

CITY OF ELLENSBURG, WASHINGTON

ORDINANCE NO. 4870

AN ORDINANCE of the City of Ellensburg, Washington, relating to contracting indebtedness, providing for the issuance, sale and delivery of an aggregate principal amount not to exceed \$11 million of its combined Waterworks Utility System revenue bonds to provide funds (i) to pay or reimburse all or a portion of the costs of the Plan of Additions including the Projects, consisting of certain capital improvements to the Waterworks Utility System, including the Bull Road Utility Extension, Illinois Well Outfitting, Anderson Road Sewer Extension, Craigs Hill Pressure Zone, Wastewater Treatment Facility Clarifiers, and Digester/GBT Building Electrical Upgrades, (ii) to satisfy the debt service reserve requirement, if necessary, and (iii) to pay the costs of issuance and sale of the bonds; creating such accounts or special funds necessary or desirable to pay and secure the revenue indebtedness authorized herein; fixing or setting parameters with respect to certain terms and covenants of the bonds, which may be issued as a single bond or in serial maturities; appointing the City's designated representative to approve the Bond Sale Terms and providing for the sale and delivery of the bonds; and providing for other related matters.

Passed February 16, 2021

This document prepared by:

Stradling Yocca Carlson & Rauth, a Professional Corporation  
999 Third Avenue, Suite 3610  
Seattle, Washington 98104  
(206)829-3000

CITY OF ELLENSBURG, WASHINGTON

ORDINANCE NO. 4870

**Table of Contents\***

<b>Section 1.</b>	Findings and Determinations. ....	3
<b>Section 2.</b>	Definitions.....	4
<b>Section 3.</b>	Purpose and Authorization of Bond.....	11
<b>Section 4.</b>	Compliance with Parity Conditions .....	11
<b>Section 5.</b>	Description of the Bonds; Appointment of Designated Representative .....	12
<b>Section 6.</b>	Bond Registrar; Registration and Transfer of Bonds. ....	12
<b>Section 7.</b>	Form and Execution of Bonds.....	13
<b>Section 8.</b>	Redemption. ....	14
<b>Section 9.</b>	Refunding or Defeasance of the Bonds.....	15
<b>Section 10.</b>	Failure to Pay Bonds .....	15
<b>Section 11.</b>	Application of Bond Proceeds. ....	15
<b>Section 12.</b>	Pledge of Revenue and Lien Position .....	16
<b>Section 13.</b>	Bond Fund; Payments into Bond Fund. ....	16
<b>Section 14.</b>	Flow of Funds .....	18
<b>Section 15.</b>	Covenants.....	18
<b>Section 16.</b>	Federal Tax Matters .....	20
<b>Section 17.</b>	Official Statement; Continuing Disclosure .....	21
<b>Section 18.</b>	Future Parity Bonds.....	22
<b>Section 19.</b>	Separate Utility Systems .....	22
<b>Section 20.</b>	Rate Stabilization Fund.....	22
<b>Section 21.</b>	Sale and Delivery of the Bonds.....	23
<b>Section 22.</b>	Amendatory Ordinances.....	23
<b>Section 23.</b>	General Authorization and Ratification .....	26
<b>Section 24.</b>	Severability .....	26
<b>Section 25.</b>	Corrections.....	26
<b>Section 26.</b>	Effective Date.....	27

Exhibit A — Parity Conditions

Exhibit B — Parameters for Bond Sale Terms

Exhibit C – Description of Projects

---

\* This Table of Contents and the cover page are provided for convenience only and is not a part of this ordinance

## ORDINANCE NO. 4870

AN ORDINANCE of the City of Ellensburg, Washington, relating to contracting indebtedness, providing for the issuance, sale and delivery of an aggregate principal amount not to exceed \$11 million of its combined Waterworks Utility System revenue bonds to provide funds (i) to pay or reimburse all or a portion of the costs of the Plan of Additions including the Projects, consisting of certain capital improvements to the Waterworks Utility System, including the Bull Road Utility Extension, Illinois Well Outfitting, Anderson Road Sewer Extension, Craigs Hill Pressure Zone, Wastewater Treatment Facility Clarifiers, and Digester/GBT Building Electrical Upgrades, (ii) to satisfy the debt service reserve requirement, if necessary, and (iii) to pay the costs of issuance and sale of the bonds; creating such accounts or special funds necessary or desirable to pay and secure the revenue indebtedness authorized herein; fixing or setting parameters with respect to certain terms and covenants of the bonds, which may be issued as a single bond or in serial maturities; appointing the City's designated representative to approve the Bond Sale Terms and providing for the sale and delivery of the bonds; and providing for other related matters.

### **Section 1. Findings and Determinations.**

(a) ***Combined Waterworks Utility System.*** Pursuant to chapters 35.67 and 35.92 RCW, the City currently owns, operates, and maintains the Waterworks Utility System as a combined utility system pursuant to RCW 35.67.331 and Ordinance No. 4206, passed by the City Council on June 7, 1999. The Waterworks Utility System currently includes the following component utilities: (i) a sewerage collection and disposal system (the "Sewer Utility"); (ii) a potable water supply and distribution system, (the "Water Utility"); and (iii) a storm drainage and surface water management utility (the "Stormwater Utility"). The City has further reserved the right to combine additional utilities into the combined system in the future, consistent with State law. Although the component utilities are combined for purposes of borrowing, the City maintains separate accounting and independent rate-setting structures for each component utility within the Waterworks Utility System. The component utilities benefiting from the borrowing authorized by this ordinance is the Sewer Utility and the Water Utility and all costs associated with this borrowing and the repayment thereof will be allocated respectively to the Sewer Utility and the Water Utility.

(b) ***Outstanding Combined Waterworks Utility System Revenue Debt.*** The City has previously issued the following utility revenue bonds (collectively, the "Outstanding Parity Bonds") having a lien and charge on Net Revenues of the Waterworks Utility System superior to all other liens and charges:

Series Designation	Ordinance Number	Date of Issue	Original Principal Amount	Currently Outstanding (1/1/2021)	Final Maturity Date
2013	4632	01/16/2013	\$ 2,100,000	\$466,719	12/01/2022
2016	4753	12/27/2016	6,990,000	6,110,000	12/01/2029
2020	4849	03/06/2020	5,000,000 <sup>(1)</sup>	3,000,000	12/01/2039

(1) Maximum principal amount available to be drawn. As of January 1, 2021, the City has drawn \$3,000,000 and the remainder has not yet been drawn.

(c) ***Plan of Additions.*** The City specifies, adopts and orders the carrying out of the Plan of Additions (defined below), which includes the Projects (defined below) intended to be financed with the proceeds of the Bonds. The estimated cost of the Projects is at least \$11 million and the City does not have available sufficient funds from current resources to pay the cost. The City is therefore in need of funds with which to finance the Projects. The Projects shall be carried out in accordance with the plans and specifications prepared by the City's engineers and consulting engineers. The City Council may modify the details of the Projects where, in its judgment, it appears advisable if such modifications do not substantially alter the purpose of the Projects, or if such modification provides funding to other elements described in the Plan of Additions, as then in effect. The cost of the Projects, including the cost of issuance and sale of the Bonds, shall be paid from the proceeds of the Bonds and from other money available to the Sewer Utility and the Water Utility, including current resources, grants and loans. The average expected useful life of the Projects exceeds the maximum maturity of the Bonds authorized herein.

(d) ***Sufficiency of Gross Revenue.*** The City Council finds and determines that the Gross Revenue and benefits to be derived from the operation and maintenance of the Waterworks Utility System at the rates to be charged for services from the Waterworks Utility System will be more than sufficient to meet all Maintenance and Operations Expense and to permit the setting aside into the Bond Fund out of the Gross Revenue of amounts sufficient to pay the principal of and interest on the Bonds when due. The City Council declares that in fixing the amounts to be paid into the Bond Fund under this ordinance it has exercised due regard for Maintenance and Operations Expense and has not obligated the City to set aside and pay into the Bond Fund a greater amount of Gross Revenue of the Waterworks Utility System than in its judgment will be available over and above such Maintenance and Operations Expense.

(e) ***Issuance and Sale of the Bonds.*** For the purposes described in Section 3, the City Council finds that it is in the best interests of the City and its ratepayers to issue and sell the Bonds, pursuant to the Bond Sale Terms to be approved by the City's Designated Representative within the parameters set forth in the Exhibit B and otherwise consistent with this ordinance.

**Section 2. Definitions.** As used in this ordinance, the following words shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "2013 Bond" means the Water and Sewer Revenue Bond, 2013, issued by the City on January 16, 2013, pursuant to the Ordinance No. 4632 (passed on January 14, 2013), which is currently outstanding in the principal amount of \$466,719.

(b) "2016 Bond" means the Water and Sewer Revenue Refunding Bond, 2016, issued by the City on December 27, 2016, pursuant to Ordinance No. 4753 (passed on November 21, 2016), which remains outstanding in the principal amount of \$6,110,000.

(c) “2020 Bond” means the Waterworks Utility System Revenue Bond, 2020, issued by the City on March 6, 2020, pursuant to Ordinance No. 4849 (passed on February 18, 2020), which remains outstanding in the principal amount of \$3,000,000.

