COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

THE UNITED FOOD AND COMMERCIAL WORKERS LOCAL 367, TACOMA FOR ALL, THE TACOMA-PIERCE COUNTY DEMOCRATIC SOCIALISTS OF AMERICA, LUKAS GRAHAM, ZEV ROSE COOK, JOSEPHINE MARCH JUAREZ, ARIA JOSLYN, PATRICK WILLIAM LOWERY, and JASON DANIEL VAN HOY, Respondents, v. CITY OF TACOMA, Appellant, and PIERCE COUNTY and LINDA FARMER, in her official capacity, Defendants.	No. 62278-5 MOTION FOR STAY OR ALTERNATIVELY FOR EXPEDITED REVIEW

IDENTITY OF MOVING PARTY, RELIEF REQUESTED & INTRODUCTION

Appellant City of Tacoma asks this Court to stay the trial court's ruling ordering the Pierce County Auditor's Office (PCAO) to place Initiative 2 on for a Special Election on February 10, 2026. If this Court will not stay that order, then it should grant expedited review. To facilitate that, the City is filing its Brief of Appellant (BA) herewith. In this alternative, the Court should give Respondents 30 days to respond, the City 15 days to reply, and no extensions. If the Court wishes to hear oral argument, the City requests a hearing by December 10. The deadline for printing the ballots for the February 10 election is December 19, 2025. This Court should issue an order by December 15, 2025.

As the accompanying BA explains in detail, Petitioners gathered signatures for what became Initiative 2. Although they had sufficient signatures, they waited to submit them until they reached ~12,000 signatures, which

was nearly three times the necessary amount. While they could have submitted signatures in tranches to begin the verification process, they held them all until June 24, 2025.

The next day, the City scanned-in the roughly 2000 signature pages, forwarding them to the PCAO the following day. The PCAO immediately began a detailed signature verification process, completing the first phase in just three days. The City Clerk validated the signatures one day after receiving them.

Under Tacoma City Charter § 2.19(j), the City then had 30 days (from July 10 to August 9) to either enact or reject Initiative 2. After properly evaluating the proposal by August 8, the City rejected it and (as per the City Charter) requested that the PCAO place it on the next municipal or general election that was not less than 90 days after the signatures were validated, in November 2025. But the PCAO's deadline for submitting an initiative for that election was August 5 – three days before the City Council

completed its review process. The PCAO therefore declined to call a special election on Initiative 2.

The Petitioners sued under the Uniform Declaratory Judgments Act (UDJA) and another party filed an affidavit to initiate an election challenge under RCW Ch. 29A.68. The court heard both matters on shortened time, rejected the election challenges, and entered detailed Findings that both the City and the County acted in a timely and reasonable manner. Yet the court also ruled that the City acted arbitrarily and capriciously and in violation of the Petitioners' constitutionally protected property rights by requesting to place Initiative 2 on the November 2025 ballot after the deadline had passed. It therefore ordered the PCAO to place Initiative 2 on the February 10 ballot.

There is no legal basis for the trial court's order. It cannot simply "declare" an election. After finding that the City properly acted with due diligence under its Charter, ruling that it also was arbitrary and capricious is untenable.

FACTS RELEVANT TO MOTION

For the Court's convenience, the City incorporates by reference the relevant facts stated in the BA filed herewith.

ARGUMENT

A. This Court should stay the trial court's order and consider this appeal in an orderly fashion.

This Court has authority to stay enforcement of the trial court's order under RAP 8.3. A stay is proper when the issues are debatable, to preserve the fruits of an appeal, considering the equities of the situation. ***Confederated Tribes of the Chehalis Res. v. Johnson***, 135 Wn.2d 734, 759, 958 P.2d 260 (1998); ***Boeing Co. v. Sierracin Corp.***, 43 Wn. App. 288, 291, 716 P.2d 956 (1986), *rev'd in part on other grounds*, 108 Wn.2d 38 (1987). Appellate courts use a sliding scale to weigh the merits of an appeal against the need for a stay. ***Boeing***, 43 Wn. App. at 291. "As the harm flowing from a lack of a stay increases, the requirement of establishing a debatable issue on appeal

should diminish." WASH. APPELLATE PRAC. DESKBOOK § 8.5 (WSBA 2016) (citing ***Boeing*** at 291).

