

**CITY OF ELLENSBURG
COUNCIL AGENDA
Council Chambers
501 North Anderson Street
Monday, November 7, 2016
7:00 p.m. – Regular Meeting**

	Pledge of Allegiance	
1.	Call to Order & Roll Call	
2.	Proclamation – Not in Our Town	
3.	Awards and Recognitions	
4.	Approval of Agenda	
5.	CONSENT AGENDA	
	Items listed below have been distributed to Councilmembers in advance for study and will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Agenda at the request of a Councilmember or at the request of a member of the public with concurrence of a Councilmember. Requests to remove items should be made under Item 4 Approval of Agenda.	
	A. Approve Minutes – October 17, 2016, Regular Meeting	1
	B. Acknowledge Minutes of Boards and Commissions	
	(1) Public Transit Advisory Committee – September 6, 2016	5
	(2) Utility Advisory Committee – September 15, 2016	7
	C. Authorize the Mayor to Sign Exhibit A Revision 2 of the Bonneville Power Administration Transmission Services Agreement	10
	D. Approve University Way Banner Request for EYBS Registration from January 23-29, 2017	19
	E. Adopt Resolution No. 2016-39 - Street Lighting and Renewable Energy Park	20
	F. Authorize the City Manager to Execute an Energy Conservation Agreement with Rosauers Supermarkets DBA Super One Foods in an Amount not to exceed \$50,000	22
	G. Approve the Proposed Increase to the Fixed Monthly Service Charge Component of the Central Washington University Interlocal Agreement for Interruptible Natural Gas Service	26
	H. Authorize the City Manager to sign the 2017 Benefits Contracts	27
	I. Approve Street Closure Application for Chamber of Commerce for 4 th Avenue from Main Street to Pine Street on November 8, 2016 from 6:30 a.m. to 9:00 a.m. for Commercial Shoot	33
	J. Authorize the Mayor to Sign the Mutual Assistance Agreement with Bonneville Power Administration	40
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	L. Approve November 7, 2016 Voucher Listing	66
6.	Petitions, Protests and Communications	
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	C. Ordinance No. 4750 - Carryout Bag Regulation	132
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	E. Proposed Ordinance – Repeal Chapter 1.75 ECC, Access to Public Records, and Replace with new Chapter 1.75 ECC, Public Records	210
10.	Unfinished Business	
11.	New Business	

	A. Third Quarter Financial Status and Investment Reports	221
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13.	Executive Session	
14.	Adjournment	

Next Ord. #4751
Next Res. #2016-40

Not In Our Town Proclamation

WHEREAS, bullying, harassment, hate speech and violence have become a daily occurrence and is increasing across the nation;

WHEREAS, history has tragically taught us that when people stand by and allow acts of intolerance, violence, and hatred to occur it is seen as acquiescence;

WHEREAS, people often feel isolated, without hope, and helpless to do anything individually to end hate violence;

WHEREAS, communities across the country, by standing together, have been successful in building strong, inclusive, diverse and tolerant communities while respecting each citizen's right to free speech;

WHEREAS, civic and religious organizations nationwide have led efforts to talk about their community values and learn to prevent hate activity if it comes to their town;

WHEREAS, a group of citizens, reacting to recent incidents of hate speech in our community, have organized to proclaim "Not In Our Kittitas County",

WHEREAS, we, the City of Ellensburg, in support of Not In Our Kittitas County, and in keeping with the principle of respect for all people, unequivocally oppose any manifestation of bullying, harassment, hatred and prejudice towards any group or individual;

NOW THEREFORE WE resolve to actively work to make the City of Ellensburg a safe place, free of discrimination and hatred of any kind. We also resolve to promote a climate of safety, inclusion, and acceptance in our community.

DATED this ____ day of November, 2016.