(d) “2013 Bond Ordinance” means Ordinance No. 4632, passed on January 14, 2013, pursuant to which the 2013 Bonds were issued.

(e) “2016 Bond Ordinance” means Ordinance No. 4753, passed on November 21, 2016, pursuant to which the 2016 Bonds were issued.

(f) “2020 Bond Ordinance” means Ordinance No. 4849, passed on February 18, 2020, pursuant to which the 2020 Bonds were issued.

(g) “Alternate Security” means any Reserve Insurance, bond insurance, collateral, security, letter of credit, guaranty, surety bond or similar credit enhancement device providing for or securing the payment of all or part of the principal of and interest on the Parity Bonds, issued by an institution which has been assigned a credit rating at the time of issuance of such Parity Bonds that is equal to or better than the highest two rating categories by both Moody’s Investors Service and S&P Global Ratings. ***On and after the Parity Covenant Date, the preceding definition shall permit the use of Alternate Security issued by an institution which has been assigned a credit rating at the time of issuance of such Parity Bonds that is equal to or better than the highest three rating categories (without regard to gradations within such categories) by at least one Rating Agency.***

(h) “Annual Debt Service” for the applicable series of Parity Bonds for any calendar year, means all the interest, plus all principal (except principal of Term Bonds due in any Term Bond Maturity Year), plus all mandatory redemption and sinking fund installments for that year, less all bond interest payable from the proceeds of any such bonds in that year.

(i) “Assessment Bonds” means the original principal amount of any issue of Parity Bonds equal to the total principal amount (or, if refunding bonds, the remaining unpaid principal amount) of ULID Assessments on any final assessment roll or rolls of one or more ULIDs formed in connection with the improvements being financed by such issue of bonds (or bonds being refunded). The original principal amount of such issue of bonds in excess of Assessment Bonds shall be referred to as “bonds (or Bonds) that are not Assessment Bonds.” Assessment Bonds shall be allocated to each \$5,000 of bonds in proportion to their percentage of the entire issue of bonds. When a bond of any issue of bonds containing Assessment Bonds is redeemed or purchased, and retired, the same percentage of that bond as the percentage of Assessment Bonds is to the total issue of those bonds shall be treated as Assessment Bonds being redeemed or purchased and retired.

(j) “Authorized Denomination” means \$5,000 or any integral multiple thereof within a maturity, or such other minimum authorized denomination as may be specified by the Designated Representative in approving the Bond Sale Terms.

(k) “Average Annual Debt Service” means, as of its date of calculation, the sum of the Annual Debt Service for the remaining calendar years to the last scheduled maturity of the applicable issue or issues of bonds divided by the number of those years. For purposes of computing the Reserve Requirement, the estimated amount of Parity Bonds to be redeemed prior to maturity may be taken into account if consistent with federal arbitrage regulations.

(l) “*Bonds*” means the City of Ellensburg, Washington, Waterworks Utility System Revenue Bonds, 2021, authorized to be issued as a single bond or as serial maturities, pursuant to this ordinance.

(m) “*Bond Counsel*” means a firm of Stradling Yocca Carlson & Rauth, a Professional Corporation, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(n) “*Bond Fund*” means the bond debt service fund previously created to pay debt service on the Parity Bonds pursuant to Section 9 of Ordinance No. 3926 (originally designated as the Sewer Revenue Bond Fund, 1994 and expanded to secure all Parity Bonds pursuant to Ordinance 4206 which combined the utility systems for purposes of debt issuance), together with each other special fund created from time to time within the Waterworks Utility System Funds. For purposes of clarity, the Bond Fund operates as a single combined fund for purposes of securing all Parity Bonds and a pledge of money deposited into or held in the Bond Fund shall refer collectively to all amounts deposited into or held in any and all parity bond debt service funds or accounts that may be created for accounting purposes within any of the Waterworks Utility System Funds, without distinction or priority of payment rights with respect to a particular series of Parity Bonds.

(o) “*Bond Purchase Agreement*” means a written offer to purchase the Bonds setting forth Bond Sale Terms consistent with Exhibit B, which offer is accepted by the Designated Representative on behalf of the City in accordance with this ordinance. In the case of a private placement, the Bond Purchase Agreement may consist of the Purchaser’s offer accepted by the City as evidenced by a pricing or bid award certificate executed by the Designated Representative on behalf of the City. In the case of a competitive sale, the official notice of sale, the Purchaser’s bid, and a certificate of bid award executed by the Designated Representative on behalf of the City shall constitute the Bond Purchase Agreement for purposes of this ordinance.

(p) “*Bond Register*” means the registration books or records maintained by the Bond Registrar for the purpose of identifying ownership of each Bond.

(q) “*Bond Registrar*” means the Fiscal Agent, or any successor bond registrar selected by the City.

(r) “*Bond Sale Terms*” means the terms and conditions for the sale of the Bonds including, but not limited to the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants, including minimum savings for refunding bonds. The parameters for certain Bond Sale Terms are set forth in Exhibit B.

(s) “*Book-Entry Form*” means a fully-registered form in which physical bond certificates are registered only in the name of the Securities Depository (or its nominee), as Registered Owner, with the physical bond certificates held by and immobilized in the custody of the Securities Depository (or its designee), where the system for recording and identifying the transfer of the ownership interests of the Beneficial Owners of the Bond is neither maintained by nor the responsibility of the City or the Bond Registrar.

(t) “*City*” means the City of Ellensburg, Washington, a code city duly organized and existing under the laws of the State of Washington.

(u) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.

(v) “*Code*” means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

(w) “*Continuing Disclosure Agreement*” means a written undertaking, pursuant to SEC rule or regulation governing the sale of a municipal bond to the public, to provide continuing disclosure, if required, which undertaking is authorized to be executed on behalf of the City pursuant to Section 17 of this ordinance.

(x) “*Coverage Requirement*” means, in any calendar year, (1) an amount of Net Revenue at least equal to 1.25 times the Annual Debt Service in that year on Parity Bonds that are not Assessment Bonds; and (2) an amount of Net Revenue available after satisfying the Coverage Requirement on bonds that are not Assessment Bonds, plus ULID Assessments, which together are at least equal to 1.00 times the Annual Debt Service in that year on such Assessment Bonds. In calculating the Coverage Requirement, Annual Debt Service shall be adjusted for each calendar year by subtracting any amount scheduled to be received in that calendar year by the City as a Tax Credit Subsidy Payment in respect of any Parity Bonds issued as Tax Credit Subsidy Bonds.

(y) “*Covered Parity Bonds*” means, until the Parity Covenant Date, all Parity Bonds. ***From and after the Parity Covenant Date, Covered Parity Bonds shall refer only to such Parity Bonds as are designated as “Covered Parity Bonds” in or pursuant to the ordinance authorizing their issuance.***

(z) “*DTC*” means The Depository Trust Company, New York, New York, or its nominee.

(aa) “*Designated Representative*” means the officer of the City appointed in Section 5 of this ordinance to serve as the City’s designated representative in accordance with RCW 39.46.040(2).

(bb) “*Finance Director*” means the City’s duly appointed Finance Director, or such other officer of the City who succeeds to substantially all of the responsibilities of that office.

(cc) “*Future Parity Bonds*” means any and all Waterworks Utility System revenue bonds of the City issued after the date of issuance of the Bonds, the payment of the principal of and interest on which constitutes a charge or lien on the Net Revenue and ULID Assessments equal in rank with the charge and lien upon such revenue and assessments required to be paid into the Bond Fund to pay and secure the payment of the principal of and interest on the then-outstanding Parity Bonds.

(dd) “*Government Obligations*” has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended and which are otherwise legal investments of the City at the time of such investment.

(ee) “*Gross Revenue of the Waterworks Utility System*” or “*Gross Revenue*” means all of the earnings and revenues received by the City from the maintenance and operation of the Waterworks Utility System and all earnings from the investment of money in the Bond Fund which earnings are deposited in the Principal and Interest Account, and connection and capital improvement charges collected for the purpose of defraying the cost of capital facilities of the Waterworks Utility System. Gross Revenue excludes ULID Assessments, government grants (including Tax Credit Subsidy

Payments), proceeds from the sale of Waterworks Utility System property, City taxes collected by or through the Waterworks Utility System, principal proceeds of bonds or other obligations, deposits to the Rate Stabilization Fund, revenue from any Separate System, and earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund Waterworks Utility System obligations (until commingled with other earnings and revenues of the Waterworks Utility System) or held in a special account for the purpose of paying a rebate to the United States Government under the Code.

(ff) “*Issue Date*” means, with respect to the Bonds, the date of issuance and delivery of the Bonds to the Purchaser.

(gg) “*MSRB*” means the Municipal Securities Rulemaking Board.

(hh) “*Maintenance and Operation Expense*” means all reasonable expenses incurred by the City in causing the Waterworks Utility System to be operated and maintained in good repair, working order and condition, including payments made to any other municipal corporation or private entity for drainage, sewerage, and water service (or other utility service if the City combines such service in the Waterworks Utility System and enters into a contract for such services), but not including any depreciation or taxes levied or imposed by the City or payments to the City in lieu of taxes, or capital additions to or capital replacements of any portion of the Waterworks Utility System.

