) The initial Index Rate for any Advance shall be the Term SOFR Index Rate ~~LIBOR Index Rate~~. The Calculation Agent shall determine the Term SOFR Index Rate on each Computation Date, and such rate shall become effective on the SOFR Index Reset Date next succeeding the Computation Date and interest at such rate shall accrue each day with respect to the Note, commencing on and including the next succeeding SOFR Index Reset Date to but excluding the immediately succeeding SOFR Index Reset Date. The Calculation Agent shall notify the Paying Agent and the Borrower of the Term SOFR Index Rate ~~LIBOR Index Rate~~ with respect to each Term SOFR Index Rate Date ~~LIBOR Index Reset Date~~. The Calculation Agent's internal records and applicable interest rates shall be determinative in the absence of manifest error. If the Borrower requests an Advance with waiver of the at least three or five, as applicable, Term SOFR Business Days ~~LIBOR Business Days~~ period before the date of the Request for Line of Credit Advance, and Purchaser is agreeable to such waiver of said three or five, as applicable, Term SOFR Business Days ~~LIBOR Business Days~~ period, then during such period between the date of the actual date of Advance, and the date for which the Advance would be available absent such waiver by Purchaser, the Index Rate for said period shall be the shall be the Base Rate ~~Prime Rate~~.

2.04. Amendment to Section 2.04. Section 2.04 of the Agreement is hereby amended as follows (deletions are ~~stricken~~ and additions are double underlined):

(a) Each Advance shall bear interest at a rate per annum equal to the lesser of (1) the Maximum Interest Rate and (2) the Index Rate.

(b) Each Letter of Credit shall incur fees at a rate per annum equal to the Letter of Credit Fee. Such fees shall accrue and be payable in the same manner and the same frequency as Advances. Upon a Letter of Credit Advance, the amount of the Letter of Credit so advanced shall cease incurring the Letter of Credit Fee and instead accrue interest as a Line of Credit Advance as provided in Section 2.08. While an Event of Default is continuing, at the option of the Purchaser, the interest rate on any Letter of Credit Advance may be increased to the Default Rate.

(c) Any principal of, and to the extent permitted by applicable law, interest on the Note and any other sum payable hereunder, which is not paid when due shall bear interest, from the date due and payable until paid, payable on demand, at a rate per annum equal to the lesser of (i) the Default Rate and (ii) the Maximum Interest Rate.

(d) Notwithstanding the terms of the Second Amendment, for purposes of computing interest on the Note, the terms of the Second Amendment shall not be used, and the existing terms of the Agreement prior to the Amendment Date shall be used, for calculation of interest accruing on the Note prior to the Amendment Date.

2.05. Amendment to Section 2.05(b). Section 2.05(b) of the Agreement is amended by inserting “SOFR Index Reset Date” for “LIBOR Index Reset Date” in the first sentence of said paragraph (b).

2.06. Amendment to Section 2.07. Section 2.07 of the Agreement is amended as follows (deletions are ~~stricken~~ and additions are double underlined):

Section 2.07. Temporary Inability to Determine Rates; Effect of Benchmark Transition Event.

(a) *Temporary Inability to Determine Rates.* If the Purchaser determines (which determination shall be conclusive and binding absent manifest error) that Term SOFR cannot be determined pursuant to the definition thereof or that Term SOFR does not adequately and fairly reflect the cost to the Purchaser of funding the Note, then the Purchaser will promptly so notify the Borrower. Upon notice thereof by the Purchaser to the Borrower, any obligation of the Purchaser to make or continue loans pursuant to draws shall be suspended until the Purchaser revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending request for draws or, failing that, the Borrower will be deemed to have converted any such request into a request for a draw based on the Base Rate in the amount specified therein and (ii) for any outstanding draws the interest rate shall be converted to the Base Rate at the end of the applicable Term SOFR Index Reset Date.

(b) *Benchmark Replacement.*

Notwithstanding anything to the contrary herein or in any other Related Document (and any Swap Agreement shall be deemed not to be a “Related Document” for purposes of this Section), upon the determination by the Purchaser (which shall be conclusive absent manifest error) that a Benchmark Transition Event ~~or an Early Opt in Election~~ has occurred, ~~as applicable~~, the Purchaser and the Borrower may amend this Agreement to replace the Term SOFR Rate ~~LIBOR Fixed Rate~~ with a Benchmark Replacement, including modification of the Applicable Margin. Any such amendment will become effective at 5:00 p.m. on the fifth (5th) Business Day after the Purchaser and the Borrower execute such amendment (or such later date as the Purchaser and Borrower shall designate in such amendment as the effective date of the Benchmark Replacement). No replacement of

Term SOFR Rate ~~LIBOR Fixed Rate~~ with a Benchmark Replacement pursuant to this Section will occur prior to the applicable Benchmark Transition Start Date.