Rich Elliott
Mayor

Attest:

City Clerk

CITY OF ELLENSBURG Minutes of Council Meeting, Regular Session
Date of Meeting October 17, 2016
Time of Meeting 7:00 p.m.
Place of Meeting Council Chambers, 501 North Anderson Street

Roll Call Present: Herion, Lillquist, Miller, Morgan, Scheffer, Tabb and Elliott.

Others present were City Manager Akers; City Attorney Weiner; City Clerk Reno; Executive Assistant Gigstead; Public Works Director Lyyski; Finance Director Pascoe; Parks and Recreation Director Case; Energy Services Director Dunbar; Operations Analyst Leader; and approximately 20 members of the audience.

Agenda Approval

Motion to approve the agenda.

Tabb
Affirmed

Consent Agenda

Items listed under the Consent Agenda were distributed to Councilmembers in advance for study and were enacted by one motion with separate discussion to the extent any items were removed from the Consent Agenda at the request of a Councilmember.

Motion to approve the Consent Agenda as follows:

Tabb

- A. Approve Minutes – October 3, 2016, Regular Meeting
- B. Acknowledge Minutes of Boards and Commissions
 - (1) Lodging Tax Advisory Committee – August 3, 2016 and September 7, 2016
 - (2) Utility Advisory Committee – July 27, 2016
- C. Authorize the Mayor and Staff to Execute the Agreement with Ellensburg School District for use of City Road Rights-of-way at the Morgan Middle School Facility
- D. Authorize the Mayor and Staff to Execute the Intersection Improvements Agreement with Washington State Department of Transportation for the US 97, Dolarway, University Way Intersection
- E. Accept Bid Call 2016-06 – CBD Alley Reconstruction (Pearl St./Pine St. and 5th Ave./6th Ave. and Shop Parking Lot Paving as Complete
- F. Approve University Way Banner Request for CWU Graduate School from January 3-24, 2017 and October 24, 2016 through November 6, 2016
- G. Award Bid Call 2016-30 – Official Newspaper Contract to the Daily Record
- H. Approve Street Closure for Kittitas Valley Fire and Rescue for North Alder Street University Way South to 8th Avenue from 8:00 a.m. to 7:00 p.m. on November 12, 2016 for Fire Department Training
- I. Approve University Way Banner Request for POW/MIA Vet Day from November 7-13, 2016
- J. Approve Street Closure for Veterans Day Parade for 1st Avenue and Pine Street to Pearl Street to 6th Avenue to Pine Street to 1st Avenue from 10:00 a.m. to 1:00 p.m. on November 11, 2016
- K. Approve Street Closure for Chamber of Commerce for 4th Avenue and Intersection of Pearl Street from 6:30 a.m. to 9:00 a.m. on October 24, 2016
- L. Authorize the Awards recommended by the Sub-Committee for the 2017 Community Grants Programs
- M. Authorize the Funding for the Park Partnership Program as Recommended by the Parks and Recreation Commission

- N. Authorize the Funding for the 2017 Ellensburg Community Grant Program Water Quality as Recommended by the Environmental Commission
- O. Authorize the Funding for the 2017 Historic Preservation Grants Program as Recommended by the Landmarks and Design Commission
- P. Approve the Contract with the Chamber of Commerce for Marketing and Promotions for 2017 and 2018 as Recommended by the Lodging Tax Advisory Committee
- Q. Approve Funding of up to \$75,000 from the Lodging Tax Budget for Construction of a Rotary Park Restroom and Concession
- R. Approve Professional Services Agreement with BERK Consulting, Inc. for the development of the Housing and Transportation elements of the 2017 Comprehensive Plan Periodic Update
- S. Approve October 17, 2016 Claims Fund Voucher Numbers 130546 Through 130734 in the Amount of \$548,554.01, ACH Direct Payments in the Amount of \$372,370.80, Payroll Fund Check Numbers 91993 Through 92038 in the Total Amount of \$60,340.52, Direct Deposit in the Amount of \$273,377.30, and Electronic Fund Transfer of \$3,650.00. Affirmed

Council Assignments to Boards and Commissions and Liaison Positions

Councilmember Scheffer will be the liaison to the Senior Citizens Advisory Commission. Councilmember Herion will be the liaison to the Parks and Recreation Commission. Mayor Elliott will be the alternate for all liaison positions.