(ii) “*Maximum Annual Debt Service*” means, at the time of calculation, the maximum amount of Annual Debt Service that will mature or come due in the current calendar year or any future year with respect to the then-outstanding Parity Bonds.

(jj) “*Net Proceeds*” when used in this ordinance with reference to the Bonds, and unless another meaning is assigned under the Code, means the aggregate principal amount of the Bonds plus accrued interest and original issue premium, if any, and less original issue discount, and proceeds (if any) deposited in the Reserve Account.

(kk) “*Net Revenue*” means the Gross Revenue Less Maintenance and Operation Expense. Net Revenue also shall include withdrawals from the Rate Stabilization Account and shall exclude deposits into the Rate Stabilization Account.

(ll) “*Outstanding Parity Bond Ordinances*” mean Ordinance No. 4632, authorizing the issuance of the 2013 Bond, Ordinance No. 4753, authorizing the issuance of the 2016 Bond, and Ordinance No. 4849, authorizing the issuance of the 2020 Bond.

(mm) “*Outstanding Parity Bonds*” mean the 2013 Bond, the 2016 Bond, and the 2020 Bond.

(nn) “*Parity Bonds*” means the Outstanding Parity Bonds, the Bonds, and any Future Parity Bonds.

(oo) “*Parity Conditions*” means those conditions for the issuance of Future Parity Bonds, as set forth in Section 15 and Exhibit A of Ordinance No. 4632, and in Section 15 and Exhibit A of Ordinance No. 4753, and Section 18 and Exhibit A of Ordinance No. 4849, as such conditions are now set forth in Section 18 and Exhibit A of this ordinance.

(pp) “*Parity Covenant Date*” means the date on which the 2013 Bonds and the 2016 Bonds are legally defeased or redeemed and no longer outstanding.



(qq) “*Permitted Investments*” means any investment that is a legal investment for cities in the State of Washington.

(rr) “*Plan of Additions*” means the system or plan of additions and improvements to and betterments and extensions of the Waterworks Utility System (1) identified in the City’s Capital Improvement Plan for the Sewer System, the Stormwater System, and the Water System, as adopted and in effect from time to time (most recently, the update to the 6-Year Capital Improvement Plans, adopted by the City Council on January 19, 2021); and (2) the Projects described in Exhibit C, which are incorporated into the Plan of Additions by this reference.

(ss) “*Principal and Interest Account*” means the account of that name created in the Bond Fund for the payment of the principal of and interest on the Parity Bonds.

(tt) “*Projects*” means certain capital improvements to the Waterworks Utility System, as more fully described in Exhibit C.

(uu) “*Purchaser*” means the initial underwriter, financial institution, or bank purchaser of the Bonds. If sold pursuant to a private or direct placement, the term “Purchaser” shall refer to the Registered Owner shown on the books of the Bond Registrar.

(vv) “*Rate Stabilization Fund*” means the fund or account within the Waterworks Utility System Funds (or the relevant special funds of the component utilities) created pursuant to and for the purposes set forth in Section 17 of Ordinance No. 4632, Section 17 of Ordinance No. 4753, Section 20 of Ordinance No. 4849, or Section 20 of this ordinance.

(ww) “*Rating Agency*” means any nationally recognized rating agency then maintaining a rating for the Parity Bonds at the request of the City.

(xx) “*Record Date*” means, unless otherwise provided in the applicable Bond Purchase Agreement, the Bond Registrar’s close of business on the 15<sup>th</sup> day of the month preceding an interest payment date, and with respect to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar’s close of business on the date on which the Bond Registrar send the notice of redemption in accordance with Section 8.

(yy) “*Registered Owner*” means the person named as the registered owner of the Bond in the Bond Register. For as long as the Bond is held in Book-Entry Form, Registered Owner shall mean the Securities Depository.

(zz) “*Reserve Account*” means the account of that name created in the Bond Fund for the purpose of securing the payment of the principal of and interest on the Covered Parity Bonds. For purposes of clarity, references to the Reserve Account and amounts on deposit therein shall refer collectively to all debt service reserve accounts created within the Waterworks Utility System Funds for the purpose of securing payment of the Covered Parity Bonds without priority or distinction as to a particular series of Covered Parity Bonds.

(aaa) “*Reserve Insurance*” means, in lieu of cash and investments, insurance obtained by the City equal to part or all of the Reserve Requirement for any Covered Parity Bonds then outstanding with respect to which such insurance is obtained.

(bbb) “*Reserve Requirement*” means, for all Covered Parity Bonds, the lesser of (i) Maximum Annual Debt Service on the Covered Parity Bonds, or (ii) 125% of Average Annual Debt Service on the Covered Parity Bonds, but at no time shall the Reserve Requirement exceed 10% of the proceeds of the Covered Parity Bonds.

(ccc) “*SEC*” means the United States Securities and Exchange Commission.

(ddd) “*Securities Depository*” means DTC, any successor thereto, any substitute securities depository selected by the City, or the nominee of any of the foregoing. Any successor or substitute Securities Depository must be qualified under applicable laws and regulations to provide the services proposed to be provided by it.

(eee) “*Separate Utility System*” means any water supply, sewage collection or treatment, stormwater or other utility service or facilities that may be created, acquired or constructed by the City as provided in Section 19.

(fff) “*State*” means the State of Washington.

(ggg) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 3925 of the City.

(hhh) “*Tax Credit Subsidy Bond*” means any bond that is designated by the City as a “build America bond” or other tax credit bond, pursuant to the Code, and which is further designated as a “qualified bond” under Section 6431 of the Code, and with respect to which the City is eligible to receive a Tax Credit Subsidy Payment.

(iii) “*Tax Credit Subsidy Payment*” means the amounts which the City is entitled to receive a tax credit payable by the United States Treasury to the City under Section 6431 of the Code, in respect of any bonds issued as Tax Credit Subsidy Bonds.

(jjj) “*Taxable Bonds*” means any Bonds the interest on which is not excludable from gross income for federal income tax purposes.

(kkk) “*Tax-Exempt Bonds*” means any Bonds the interest on which is excludable from gross income for federal income tax purposes and is not treated as an item of tax preference for purposes of calculating the federal alternative minimum tax, as further described in an opinion of Bond Counsel supplied to the original purchasers of such Bonds.

(lll) “*Term Bond Maturity Year*” means any calendar year in which Term Bonds are scheduled to mature.

(mmm) “*Term Bonds*” means those Parity Bonds designated as such pursuant to the ordinance authorizing their issuance and sale.

(nnn) “*Treasurer*” means the Finance Director of the City, or any successor to the functions of the Treasurer.

(ooo) “*ULID*” means Utility Local Improvement District.

(ppp) “*ULID Assessments*” means all assessments levied and collected in any ULID of the City created for the acquisition or construction of additions to and extensions and betterments of the Waterworks Utility System (or any component utility thereof) if such assessments are pledged to be paid into the Bond Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments shall include installments thereof and any interest or penalties that may be due thereon.

(qqq) “*Utility Professional*” means a licensed professional engineer experienced in the design, construction and operation of municipal utilities, or an independent certified public accountant experienced with municipal utilities.

(rrr) “*Waterworks Utility System*” (formerly known as the Sewerage System prior to the combination of the water system of the City therewith) means the City’s combined water utility, sanitary sewage collection and disposal utility, and storm and surface water utility, together with all additions thereto and betterments and extensions thereof at any time made, and shall include any other utility systems hereafter combined with the Waterworks Utility System and shall include the Projects. The Waterworks Utility System shall not include a Separate Utility System.

(sss) “*Waterworks Utility System Funds*” means, collectively, the Water Funds (Nos. 481 and 485), the Sewer Funds (Nos. 491 and 495), and the Stormwater Funds (Nos. 431 and 439).

**Section 3. Purpose and Authorization of Bond.** The City is authorized to issue negotiable Waterworks Utility System revenue bonds evidencing indebtedness in the principal amount not to exceed \$11 million to provide funds (i) to pay or reimburse all or a portion of the costs of the Plan of Additions including the Projects described in Exhibit C, (ii) to satisfy the debt service reserve requirement, if necessary, and (iii) to pay the costs of issuance and sale of the bonds. The proceeds of the Bonds shall be allocated to paying the costs of Plan of Additions, or a portion of the Plan of Additions, in such order of time as the City determines is advisable and practicable.

**Section 4. Compliance with Parity Conditions.** In accordance with the Parity Conditions set forth in the Outstanding Parity Bond Ordinances, the City Council hereby finds and determines, subject to the execution of a certificate by the Designated Representative dated the Issue Date evidencing her determination that, as of the Issue Date, such facts remain true and correct and all other Parity Conditions have been met or satisfied:

(a) There is no deficiency in the Bond Fund and provision is made in this ordinance for the payment of the principal of and interest on the Bonds from the Bond Fund and for satisfaction of the Reserve Requirement within the time prescribed;

(b) The City is (and as of the Issue Date will be) in compliance with the other Parity Conditions set forth in Section 18 and Exhibit A of the 2013 Bond Ordinance, Section 15 and Exhibit A of the 2016 Bond Ordinance, and Section 18 and Exhibit A of the 2020 Bond Ordinance.