(~~b~~c) *Benchmark Replacement Conforming Changes.* In connection with the implementation and administration of a Benchmark Replacement, the Purchaser and the Borrower acknowledge the possible need to make Benchmark Replacement Conforming Changes to this Agreement from time to time and, notwithstanding anything to the contrary herein or in any other Related Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective as provided in such amending document.

(~~e~~d) *Notices; Standards for Decisions and Determinations.* The Purchaser will promptly notify the Borrower in writing of (i) any occurrence of a Benchmark Transition Event ~~or an Early Opt-in Election, as applicable,~~ and its related Benchmark Replacement Date and Benchmark Transition Start Date, (ii) the implementation of any Benchmark Replacement, (iii) the need for and the effectiveness of any Benchmark Replacement Conforming Changes and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election pursuant to clauses (i) and (iv) that may be made by the Purchaser pursuant to this Section, will be conclusive and binding absent manifest error and may be made in the Purchaser's sole discretion and without consent from the Borrower. Action pursuant to clauses (ii) and (iii) shall be made in accordance with the amending document entered into between the Purchaser and the Borrower.

(~~e~~e) *Benchmark Unavailability Period.* Upon the Borrower's receipt of notice from the Purchaser of the commencement of a Benchmark Unavailability Period, the Index Rate shall be the Base Rate Prime in effect ~~on such day.~~

Section 3. Conditions Precedent. This Amendment shall be effective as of the Amendment Date subject to satisfaction of or waiver by the Purchaser of all of the following conditions:

3.01. Delivery by the Borrower of an executed (a) counterpart of this Amendment and (b) Ordinance No. _____ passed by the City Council on _____, 2023 (the "*Supplemental Ordinance*").

3.02. Receipt by the Purchaser of (a) an authorizing resolution of the Public Utilities Board as the governing body of the Borrower approving this Amendment, the Supplemental Ordinance and the amendments to the Note, (b) an executed replacement Note in the principal amount of not to exceed \$50,000,000, (c) a certificate dated the Amendment Date and executed by a Borrower Representative certifying the names and signatures of the persons

authorized to sign, on behalf of the Borrower, this Amendment and the Supplemental Ordinance and the other documents to be delivered by it hereunder or thereunder, and (ed) an opinion of Note Counsel, on which the Purchaser is entitled to rely, in form and substance reasonably acceptable to the Purchaser, to the effect that this Second Amendment is a legal, valid and binding obligation of the Borrower, and including such other customary matters as the Purchaser may reasonable request.

3.03. All other legal matters pertaining to the execution and delivery of this Amendment shall be reasonably satisfactory to the Purchaser and its counsel.

Section 4. Representations and Warranties of the Borrower.

4.01. The Borrower hereby represents and warrants that the following statements shall be true and correct as of the date hereof:

(a) The representations and warranties of the Borrower contained in Article V of the Agreement are true and correct on and as of the date hereof as though made on and as of such date (except to the extent the same expressly relate to an earlier date).

(b) No Event of Default nor any condition, event or act which with the giving of notice or the passage of time or both would constitute an Event of Default has occurred and is continuing or would result from the execution of this Amendment.

4.02. In addition to the representations given in Article V of the Agreement, the Borrower hereby represents and warrants as follows:

(a) The execution, delivery and performance by the Borrower of this Amendment and the Agreement, as amended hereby, are within its powers, have been duly authorized by all necessary action and do not contravene any law, rule or regulation, any judgment, order or decree or any contractual restriction binding on or affecting the Borrower.

(b) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Borrower of this Amendment or the Agreement, as amended hereby.

(c) This Amendment and the Agreement, as amended hereby, constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, except that (i) the enforcement thereof may be limited by bankruptcy, reorganization, insolvency, liquidation, moratorium and other laws relating to or affecting the enforcement of creditors' rights and remedies generally, as the same may be applied in the event of the bankruptcy, reorganization, insolvency, liquidation or similar situation of the Borrower, and (ii) no representation or warranty is expressed as to the availability of equitable remedies.

Section 5. Miscellaneous. Except as specifically amended herein, the Agreement shall continue in full force and effect in accordance with its terms. Reference to this Amendment need not be made in any note, document, agreement, letter, certificate, the Agreement or any communication issued or made subsequent to or with respect to the Agreement, it being hereby agreed that any reference to the Agreement shall be sufficient to refer to, and shall mean and be a reference to, the Agreement, as hereby amended and as it may be further amended in the future in accordance with its terms. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby. The Borrower hereby agrees to pay the reasonable fees and expenses of legal counsel incurred by the Purchaser in connection with this Amendment promptly after the Borrower's receipt of an invoice for the same. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF WASHINGTON WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PROVISIONS.

This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the Amendment Date.

KEYBANK NATIONAL ASSOCIATION

By _____
Name: Matt Zehnder
Title: Director

CITY OF TACOMA, WASHINGTON

By _____
Name: Chris Robinson,
Title: Superintendent/Chief Operating Officer,
Department of Public Utilities, Light Division