People for People Presentation Regarding 2-1-1 Services Available

Chelsey Loeffers, People for People gave an update on the 2-1-1 services available in the community.

Commissioner Jewell – Discuss Tourism Infrastructure

County Commissioner Paul Jewell discussed the Tourism Infrastructure Plan.

Presentation of Hotel Market Study Report

Jim Armstrong, Kittitas County Chamber of Commerce, Carolyn Honeycutt, Ellensburg Downtown Association and Steve Townsend presented the Phases I and II Report on Market Feasibility of Proposed Hotel Development in Ellensburg prepared by Hotel Realty NW.

Citizen Comment on Non-Agenda Issues

Marte Fallshore of CWU discussed the “Not in our Kittitas County” group which is addressing hate in the county and nation and requested Council consider approving a proclamation or resolution supporting the group’s efforts.

Proposed Ordinances – Natural Gas & Telecommunications Bonds

The proposed ordinances, as prepared by Stradling Yocca Carlson & Rauth, P.C., the City’s bond counsel, authorizes the issuance and sale of \$859,014.70 of Natural Gas Revenue Bonds and \$390,243.00 of Telecommunications Limited Tax General Obligation Bonds.

Motion for first reading of Ordinance No. 4746.

Tabb

AN ORDINANCE of the City of Ellensburg, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$295,000 principal amount taxable limited tax general obligation bond to provide funds necessary to repay an interfund loan and provide funds for long term financing of the City’s telecommunications infrastructure, and to pay the costs of issuance and sale of the bond; fixing or setting parameters with respect to certain terms and covenants of the bond; appointing the City’s designated representative to approve

the terms of the sale and delivery of the bond to Cashmere Valley Bank; and providing for other related matters. Affirmed

Motion for first reading of Ordinance No. 4747. Tabb

AN ORDINANCE of the City of Ellensburg, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$865,000 principal amount gas utility revenue bond to provide funds to pay or reimburse the costs of certain capital improvements to and extensions of the Natural Gas Utility, funding a deposit to the debt service reserve account, and the pay the costs of issuance and sale of the bond; creating a revenue bond service account and such additional special funds or accounts 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 bond; appointing the City's designated representative to approve the sale terms and providing for the sale and delivery of the bond to Cashmere Valley Bank; and providing for other related matters. Affirmed

Proposed Ordinances – Sale of Real Property and Sale of Surplus Property

The proposed ordinances revise the Ellensburg City Code related to the sale of real property and sale of surplus property.

Motion for first reading of Ordinance No. 4748. Scheffer

AN ORDINANCE of the City Council of the City of Ellensburg, Washington, amending Chapter 2.06 "Sale of Real Property" of the Ellensburg City Code. Affirmed

Motion for first reading of Ordinance No. 4749. Scheffer

AN ORDINANCE of the City Council of the City of Ellensburg, Washington, amending Chapter 2.07 "Sale of Surplus Property" of the Ellensburg City Code, repealing the current Chapter 2.07 in its entirety and adopting a new chapter entitled "Chapter 2.07 sale or disposition of surplus personal property".

Motion to amend Section 2.07.040.A by replacing finance director with city manager and deleting "or his/her designee". Tabb Affirmed

Vote on main motion. Affirmed

Proposed Ordinance – Carryout Bag Regulation

The proposed ordinance would impose a \$0.05 "pass through" fee on single-use paper and plastic carryout bags.

Larry Lowther, 107 W. 9th, representing Our Environment, discussed the proposed ordinance.