If the Parity Conditions set forth in the Outstanding Parity Bond Ordinances are met and complied with based on the determination of the Designated Representative as of the Issue Date, the payments required to be made out of the Waterworks Utility System Funds into the Bond Fund and the Reserve Account to pay and secure the payment of the principal of and interest on the Bonds shall constitute a lien and charge upon the money in the Waterworks Utility System Funds equal in rank with the lien and charge thereon for the payments required to be made for the Outstanding Parity

Bonds. The Bonds may not be issued until the certificate described in this section has been executed and delivered.

**Section 5. Description of the Bonds; Appointment of Designated Representative.** The Finance Director is appointed as the Designated Representative of the City, and is authorized and directed to conduct the sale of the Bonds in the manner and upon the Bond Sale Terms deemed most advantageous to the City. The Designated Representative shall approve the Bond Sale Terms, with such additional terms and covenants, as the Designated Representative deems necessary or advisable, within the parameters set forth in Exhibit B, which is attached to this ordinance and incorporated by this reference. The Bonds may be sold in one or more series, and a series may be structured as a draw-down facility or exchanged for its full purchase price at closing. Each Bond shall be numbered, dated, and mature as set forth in the Bond Sale Terms. Interest on the principal amount of each Bond then-outstanding shall accrue at the interest rate or rates set forth in the Bond Sale Terms, from its Issue Date (or from the date of each principal draw) through and including its maturity or prepayment date, and shall be computed on the basis of the 360-day year consisting of twelve 30-day months or on such other basis as may be set forth in the Bond Sale Terms.

**Section 6. Bond Registrar; Registration and Transfer of Bonds.**

(a) **Registration of Bonds.** The Bonds shall be issued only in registered form as to both principal and interest and the ownership of the Bond shall be recorded on the Bond Register.

(b) **Bond Registrar; Duties.** Unless otherwise determined by the Finance Director, the Fiscal Agent is appointed as initial Bond Registrar. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bond, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and the System of Registration. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on each Bond. The Bond Registrar may become an Owner with the same rights it would have it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Owners.

(c) **Bond Register; Transfer and Exchange.** The Bond Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of each Bond held by each Registered Owner. A Bond surrendered to the Bond Registrar may be exchanged for a Bond or Bonds in any Authorized Denomination of an equal aggregate principal amount and of the same interest rate and maturity. A Bond may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Owner or transferee. The Bond Registrar shall not be obligated to exchange any Bond or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) **Securities Depository; Book-Entry Only Form.** In the Bond Purchase Agreement or certificate approving the Bond Sale Terms, the City's Designated Representative shall determine whether the Bonds initially shall be issued and held fully immobilized in Book-Entry Form by the Securities Depository in accordance with the provisions of the Letter of Representations.

If any Bond is held in Book-Entry Form at any time, neither the City nor the Bond Registrar shall have any responsibility or obligation to participants of the Securities Depository or the persons for whom they act as nominees with respect to the Bond regarding the accuracy of any records maintained by the Securities Depository or its participants of any amount in respect of principal or interest on the Bond, or any notice which is permitted or required to be given to Registered Owners hereunder (except such notice as is required to be given by the Bond Registrar to the Securities Depository). Registered ownership of a Bond initially held in Book-Entry Form, or any portion thereof, may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City or such substitute Securities Depository's successor; or (iii) to any person if the Bond is no longer held in Book-Entry Form.

If the Securities Depository resigns from its functions as depository, or upon a determination by the Finance Director to discontinue utilizing the then-current Securities Depository, the Finance Director may appoint a substitute Securities Depository. If the Securities Depository resigns from its functions as depository and no substitute Securities Depository can be obtained, or if the Finance Director determines not to utilize a Securities Depository, then the Bonds shall no longer be held in Book-Entry Form and ownership may be transferred only as provided herein.

Nothing herein shall prevent the Bond Sale Terms from providing that the Bonds shall be issued in certificated form without utilizing a Securities Depository, and that the Bonds shall be registered as of the Issue Date in the name(s) of the Owner(s) thereof, in which case ownership may be transferred only as provided herein.

(e) ***Lost or Stolen Bonds.*** In case any Bond shall be lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new bond or bonds of like amount, date, tenor and effect to the Registered Owner(s) thereof upon the Registered Owner(s)' paying the expenses and charges of the City in connection therewith and upon filing with the Bond Registrar evidence satisfactory to the Bond Registrar that such bond or bonds were actually lost, stolen or destroyed and of Registered Ownership thereof, and upon furnishing the City with indemnity satisfactory to both.

## **Section 7. Form and Execution of Bonds.**

(a) ***Form of Bonds; Signatures and Seal.*** Each Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. Each Bond shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon. If any officer whose manual or facsimile signature appears on a Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the City, that Bond nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on its Issue Date.

(b) ***Authentication Required.*** Only a Bond bearing a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate of Authentication. This Bond is one of the fully registered City of Ellensburg, Washington, [name of issue and Series designation], described in Ordinance No. [number of this ordinance]." The authorized signing of a Certificate of

Authentication shall be conclusive evidence that such Bond so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this ordinance.

## **Section 8.      Redemption.**

(a)      ***Optional Redemption.*** Each Bond may be issued subject to redemption prior to its stated maturity date at the option of the City at the times and on the terms set forth in the Bond Sale Terms, consistent with the parameters set forth in Exhibit B.

(b)      ***Mandatory Redemption.*** A Bond may be designated as a Term Bond, subject to mandatory redemption in principal installment payments, as set forth in the Bond Sale Terms. If not redeemed or purchased at the City's option prior to maturity, a Term Bond must be redeemed, at a price equal to one hundred percent of the principal amount to be redeemed, plus accrued interest, on the dates and in the years and principal amounts as set forth in the Bond Sale Terms. If the City optionally redeems or purchases a Term Bond prior to its maturity, the principal amount of the Term Bond so redeemed or purchased (irrespective of its redemption or purchase price) shall be credited against the remaining mandatory redemption installment payments in the manner as directed by the Finance Director. In the absence of direction by the Finance Director, credit shall be allocated to each mandatory redemption installment payment for that Bond on a *pro rata* basis.

(c)      ***Partial Redemption; Selection of Bonds for Redemption.*** If the Bonds are to be partially redeemed at the option of the City, the Finance Director shall select the maturity or maturities to be redeemed. If less than all of the principal amount of a maturity is to be redeemed, (1) if the Bonds are then held in Book-Entry Form, the portion of such maturity to be redeemed shall be selected for redemption by the Securities Depository in accordance with the Letter of Representations, and (2) if the Bonds are not then held in Book-Entry Form, the portion of such maturity to be redeemed shall be selected by the Bond Registrar randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the Registered Owner, without charge, a new Bond (or Bonds, at the option of the Registered Owner) of the same maturity and interest rate, in the aggregate principal amount to remain outstanding, which amount shall be in any Authorized Denomination.

(d)      ***Notice of Redemption.*** Notice of an intended redemption of any Bond then in Book-Entry Form shall be given in accordance with the Letter of Representations. If the Bonds are not then in Book-Entry Form, then unless otherwise set forth in the applicable Bond Sale Terms, the City must cause notice of any intended redemption not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner of each Bond to be redeemed at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Owner of any Bond, and may be waived by the Registered Owner of the Bond to be redeemed. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required under the Continuing Disclosure Agreement), to each Rating Agency, and to such other persons and with such additional information as the Finance Director shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(e) ***Rescission of Optional Redemption Notice.*** In the case of an optional redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice and the redemption by giving a notice of rescission to the affected Registered Owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and each Bond for which a notice of optional redemption has been rescinded shall remain outstanding.

(f) ***Effect of Redemption.*** Interest on each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless either the notice of optional redemption is rescinded as set forth above, or money sufficient to effect such redemption is not on deposit in the Bond Fund or in a trust account established to refund or defease the Bond.

(g) ***Purchase of Bonds.*** The City reserves the right to purchase any Bond offered to the City at any time at any price acceptable to the City plus accrued interest to the date of purchase.

**Section 9. Refunding or Defeasance of the Bonds.** The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on the Bond (the “Defeased Bond”); (b) redeeming the Defeased Bond prior to its maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the “trust account”), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the Defeased Bond in accordance with their terms, then all right and interest of the Registered Owner of the Defeased Bond in the covenants of this ordinance and in the funds and account obligated to the payment of the Defeased Bond shall cease and become void. Thereafter, the Registered Owner of the Defeased Bond shall have the right to receive payment of the principal of and interest on the Defeased Bond solely from the trust account and the Defeased Bond shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the Defeased Bond to any lawful purpose. Notice of a refunding or defeasance shall be given as set forth in the Bond Sale Terms for a prepayment or redemption prior to maturity.