Here, there is no harm in granting a stay. If this Court determines that Initiative 2 should be placed on a ballot, it may reverse and remand for further proceedings. That is, if this Court determines that City Charter § 2.19 somehow permits other options – which it does not – then remand may be appropriate. In sum, if the City is wrong on the law, then Initiative 2 will go before the voters in due course.

But of course, the trial court rejected the November 2025 election, and unless this appeal moves forward with alacrity, February 2026 will not be possible either. Either way, there is no harm in placing Initiative 2 on a later ballot, if that is appropriate under the law – which it is not.

But the harm to the City from denying a stay is substantial. Municipal special elections have generally cost the City well over $100,000 or more. If that taxpayer money is spent, it likely cannot be recovered. And there will be a

useless election that the courts will be compelled to overturn through further wasteful litigation.

On the merits, the City's BA raises the following *at least* debatable issues:

- The Uniform Declaratory Judgments Act (UDJA) – under which the trial court granted its sole relief – does not and cannot apply in this matter.
- Even if the UDJA could have applied:
  - courts lack the authority to expedite the matter, depriving the City of its right to a fair trial;
  - courts lack the authority to order the PCAO to place any initiative on the ballot;
  - the PCAO lacks the authority to place a municipal initiative on a ballot absent the City's request;
  - the February 2026 election is not a legally appropriate option; and
  - the trial court's order plainly violates the Separation of Powers Doctrine.
- Moreover, asking the PCAO to place Initiative 2 on the November ballot was not arbitrary and capricious, but rather a legally correct action under the City Charter.
- And no due process violation occurred, where
  - the trial court improperly misplaced the burden on the City to *disprove* a due process violation;

- due process protections do not apply to the local initiative process – an issue the trial court failed to even address;
- there is no "property interest" in placing a local initiative on any particular ballot;
- and even if a property right did exist, the trial court correctly found that the Petitioners received precisely the process they were due.

The City has addressed the detailed merits of each of these issues in its brief, which the City is filling herewith – expediting both the record and the opening brief.

This Court should grant a stay and consider this appeal in due course. Otherwise, a costly special election will ensue for no legally justifiable reason. The City will lose the fruits – indeed, the efficacy – of its substantially meritorious appeal. The merits are strong and the equities favor the City. A stay is necessary and just.

B. Alternatively, this Court may expedite the appeal.

If this Court does not believe that a stay is necessary to preserve its jurisdiction and the efficacy of this appeal, then it should expedite this appeal. RAP 18.8(a). The City

has both expedited production of the record – in just two weeks – and filed its opening brief – in record time. This Court should give the Respondents the standard 30 days to respond, 15 days for a reply, and forbid any extensions.

This schedule means that the record and all the briefing are completed by December 4. As noted, the deadline for submitting initiatives for February 2026 is December 19. If the Court wishes to hear oral argument, this Court should set it in the week of December 8. But the undersigned has an argument in this Court on December 12, and would ask that the argument not be set on that day.

Finally, if the Court does not stay the trial court's order and instead expedites this appeal, it should exercise its discretion to issue an *order* by December 15, letting the parties know the outcome. It can then issue its opinion explaining its ruling in due course. This schedule would permit the losing party to bring an emergency motion in the

Supreme Court, if necessary and appropriate, prior to the December 19 deadline.

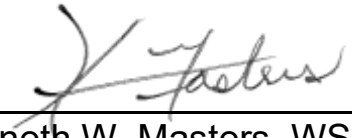
CONCLUSION

This Court should grant a stay and address this appeal in due course. If not, it should expedite this appeal and issue an order by December 15 at the latest.

The undersigned hereby certifies under RAP 18.17(2)(b) that this document contains **1,405** words.

RESPECTFULLY SUBMITTED this 20th day of October 2025.

MASTERS LAW GROUP, P.L.L.C.



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CERTIFICATE OF SERVICE

I certify that I caused the filing and service of the foregoing **MOTION FOR STAY OR, ALTERNATIVELY, EXPEDITED REVIEW** on the 20th day of October 2025 as follows:

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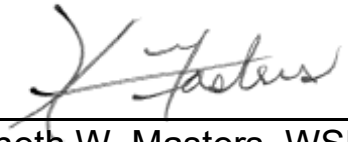

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Appellate Court Case Number:	62278-5
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Motion for Stay or Alternatively for Expedited Review, RAP 17.4 Affidavit

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