Motion for first reading of Ordinance No. 4750. Tabb

AN ORDINANCE of the City Council of the City of Ellensburg, Washington, relating to plastic and recyclable paper carryout bags and requiring retail establishments to collect a pass-through charge from customers, and adding a new chapter to the Ellensburg City Code entitled "5.64 – Carryout Bag Regulation". Affirmed (Herion – no)

Proposed Resolution – Repeal Resolution No. 2012-01 and Re-authorize Interfund Loan from Light Fund to the General Fund for the Defeasance of Two LTGO Bonds to Include Repayment Schedules

The proposed resolution includes the repayment schedule for the interfund loan previously authorized in Resolution 2012-01.

Motion to adopt Resolution No. 2016-37.

Scheffer
Affirmed

Proposed Resolution – Donation from Fred Meyer for the Stan Bassett Youth Center

The proposed resolution accepts a donation in the amount of \$4,005.26 from Fred Meyer.

Motion to adopt Resolution No. 2016-38.

Scheffer
Affirmed

Motion to authorize the Mayor to sign a letter of appreciation to Fred Meyer for their donation.

Lillquist
Affirmed

Manager's Report

Set Public Hearing

Motion to set a public hearing for November 7, 2016 to consider the 2016 Supplemental Budget.

Tabb
Affirmed

Councilmembers' Reports

Councilmember Scheffer requested staff ask KVFR to present their annual report.

Councilmember Morgan reported on the Library Board, a presentation regarding the John Wayne Trail, and the Arts Commission.

Councilmember Miller reported on the Homeless and Affordable Housing Committee meeting and the AWC Regional Meeting in Moses Lake.

Councilmember Lillquist reported on the Yakima Basin Fish and Wildlife Recovery Board meeting, the Lodging Tax Advisory Committee meeting, and Developmental Disabilities Advisory Committee meeting. She also advised the committee for "Not in Our Kittitas County" asked for a Council representative for the weekly meetings and requested Council consider a proclamation or resolution supporting their efforts. Council consensus was to consider these two items at the November 7, 2016 meeting.

Mayor Elliott reported on the Senior Citizens Advisory Commission meeting, the new CWU science building opening ceremony, and the EMS Council meeting.

Recess

Council recessed to executive session at 9:23 p.m. to discuss potential land acquisition. The executive session was expected to last approximately five minutes and Council was not expected to reconvene to take action.

Adjourn

Motion to adjourn at 9:28 p.m.

Scheffer
Affirmed

ATTEST:

Mayor

City Clerk

PTAC

City of Ellensburg

Public Transit Advisory Committee Agenda

City Council Chambers

September 6, 2016

3:30 PM

Present: Mike Luvera, Armando Ortiz, Fiona Gibson, Jack Frost, Bruce Tabb

Mark Hollandsworth, Aaron Blum, John Akers, Joy Potter

1.0 Call to Order @ 3:33

2.0. Intros—All introduced themselves.

3.0 Review of Agenda/Additional Items—discussion of shelter/stop at CWU SURC.
Signage is needed and question location of stop. Fiona and Mike will work on signage and placement.

4.0 Minutes-review minutes, 8/16/16 Meeting
Minutes approved as presented. Jack/Mike

5.0 Review Implementation Plan—reviewed and updated implementation plan.
Discussion focused on Design/Implementation of Fixed Route Service. Fares and implementation schedule for fares on the busses.

5.1. Review Elements—timelines and process reviewed and clarified.

Fixed Route—Route enhancements need to be adopted by Council by the Council meeting on February 6, 2017. That will allow for service levels to be established in the RFP for vendors to provide CT fixed route system.

Capital Needs—may structure RFP for fixed route service so that provider can either bid providing the rolling stock or the City provides. Consolidated grant may be avenue for funds. It is an 80/20 match. Timeframes for delivery of new vans needs to be clarified. Mark will check to see if he is able to get approximate delivery times.

Fares—Public was presented with information that fares would be established. Discussion on need and value of fares and approaches to determine fare levels, cost for collection and public input and education. Fares need to be established by start of new grant cycle—July 1, 2017.