**Section 10. Failure to Pay Bonds.** If the principal of a Bond is not paid when the Bond is properly presented at its maturity or date fixed for redemption, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or date fixed for redemption until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Fund, or in a trust account established to refund or defease the Bond, and the Bond has been called for payment by giving notice of that call to the Registered Owner.

**Section 11. Application of Bond Proceeds.**

(a) On the Issue Date, proceeds of the Bonds shall be deposited as set forth in the Bond Sale Terms and as further detailed in a closing memorandum. Such deposits shall include:

(1) If necessary, proceeds in an amount sufficient to satisfy the Reserve Requirement shall be deposited into the Reserve Account.

(2) The remaining proceeds shall be deposited in such accounts as may be created in the Sewer Funds and the Water Funds, as applicable, for the accomplishment of the Plan of Additions, and shall be used to pay or reimburse the costs of carrying out the Plan of Additions (including the Projects) and to pay the costs of issuance and sale of the Bonds.

(b) Until needed to pay such costs, the City may invest proceeds deposited in the Sewer Funds and the Water Funds temporarily in any Permitted Investment, and the investment earnings shall be retained therein and used for the purposes set forth in subparagraph (2) above, except that earnings subject to a federal tax or rebate requirement (if applicable) may be withdrawn and used for those tax or rebate purposes.

**Section 12. Pledge of Revenue and Lien Position.** The Bonds shall be special limited obligations of the City payable from and secured solely by the Net Revenue and all ULID Assessments (if any) and money in the Bond Fund (including any accounts or subaccounts created therein). If the Designated Representative determines that it is necessary or advisable in order to obtain favorable financing terms, the Bonds may be designated in the Bond Sale Terms as Covered Parity Bonds, and if so designated, shall additionally be secured by amounts in the Reserve Account. The Net Revenue and ULID Assessments (if any) are pledged to make the payments into the Bond Fund required by this ordinance. This pledge constitutes a charge and lien upon such Net Revenue and ULID Assessments (if any) that is prior and superior to all other liens and charges whatsoever. The Bonds shall not constitute general obligations of the City, the State or any political subdivision of the State or a charge upon any general fund or upon any money or other property of the City, the State or any political subdivision of the State not specifically pledged by this ordinance. The Bonds shall not constitute an indebtedness of the City within the meaning of the constitutional provisions and debt limitations of the State of Washington.

**Section 13. Bond Fund; Payments into Bond Fund.**

(a) **Bond Fund.** The Bond Fund has previously been created in the office of the Finance Director and is divided into two accounts: a Principal and Interest Account and a Reserve Account. So long as any Parity Bonds are outstanding against the Bond Fund, the City shall set aside and pay into the Bond Fund all ULID Assessments on their collection and, out of the Net Revenue, certain fixed amounts without regard to any fixed proportion, namely:

(1) Into the Principal and Interest Account on or before each interest and payment date, an amount sufficient, together with other money on deposit therein, to make the next ensuing payment of interest, or of principal (including mandatory redemption installments of Term Bonds) and interest, with respect to the outstanding Parity Bonds; and

(2) Into the Reserve Account, such additional amount (if any) necessary to satisfy the Reserve Requirement for the Covered Parity Bonds. This deposit may consist of (i) a deposit on the Issue Date, (ii) approximately equal annual installments beginning on the Issue Date, which (together with other money and Alternate Securities on deposit therein) will equal the Reserve Requirement for the Covered Parity Bonds (calculated as of the Issue Date), accumulated by no later than five years from the Issue Date; or (iii) one or more Alternate Securities the amount payable under which,



together with any amounts deposited under subparagraph (i) above, will be equal to the Reserve Requirement for the outstanding Parity Bonds on the Issue Date.

When the total amount in the Bond Fund is equal to the total amount of outstanding principal of and interest on all remaining outstanding Parity Bonds to the last maturity thereof, no further payment need be made into the Bond Fund. The City may provide for the purchase, redemption or defeasance of Parity Bonds by the use of money on deposit in any account in the Bond Fund as long as the money remaining in those accounts is sufficient to satisfy the required deposits in those accounts for the remaining Parity Bonds outstanding. The City may create sinking fund accounts or other accounts or subaccounts in the Bond Fund to pay or secure the payment of Parity Bonds as long as the maintenance of such accounts does not conflict with the rights of the owners of any Parity Bonds. If the City fails to set aside and pay into the Bond Fund the amounts set forth above, the owner of any of the outstanding Parity Bonds may bring action against the City and compel such setting aside and payment.

(b) ***Reserve Account.*** The Reserve Account shall be maintained at the Reserve Requirement for all Covered Parity Bonds except for withdrawals authorized in this section. The Reserve Account may be divided into subaccounts for each issue of Parity Bonds but shall equally and ratably secure all Covered Parity Bonds, as set forth below. The amounts required to be deposited into the Reserve Account (or any subaccount therein) may be decreased for any issue of Parity Bonds when and to the extent the City has provided for an Alternate Security or Reserve Insurance.

The Reserve Account operates as a common (pooled) reserve for the Covered Parity Bonds. If there is a deficiency in the Principal and Interest Account to meet maturing installments of principal or payments of interest then due and payable with respect to any Covered Parity Bonds, that deficiency shall be made up from the Reserve Account by the withdrawal of cash therefrom for that purpose. If the City has divided the Reserve Account into subaccounts (and except as required under an Alternate Security), such deficiency shall be made up by withdrawals made ratably from each subaccount, based on the proportion of the total Reserve Requirement held in each subaccount without regard to a particular series of Parity Bonds with respect to which such subaccount may have been originally funded.

Any deficiency created in the Reserve Account (or its subaccounts) by reason of any such withdrawal shall then be made up from ULID Assessment payments and the Net Revenue first available after making necessary provisions for the required payments into the Principal and Interest Account.

Except for the withdrawals authorized in this section, the money in the Reserve Account otherwise shall be held intact and may be applied against the last outstanding Covered Parity Bonds, except that if the Reserve Account is fully funded, any money in excess of the Reserve Requirement may be withdrawn and deposited, at the option of the Finance Director after consultation with Bond Counsel, either (i) into the Principal and Interest Account, and spent for the purpose of retiring Parity Bonds; or (ii) in the Waterworks Utility System Funds, and spent for any other lawful Waterworks Utility System purpose.

(c) ***Permitted Investments.*** All money in the Bond Fund may be kept in cash or invested in Permitted Investments maturing not later than the date when the funds are required for the payment of principal of or interest on the outstanding Parity Bonds (for investments in the Principal and Interest Account) or having a guaranteed redemption price prior to maturity and, in no event, maturing later

than the last maturity of any remaining outstanding Parity Bonds (for investments in the Reserve Account). Earnings from investments in the Principal and Interest Account shall be deposited in that account. Income from investments in the Reserve Account shall be deposited in that account.

**Section 14. Flow of Funds.** For so long as the Parity Bonds are outstanding, the Gross Revenue of the Waterworks Utility System shall be deposited in the Waterworks Utility System Funds used for the following purposes only and in the following order of priority:

- (a) To pay the Maintenance and Operation Expense;
- (b) Together with ULID Assessments, to pay the principal of and interest on the Parity Bonds when due, including making all payments required to be made under Section 14 (including all payments required to be made into any mandatory redemption or sinking fund account created to provide for the payment of the principal of Term Bonds);
- (c) Together with ULID Assessments, to make all payments required to be made into the Reserve Account, including making any payments required to be made pursuant to a reimbursement agreement in connection with an Alternate Security or Reserve Insurance, except that if there is not sufficient money to make all payments under reimbursement agreements, the payments will be made on a *pro rata* basis;
- (d) To make all payments required to be made into any revenue bond, note, warrant or other revenue obligation redemption fund, debt service account or reserve account created to pay or secure the payment of the principal of and interest on any revenue bonds, notes, warrants or other obligations of the City having a lien upon the Net Revenue of the Waterworks Utility System subordinate to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and
- (e) To any of the following purposes without priority: to make necessary additions, betterments and improvements and repairs to or extensions and replacements of the Waterworks Utility System, to retire by redemption or purchase in the open market any outstanding revenue obligations or other obligations of the Waterworks Utility System, or for any other lawful City purpose.

The City may transfer any money from any funds or accounts of the Waterworks Utility System legally available therefor, except bond redemption funds, refunding escrow funds or defeasance or other trust funds, to meet the required payments to be made into the Bond Fund.

**Section 15. Covenants.** The City covenants and agrees with the owner of each Bond at any time outstanding, as follows:

- (a) **ULID Assessments.** All ULID Assessments shall be paid into the Bond Fund to pay the principal of and interest on the Parity Bonds, and may be used to fund the Reserve Requirement, without those ULID Assessments being particularly allocated to the payment of the principal of and interest on any particular series of bonds.
- (b) **Maintenance and Operation.** The City will at all times maintain, preserve and keep the properties of the Waterworks Utility System in good repair, working order and condition, will make all necessary and proper additions, betterments, renewals and repairs thereto, and improvements, replacements and extensions thereof, and will at all times operate or cause to be operated the properties

of the Waterworks Utility System and the business in connection therewith in an efficient manner and at a reasonable cost.