PTAC

Para-transit—John is working with the City Attorney to develop MOU which supports sole sourcing contract for para-transit services. MOU would be with HopeSource and support their county-wide grant application. HopeSource has begun to provide para-transit services which parallel Central Transit hours. Doing so will enable a better idea of cost and demand going into the next biennium.

Transportation Coordinator—position description and pay developed. Still on target for December hire.

Cabulance—Rich Elliot is facilitating meetings with the health care community and service providers to determine need for service. A meeting was held with assisted living and rehabilitation center management. The meeting with service providers will be set up in September.

Marketing/Transit Info—Committee will have a major role in developing and reviewing info for system. There are dollars in the budget for support of a marketing campaign. May be able to work with the City's Community Info Officer, Margaret Reich to develop campaign and materials.

6.0 WSDOT Consolidated Grant—Consolidated Grant application has been released. Joy, John, and Bruce will teleconference with Gregg Wright and Tom Hanson to get feedback and direction on the grant application. Discussion of sustaining current service through grant application, applying for expanded service, and how the grant could address capital needs of transit system. Not clear if one or two operating applications should be submitted. Grant cycle is different this year. Grants must be submitted by October 14th—a much shorter timeline that previous grant submissions.

7.0 Anything Else—SURC Shelter discussion

8.0 Next Meeting/Meeting Schedule: October 4th, 3:30 PM, Location TBD

9.0 Adjourn and go away!! @ 5:07 Armando/Jack

Submitted by
Bruce Tabb

UTILITY ADVISORY COMMITTEE

September 15, 2016 (6:00 p.m. to 8:25 p.m.)

Members Present: Nancy Lillquist, Jim Goeben, Ed Barry, Pat Nahan and Lee Honeycutt

Members Absent: Bob Johnson and Jill Scheffer

Also Present: John Akers, City Manager; Derek Mayo, Public Works Engineer; Larry Dunbar, Energy Services Director; Angela San Filippo, Senior Planner; Ben Faubion, IT & Telecomm Manager; Paul Meyer, Sr. Electrical Engineer and Tom Hammond, Project Engineer

These minutes are not a verbatim transcript of the meeting. This meeting was recorded, and is available for listening or copying at the City of Ellensburg, Energy Services Department, 501 N. Anderson Street, Ellensburg.

- I. **Call to Order.** Chair Lillquist called the meeting to order at 6:00 p.m.
- II. **Roll Call.** Jill Scheffer and Bob Johnson were absent.
- III. **Approval of Minutes.** Moved and seconded (Barry/Honeycutt) to approve the minutes of July 27, 2016 as written. Motion approved with all in favor.
- IV. **Approval of Consent Agenda.**

None
- V. **Correspondence and Citizen Comments on Non-Agenda Items.**

None
- VI. **Utilities and the Comprehensive Plan (verbal report).** Senior Planner, Angela San Filippo was present to review the Comprehensive Plan Update. She reviewed the information pertaining to utilities, future projections and the public participation plan. She explained the first steps are element review, review of the forecast of utilities needed for additional population and level of service standards. Element reviews were discussed, along with goals, policies and programs. Angela suggested having an internal review and bringing suggestions back to the committee for review. Nancy also suggested review of a greenhouse gas policy.
- VII. **Telecommunications Utility Discussion Items.**
 - A. **Metropolitan Area Network Services Agreement – Rate Increase Notice (verbal report).** Larry Dunbar explained the meeting with public agencies, and the resulting suggestions. The final recommendation was to request the UAC guide staff to negotiate a long term agreement with the parties affected & bring the agreement back. The school district has a different agreement from the MAN services agreement, and it's recommended to maintain that agreement. The MAN services agreement with KVFR and KVH should be replaced with an agreement similar to the one with the School District and subject to a 9% increase instead of 15%. The MAN services agreements that affect the County, CWU and KITTCOM will have a different way to charge services, and be an amendment to the current contract. The current Agreement doesn't include a network hardware replacement clause, and staff would propose saving funds for future replacement. Consensus of the committee was to bring the proposed agreements back for approval.

- B. **Strategic Plan Update (verbal report).** Larry made a presentation, and asked for guidance on the top three items: 1) proceeding with the wireless network to bidding, 2) should the City use the wireless network to serve customers, and 3) should the City combine the Telecomm Utility into the Electric Utility fund. Larry presented information and reviewed background of the Strategic Plan and the phases of the project. Larry reviewed the retail service offerings and the costs. An update was presented on the status of the wireless network planning and design project. Larry reviewed the information related to combining the Telecomm utility with the Electric utility. He discussed the incident at the Sheriff's office, and the option of redundancy.

Item 1 – Complete the wireless network planning and design and go to bid. Larry suggested the City utilize the 2017 grant funding awarded, and then review the feasibility of further expanding the project. Pat Nahan questioned if this project would be used to read meters, and if not, why an electric and gas customer would pay extra for no additional advantage from the wireless network. Larry explained the service would not be used for reading meters, but would be used with the City workers to have better service in the field. There was discussion about wireless service compared to fiber service and the costs associated with serving customers with each.

Item 2 – Should the City use the wireless network to serve customers. Members agreed this item relates to Item 1, and might need to be considered together. Larry explained the grant funding can be utilized for the project first, and then reevaluate the project. Nancy felt the business community would need to weigh in before the committee makes a decision. It was asked that the University and City community be included in the discussion about funding and utility rate increases. Jim Goeben asked when public participation would take place. Staff did a survey and held public forums when the Strategic Plan was being done.

Item 3 – Should the City combine the Telecomm utility into the Electric utility fund. Lee Honeycutt asked what the advantages are of keeping the two funds separate. Larry explained the two are enterprise funds, that can't use funds from the other. He explained that by combining them that would not be the case and they would be considered the same company or fund. John explained the Telecomm loan and the bond RFQ, and how the Telecomm fund would be affected.

Motion #2016-09-01: *Jim Goeben moved the committee forward a favorable recommendation to City Council to combine the Telecomm utility with the Electric utility. Lee Honeycutt seconded. Motion approved with all in favor.*

Staff will return to the committee at another meeting to further discuss Items 1 and 2 and discuss Item 4 – Fiber Optic & Wireless Connections Terms & Conditions, and Item 5 – Fiber Optic or Wireless Redundancy at Critical Facilities.

Jim Goeben left the meeting.

VIII. **Electric, Natural Gas, Water, Wastewater, Stormwater Utility Discussion Items.**

- A. **Award Bid Call 2016-58 Ultraviolet Disinfection System Installation (verbal report).** Derek Mayo explained the project and the recommendation was not ready, due to a Bid Call addendum being issued, extending the Bid due date. Staff can return to the committee with the results, or go directly to City Council with award. Members agreed staff should proceed directly to Council with award.

- B. Natural Gas Utility Marketing Plan – New Service Connection Fees – City Council Remand (verbal report).** Larry reported that Council did not support the new service connection fees for electric, if the customer decided to not install natural gas. It was recommended the UAC discuss the issue, and Larry spoke with two of the larger builders in Ellensburg, which he shared their concerns with the committee. Council is expecting a recommendation back from the committee.

Motion #2016-09-02: *Ed Barry moved the committee recommend to City Council to not pursue the new service connection fees for all electric homes. Lee Honeycutt seconded. Motion approved with all in favor.*

- C. Award Bid call 2016-15 Street Light LED Upgrade Construction Project (verbal report).** Paul Meyer presented information concerning the project and the bid opening. Paul explained 11 bids were received and the City was awarded a Transportation Improvement Board grant of \$706,600 towards the project. The remaining amount of \$471,606 will be funded by the City. Members asked what the energy savings would be and Tom explained the estimated savings would be 62%, and with the maintenance costs, the City would save approximately \$80,000 per year, and the payback would be around 5 years.