(c) ***Establishment and Collection of Rates and Charges.*** The City will establish, maintain and collect rates and charges for all services and facilities provided by the Waterworks Utility System which will be fair and nondiscriminatory, and will adjust those rates and charges from time to time so that:

(1) The Gross Revenue of the Waterworks Utility System will at all times be sufficient to (i) pay all Maintenance and Operation Expense on a current basis, (ii) pay when due all amounts that the City is obligated to pay into the Bond Fund and the accounts therein, and (iii) pay all taxes, assessments or other governmental charges lawfully imposed on the Waterworks Utility System or the revenue therefrom (or payments in lieu thereof), and any and all other amounts which the City may now or hereafter become obligated to pay from the Gross Revenue of the Waterworks Utility System by law or contract; and

(2) The Net Revenue (together with any ULID Assessment collections) in each calendar year will be at least equal to the Coverage Requirement.

(d) ***Sale or Disposition of the Waterworks Utility System.*** The City will not sell or otherwise dispose of the Waterworks Utility System in its entirety unless, simultaneously with such sale or other disposition, all Parity Bonds are redeemed and retired, or defeased pursuant to the provisions of this ordinance. It will not sell, lease, mortgage or in any manner encumber or otherwise dispose of any part of the Waterworks Utility System, including all additions and improvements thereto and extensions thereof at any time made, that are used, useful or material in the operation of the Waterworks Utility System, unless provision is made for the replacement thereof or for payment into the Bond Fund of the greatest of the following:

(1) An amount which will be in the same proportion to the net amount of any Parity Bonds then outstanding (defined as the total amount of those bonds less the amount of cash and investments in the Bond Fund and accounts therein) that the Gross Revenue of the Waterworks Utility System from the portion of the Waterworks Utility System sold or disposed of for the preceding year bears to the total Gross Revenue of the Waterworks Utility System for that period; or

(2) An amount which will be in the same proportion to the net amount of any Parity Bonds then outstanding (as defined above) that the Net Revenue from the portion of the Waterworks Utility System sold or disposed of for the preceding year bears to the total Net Revenue for such period; or

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

The City in its discretion may sell or otherwise dispose of any of the works, plant, properties or facilities of the Waterworks Utility System or any real or personal property comprising a part of the same which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation

of the Waterworks Utility System, or no longer necessary, material to or useful to the operation of the Waterworks Utility System, without making any deposit into the Bond Fund. Furthermore, the City may transfer the Waterworks Utility System to another municipal corporation so long as ULID Assessments and Net Revenue of the portion of the Waterworks Utility System so transferred are used for payment of debt service on the Parity Bonds prior to any other purpose.

(e) ***Liens Upon the Waterworks Utility System Revenues.*** The City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the Gross Revenue or the Net Revenue, or any part thereof, prior or superior to the lien thereon for the payment of the Parity Bonds, and will pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Gross Revenue or the Net Revenue, or any part thereof, prior to or superior to the lien of the Parity Bonds, or which would impair the security of the Parity Bonds.

(f) ***Books and Accounts.*** It will keep proper books, records and accounts with respect to the operations, income and expenditures of the Waterworks Utility System in accordance with proper accounting procedures and any applicable rules and regulations prescribed by the State of Washington. It will prepare annual financial and operating statements within 180 days of the close of each fiscal year (which may or may not be audited within that timeframe) showing in reasonable detail the financial condition of the Waterworks Utility System as of the close of the previous year, and the income and expenses for such year, including the amounts paid into the Bond Fund and into any and all special funds or accounts created pursuant to the provisions of this ordinance, the status of all funds and accounts as of the end of such year, and the amounts expended for maintenance, renewals, replacements and capital additions to the Waterworks Utility System. Such statements shall be sent to the owner of any Parity Bonds upon written request therefor being made to the City.

(g) ***No Free Service.*** Except to aid the poor or infirm, to provide for resource conservation or to provide for the proper handling of hazardous materials, it will not furnish or supply or permit the furnishing or supplying of any service or facility in connection with the operation of the Waterworks Utility System free of charge to any person, firm or corporation, public or private, other than the City, so long as any Parity Bonds are outstanding.

(h) ***Collection of Delinquent Accounts.*** On at least an annual basis, it will determine all accounts that are delinquent and will take all necessary action to enforce payment of such accounts against those property owners whose accounts are delinquent.

(i) ***Insurance.*** The City will at all times carry fire and such other forms of insurance (which may be satisfied by participation in a state-authorized municipal self-insurance pool) on such of the buildings, equipment, facilities and properties of the Waterworks Utility System as are ordinarily carried on such buildings, equipment, facilities, and properties by utilities engaged in the operation of similar municipal utility systems to the full insurable value thereof, and also will carry adequate public liability insurance (and war risk insurance if available at reasonable rates) at all times. The premiums or other payments due with respect to such insurance policies (or municipal self-insurance pool) are declared to be a normal part of Maintenance and Operation Expense.

**Section 16. Federal Tax Matters.** The Bonds and Bond Purchase Agreement shall include a designation of the Bonds as Tax-Exempt Bonds or Taxable Bonds and may include such additional terms and covenants relating to federal tax matters as the Designated Representative deems necessary or appropriate, consistent with the following:

(1) ***Tax-Exempt Bonds.*** If the Bonds are issued as Tax-Exempt Bonds, the City covenants that it will take all actions that are reasonably within its power and necessary to prevent interest on that Series from being included in gross income for federal income tax purposes. The City further covenants that it will neither take any action nor make or permit any use of gross proceeds of that Series (or other funds of the City treated as gross proceeds of that Series) at any time during the term of such Series that will cause interest on such Series to be included in gross income for federal income tax purposes. The City also covenants that, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to any Series issued as Tax-Exempt Bonds, it will take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with that Series (including the calculation and payment of any penalties that the City may elect to pay as an alternative to calculating rebatable arbitrage and the payment of any other penalties if required under Section 148 of the Code) to prevent interest on such Series from being included in gross income for federal income tax purposes.

(b) ***Taxable Bonds; Tax Credit Subsidy Bonds.*** If the Bonds are issued as Taxable Bonds or as Tax Credit Subsidy Bonds, the Designated Representative is authorized to make provision in the Bonds and related documents, to execute additional written agreements, and to make additional covenants on behalf of the City, all as he or she may deem necessary or appropriate in order to obtain, maintain, and administer such tax status. In the case of Tax Credit Subsidy Bonds, such additional covenants and agreement may include (without limiting the generality of the foregoing) those necessary in order for the City: (i) to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of such Tax Credit Subsidy Bonds; and (ii) to ensure that such Series otherwise become and remain eligible for tax benefits under the Code.

(2) ***Post-Issuance Compliance.*** The Finance Director is authorized and directed to review and update the City's written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Code that must be satisfied after the Issue Date to prevent interest on the Bonds from being included in gross income for federal tax purposes.

(b) ***Designation of Tax-Exempt Bond as a "Qualified Tax-Exempt Obligation."*** If the following conditions are met, as determined by the Finance Director as of the Issue Date, the City the Bonds issued as Tax-Exempt Bonds shall be designated as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code, if (1) the Tax-Exempt Bonds do not constitute "private activity bonds" within the meaning of Section 141 of the Code; and (2) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) that the City and any entity subordinate to the city (including any entity that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) will issue during the calendar year in which the Tax-Exempt Bonds are issued will not exceed \$10,000,000.

**Section 17. Official Statement; Continuing Disclosure.** To the extent that the Bonds are sold to the public in a sale subject to Rule 15c2-12 and related rules and regulations promulgated by the SEC under the Securities Exchange Act of 1934, as amended ("Rule 15c2-12"), the Designated Representative is authorized as follows:

(1) ***Preliminary Official Statement.*** The Designated Representative and other appropriate City officials are directed to cause the preparation of and review the form of a preliminary Official Statement in connection with any sale of the Bonds to the public. For the sole purpose of an underwriter's compliance with paragraph (b)(1) of Rule 15c2-12, if applicable, the Designated Representative is authorized to deem that preliminary Official Statement final as of its date, except for

the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary Official Statement that has been deemed final in accordance with this subsection.

(2) ***Final Official Statement.*** The City approves the preparation of a final Official Statement for the Bonds to be sold to the public in the form of the preliminary Official Statement that has been deemed final in accordance with subsection (a), with such modifications and amendments as the Designated Representative deems necessary or desirable, and further authorizes the Designated Representative to execute and deliver such final Official Statement to the Purchaser, if required under Rule 15c2-12. The City authorizes and approves the distribution by the Purchaser of the final Official Statement so executed and delivered to purchasers and potential purchasers of the Bonds.

(3) ***Agreement to Provide Continuing Disclosure.*** If necessary to meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a Purchaser acting as a participating underwriter for the Bonds, the Designated Representative is authorized to execute a written undertaking to provide continuing disclosure for the benefit of holders of the Bonds (the "Continuing Disclosure Agreement").

**Section 18. Future Parity Bonds.** The City reserves the right to issue Future Parity Bonds if the Parity Conditions are met and complied with at the time of issuance of those Future Parity Bonds. Nothing contained herein shall prevent the City from issuing Future Parity Bonds to refund maturing Parity Bonds then outstanding, money for the payment of which is not otherwise available. Nothing contained herein shall prevent the City from issuing revenue bonds or other obligations that are a charge upon the Net Revenue subordinate to the Parity Bonds, or from pledging the payment of utility local improvement district assessments into a bond redemption fund created for the payment of the principal of and interest on those subordinate lien bonds or obligations, as long as such utility local improvement district assessments are levied for improvements constructed from the proceeds of those subordinate lien bonds.

**Section 19. Separate Utility Systems.** The City may create, acquire, construct, finance, own and operate one or more additional systems for water supply or sewerage, transmission or other commodity or service relating to the Waterworks Utility System. The revenue of that separate utility system shall not be included in the Gross Revenue and may be pledged to the payment of revenue obligations issued to purchase, construct, condemn or otherwise acquire or expand that separate utility system. Neither the Gross Revenue nor the Net Revenue shall be pledged by the City to the payment of any obligations of a separate utility system except that the Net Revenue may be pledged on a basis subordinate to that provided for the payment of the principal of and interest on the Parity Bonds, all payments to be made under a reimbursement agreement with respect to an Alternate Security, and all payments required to be made into the Reserve Account under any Parity Bond Ordinance.

**Section 20. Rate Stabilization Fund.** The City Finance Director is authorized to establish a Waterworks Utility System Rate Stabilization Fund within the Waterworks Utility System Fund, into which funds may be deposited from time to time as described in this section at the option of the City. The Finance Director is authorized to establish within that fund such accounts or subaccounts as may be necessary or desirable. Upon the recommendation of the Finance Director, as approved by the City Council (which approval may be reflected in an adopted budget or may be approved by other action) and as consistent with this ordinance, the City may deposit into the Rate Stabilization Fund amounts derived from Gross Revenue or any other money received by the Waterworks Utility System and available for this purpose. With approval by the City Council, the Finance Director may at any time make withdrawals from the Rate Stabilization Fund and, for purposes of calculating the Net Revenue in any year, may include such withdrawals in the Net Revenue for the current fiscal year. Deposits or

withdrawals may be made up to and including the date that is 90 days after the end of the fiscal year for which the deposit is to be excluded from Gross Revenue, or for which the withdrawal is to be included as Net Revenue. Money withdrawn from the Rate Stabilization Fund may be used for any proper Waterworks Utility System purpose. Interest earnings on the Fund shall be allocated to the fund or account designated by the Finance Director from time to time. No deposit of Gross Revenue may be made into the Rate Stabilization Fund to the extent that such deposit would result in Net Revenue less than the amount required to meet the Coverage Requirement in the relevant fiscal year.

## **Section 21. Sale and Delivery of the Bonds.**

(a) ***Manner of Sale of Bonds; Delivery of Bonds.*** The Designated Representative is authorized to sell each the Bonds by negotiated sale, direct placement or competitive sale, based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials, staff, municipal advisor, Bond Counsel and other advisors. In determining the method of sale and accepting the Bond Sale Terms, the Designated Representative shall take into account those factors that, in the judgment of the Designated Representative, may be expected to result in the lowest true interest cost to the City.

(b) ***Procedure for Negotiated Sale or Direct Placement.*** If the Designated Representative determines that the Bonds are to be sold by negotiated sale or direct placement, the Designated Representative shall select one or more Purchasers with which to negotiate such sale. The Bond Purchase Agreement shall set forth the Bond Sale Terms. The Designated Representative is authorized to execute and deliver the Bond Purchase Agreement on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) ***Procedure for Competitive Sale.*** If the Designated Representative determines that a Series of Bonds are to be sold by competitive sale, the Designated Representative shall cause the preparation of an official notice of bond sale setting forth bid parameters that the Designated Representative deems appropriate consistent with this ordinance. Bids for the purchase of the Bonds shall be received at such time or place and by such means as the Designated Representative directs. On the date and time established for the receipt of bids, the Designated Representative (or the designee of the Designated Representative) shall accept bids and shall cause the bids to be mathematically verified. The Designated Representative is authorized to award, on behalf of the City, the winning bid and to accept the winning bidder's offer to purchase the Bonds with such adjustments to the aggregate principal amount and principal amount per maturity as the Designated Representative deems appropriate consistent with the terms of this ordinance. The Designated Representative may reject any or all bids submitted and may waive any formality or irregularity in any bid or in the bidding process if the Designated Representative deems it to be in the City's best interest to do so. If all bids are rejected, the Bonds may be sold pursuant to negotiated sale or in any manner provided by law as the Designated Representative determines is in the best interest of the City, within the parameters set forth in this ordinance.

(d) ***Preparation, Execution and Delivery of the Bonds.*** The Bonds will be prepared at City expense and will be delivered to the Purchaser in accordance with the Bond Purchase Agreement, together with the approving legal opinion of Bond Counsel regarding the Bonds.

**Section 22. Amendatory Ordinances.** This ordinance shall not be modified or amended in any respect subsequent to the initial issuance of the Bond, except as provided in and in accordance with and subject to the provisions of this section.



(a) ***Amendments Permitted Without Consent.*** The City, from time to time, and at any time, without the consent of or notice to the registered owners of the Parity Bonds, may pass amendatory ordinances as follows:

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

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

(3) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this ordinance, other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary or inconsistent with this ordinance as thereto fore in effect;

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

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

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

(7) Because of change in federal law or rulings, to maintain the exclusion from gross income of the interest on Parity Bonds (excluding any Parity Bonds issued as Tax Credit Subsidy Bonds) from federal income taxation.

Before the City shall pass any such amendatory ordinance pursuant to this subsection (a), there shall have been delivered to the City and the Bond Registrar an opinion of Bond Counsel, stating that such amendatory ordinance is authorized or permitted by this ordinance and, upon the execution and delivery thereof, will be valid and binding upon the City in accordance with its terms and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Parity Bonds (except any Parity Bonds issued as Tax Credit Subsidy Bonds).

(b) ***Amendments Requiring Consent.*** Except for any amendatory ordinance entered into pursuant to paragraph (a) of this section, subject to the terms and provisions contained in this paragraph (b) and not otherwise, registered owners of not less than 60% in aggregate principal amount of Parity Bonds shall have the right from time to time to consent to and approve the passage by the City of any amendatory ordinance deemed necessary or desirable by the City for the purpose of modifying,



determined, exercised and enforced under this ordinance subject in all respects to such modifications and amendments.

**Section 23. General Authorization and Ratification.** The Designated Representative and other appropriate officers of the City are severally authorized to take such actions and to execute such documents as in their judgment may be necessary or desirable to carry out the transactions contemplated in connection with this ordinance, and to do everything necessary for the prompt delivery of each Series of Bonds to the Purchaser and for the proper application, use and investment of the proceeds of the Bonds. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

**Section 24. Severability.** If any provision in this ordinance is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond.

**Section 25. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's or clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 26. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

PASSED by the City Council of the City of Ellensburg, Washington, at a regular open public meeting thereof this 16<sup>th</sup> day of February, 2021 and signed in authentication of its passage this 16<sup>th</sup> day of February, 2021.

CITY OF ELLENSBURG, WASHINGTON

  
\_\_\_\_\_  
Mayor

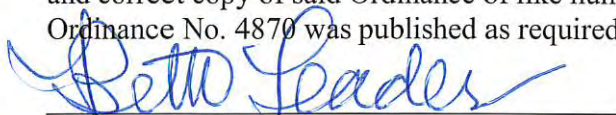
ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Stradling Yocca Carlson & Rauth, a Professional Corporation,  
Bond Counsel

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4870 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4870 was published as required by law.

  
\_\_\_\_\_  
Beth Leader

Published 2-20-21

## **EXHIBIT A**

### **Parity Conditions**

The City may issue Future Parity Bonds on parity with the outstanding Parity Bonds if the following conditions are met and complied with at the time of issuance of those bonds:

- (a) There may be no deficiency in the Bond Fund.
- (b) The ordinance providing for the issuance of those Future Parity Bonds must provide that all ULID Assessments and interest thereon that may be levied in any ULID created for the purpose of paying, in whole or in part, the principal of and interest on those Future Parity Bonds, shall be paid directly into the Bond Fund, except for any prepaid assessments permitted by law to be paid into a construction fund or account.
- (c) The ordinance providing for the issuance of those Future Parity Bonds must provide for the payment of the principal thereof and interest thereon out of the Bond Fund.
- (d) The ordinance providing for the issuance of those Future Parity Bonds must provide for the deposit into the Reserve Account (or subaccount therein) of amounts necessary to meet the Reserve Requirement (if any) applicable to those Future Parity Bonds, and must designate whether such Future Parity Bonds are to be deemed Covered Parity Bonds after the Parity Covenant Date.
- (e) The ordinance providing for the issuance of those Future Parity Bonds must provide for the payment of mandatory redemption or sinking fund requirements into the Bond Fund for any Term Bonds to be issued and for regular payments to be made for the payment of the principal of such Term Bonds on or before their maturity, or, as an alternative, the mandatory redemption of those Term Bonds prior and up to their maturity date from money in the Principal and Interest Account.
- (f) There must be on file with the City, either:
  - (1) a certificate of the City Finance Director demonstrating that the Coverage Requirement would have been satisfied during any twelve consecutive calendar months out of the immediately preceding 24 calendar months, assuming that (i) those Future Parity Bonds had been outstanding (using Average Annual Debt Service, adjusted for any Tax Credit Subsidy Payments, as the debt service on those Future Parity Bonds), and (ii) any Parity Bonds to be refunded by those Future Parity Bonds were not outstanding; or
  - (2) a certificate of a Utility Professional (which may take into account the adjustments described below), setting forth his or her underlying assumptions and stating that, in his or her opinion, assuming that those Future Parity Bonds are outstanding and any Parity Bonds to be refunded by those Future Parity Bonds are not outstanding, the Coverage Requirement (including permitted adjustments to Annual Debt Service in respect of Tax Credit Subsidy Bonds) will be satisfied (i) in each of the calendar years for the five calendar years next following the earlier of: (A) the year in which those Future Parity Bonds are issued (or, if interest is capitalized, the end of the period during which the interest on those Future Parity Bonds is fully capitalized), (B) the date on which substantially all new facilities or improvements financed in substantial part by those Future Parity Bonds are expected to commence operations; and (ii) in the calendar year in which those Future Parity Bonds are issued and any subsequent year prior to but not included in the years for which certification is provided.

(3) A certificate of a Utility Professional may take into account the following adjustments to historical Net Revenue for the relevant 12-month period:

(i) Any rate change that has taken place or been adopted by ordinance or contract may be reflected, or expected to be charged in accordance with a program of specific levels of increase (or decrease) in overall revenue.

(ii) Revenue from customers added or projected to be added after the relevant 12-month period, may be adjusted to reflect one year's Net Revenue allocable to those new customers.

(iii) A full year's revenue may be included on a pro forma basis from any customer being served but who has not been receiving service for the full period of operation used as a basis for the certificate.

(iv) Actual or reasonably anticipated changes in the Maintenance and Operation Expense subsequent to the relevant 12-month period shall be added or deducted, as is applicable.

(v) Net Revenue allocable to any person, firm, corporation or municipal corporation under any executed contract for utility service, which revenue was not included in the historical Net Revenue, may be included in Net Revenue.

(vi) Transfers into or out of the Rate Stabilization Fund pursuant to outstanding Parity Bond Ordinances may be taken into account, and those amounts may be added to or deducted from Net Revenues, as applicable.

(4) If Future Parity Bonds are being issued for the sole purpose of refunding Parity Bonds (including costs of issuance and providing for the Reserve Requirement), no certification is required under this section (f) if, as result of the issuance of those Future Parity Bonds, (a) the Annual Debt Service on the Future Parity Bonds to be issued is not increased by more than \$5,000 over the Annual Debt Service for that year of the bonds being refunded, and (b) the various annual maturities of the refunding Future Parity Bonds will not extend more than one year longer than the Parity Bonds being refunded. Annual Debt Service shall be adjusted for each calendar year by subtracting any amount scheduled to be received in that calendar year by the City as a Tax Credit Subsidy Payment in respect of any Parity Bonds issued as Tax Credit Subsidy Bonds.

(5) Nothing contained in this section (f) shall prevent the City from issuing revenue bonds having a junior lien on the Net Revenue or from pledging the payment of assessments in any ULID into a bond redemption fund or account created to pay and secure the payment of the principal of and interest on such junior lien bonds as long as such assessments are levied to pay part or all of the cost of improvements being constructed out of the proceeds of the sale of such junior lien bonds.

## **EXHIBIT B**

### **Bond Sale Terms**

- (a) Principal Amount. The maximum aggregate principal amount of the Bonds authorized by this ordinance shall not exceed \$11 million. The Bonds or any series of the Bonds may be structured as a draw-down facility or may be exchanged for their full purchase price at closing.
- (b) Date or Dates. Each Bond shall be dated its date of initial delivery to the Purchaser, which shall be its Issue Date, regardless of any provision for making principal draws over time after the Issue Date. The Issue Date may not be later than one year after the effective date of this ordinance.
- (c) Denominations, Name, etc. The Bonds shall be issued in Authorized Denominations and shall be numbered separately in the manner and shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative. The Designated Representative may select alternative Authorized Denominations in connection with a direct placement of any Bond or series of Bonds.
- (e) Interest Rate(s). The Bonds shall bear interest at fixed rates per annum (computed on the basis of a 360-day year of twelve 30-day months or such other basis as may be acceptable to the Designated Representative) from the Issue Date or from the most recent date for which interest has been paid or duly provided for, whichever is later. One or more rates of interest may be fixed for a Bond, which may be reset prior to the scheduled maturity of the Bond. No rate of interest for any Bond may exceed 5.00%, and the true interest cost to the City for any Series of the Bonds may not exceed 4.00%.
- (f) Payment Dates. Interest shall be payable on dates acceptable to the Designated Representative, commencing no later than one year after the Issue Date. Principal payments shall commence on a date acceptable to the Designated Representative and shall be payable at maturity or in mandatory redemption installments on dates acceptable to the Designated Representative.
- (g) Final Maturity. The Bonds shall mature no later than 20 years after their Issue Date.
- (h) Redemption Rights. The Designated Representative may approve in the Bond Purchase Agreement provisions for the optional and mandatory redemption of the Bonds, subject to the following:
  - (1) Optional Redemption. A Bond may be designated as being (A) subject to redemption at the option of the City prior to its maturity date on the dates and at the prices set forth in the Bond Purchase Agreement; or (B) not subject to redemption prior to its maturity date. If a Bond is subject to optional redemption prior to its maturity, it must be subject to such redemption on one or more dates occurring not more than 10½ years after the Issue Date.

- (2) Mandatory Redemption. A Bond may be designated as a Term Bond, subject to mandatory redemption prior to its maturity on the dates and in the amounts set forth in the Bond Purchase Agreement or pricing certificate.
- (i) Price. The purchase price for the Bonds may not be less than 98% or more than 130% of the stated aggregate principal amount.
- (i) Other Terms and Conditions.
  - (1) Expected Life of Capital Facilities. As of the Issue Date, the Designated Representative must find to his or her satisfaction that the average expected life of the capital facilities to be financed with the proceeds of the Bonds must exceed the weighted average maturity of such Bonds (or share thereof allocated to financing those capital facilities).
  - (2) Satisfaction of Parity Conditions. The Designated Representative must determine to his or her satisfaction that the Parity Conditions have been met or satisfied as of the Issue Date.
  - (3) Credit Enhancement. The Designated Representative may determine whether it is in the City's best interest to provide for bond insurance or other credit enhancement; and may accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this ordinance.

## **EXHIBIT C**

### **Description of Projects**

The Projects include capital improvements to the Sewer Funds and the Water Funds, including all related costs, described as follows:

<b>Project Name</b>	<b>Short Description</b>	<b>Amount</b>
<b><u>Sewer Projects</u></b>		
Bull Road Utility Extension (Sewer)	5800' sewer main extension on Berry Rd. and Bull Rd.	\$1,953,000
Anderson Road Sewer Extension	6300' sewer main extension on Umptanum Rd. and Anderson Rd. Remove ex. sewer lift station.	\$1,900,000
Rebuild Clarifiers at WWTF	Rehabilitate the Clarifier mechanism including replacement of the feedwell with a large diameter unit at the Waste Water Treatment Facility (WWTF).	\$325,000
Digester/GBT Electrical Upgrades	Design and construction of electrical upgrades in the digester building at the Waste Water Treatment Facility (WWTF).	\$500,000
Sewer Projects Total Allocation		\$4,678,000
<b><u>Water Projects</u></b>		
Bull Road Utility Extension (Water)	5800' water main extension/loop on Berry Rd. and Bull Road	\$1,978,000
Illinois Well Outfitting	Construct the Illinois Well house and motor control center and connect the well to the City water system.	\$3,200,000
Craig's Hill Pressure Zone	Create a new water pressure zone near the Craig's Hill Reservoir to provide additional water pressure to the area.	\$300,000
Water Projects Total Allocation		\$5,478,000

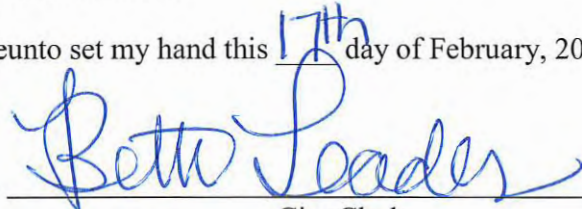
## CERTIFICATE

I, the undersigned, City Clerk of the City of Ellensburg, Washington (the "City") and keeper of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. 4870 of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 16th day of February, 2021.

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 adoption of the Ordinance; that all other requirements and proceedings incident to the proper adoption of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17<sup>th</sup> day of February, 2021.

  
\_\_\_\_\_  
City Clerk