Motion #2016-09-03: *Ed Barry moved the committee forward a favorable recommendation to City Council to award Bid Call 2016-15 to the lowest qualified bidder, Northeast Electric, for the Street Light LED Upgrade Project, including 3000K lamps, in the amount of \$1,178,206 (including tax); with the understanding that \$706,600 will be applied from the TIB Grant and the remaining \$471,606 will be paid by the City. Lee Honeycutt seconded. Motion approved with all in favor.*

- D. Electric Vehicle Charging Infrastructure Pilot Program (verbal report).** Larry explained the program that provides grants to cities for the level 3 electric vehicle charging stations. Members discussed whether the City should pursue the grant, and what the grant requirements would be. Nancy would be in support of applying, if not an onerous process. There was discussion about locations. There was support for applying for the grant.

IX. Information Only Items (NO DISCUSSION)

A. Public Works Issues Update. No questions on the information provided.

B. Energy Services Issues Update. No questions on the information provided.

- X. Next Meeting Date.** Members discussed the option of holding meetings earlier. Beth will be asked to poll members before the next meeting. The next meeting will be held October 20, 2016.

XI. Adjournment. With no further discussion, the meeting adjourned at 8:25 p.m.

Respectfully submitted,
Beth Leader
Recording Secretary
Drafted: 9/28/2016
Approved: 10/20/2016



AGENDA REPORT

DATE: November 7, 2016
TO: City Council
THRU: John Akers, City Manager 
FROM: Larry Dunbar, Director of Energy Services 
Shan Rowbotham, Power and Gas Manager 
RE: Exhibit A Revision 2 to the Bonneville Power Administration
Transmission Services Agreement

SUMMARY: Staff recommends that City Council authorize the Mayor to execute Exhibit A Revision 2 to the Bonneville Power Administration (BPA) Transmission Service Agreement.

BACKGROUND: To serve the City's Tier 2 loads with a non-federal resource beginning October 1, 2019, Energy Services made a market purchase September 19, 2016 from Chelan PUD subject to receiving BPA transmission of the power to Ellensburg. The origin of the transmission line serving Ellensburg is BPA's Columbia Switchyard in Chelan County just downstream of Rock Island Dam.

ANALYSIS/FINDINGS: Energy Services applied for transmission service to deliver the Chelan power September 20, 2016 and our request was granted/confirmed October 3, 2016. Exhibit A of the BPA Transmission Services Agreement will be revised to add 1 MW of transmission capacity from the BPA's Columbia Switchyard to deliver a market purchase from Chelan PUD. The request for an additional 2 MW will be submitted at a later date but is not under consideration at this time.

BPA does not have the final Exhibit A Revision 2 completed at this time, and has a 15-day turnaround requirement for execution therefore requiring Council's pre-approval. We have the existing and draft Exhibit A and are simply adding a receipt point of Chelan PUD for delivery to Ellensburg to that Exhibit. If the final Exhibit A is materially different than we expect we will return to Council for further review/approval prior to executing.

FISCAL IMPACT: Ellensburg's Tier 1 low cost BPA power today costs us \$36.20/MW and they are planning a 4-8% rate increase effective October 1, 2017. Our 1 MW BPA Tier 2 delivering today is costing us a total of \$70/MW partly because it was purchased in 2012 and we are remarketing a portion of it at the significant loss of \$19/MWH. The market purchase for 1 MW of power from Chelan PUD to be delivered beginning October 1, 2019 was at \$33.65/MW.

RECOMMENDATION: Staff recommends that City Council authorize the Mayor to sign the Exhibit A Revision 2 of the Bonneville Power Administration Transmission Services Agreement.

**EXHIBIT A, REVISION NO. 2
SPECIFICATIONS FOR
NETWORK INTEGRATION TRANSMISSION SERVICE**

TRANSMISSION SERVICE REQUEST

Assign Ref is: 74669223

This Exhibit A, Revision No. 2 removes a Network Resource in Section 2(b) with a termination date of October 1, 2016 and adds a new Network Resources in Section 2(b) to commence on October 1, 2019.

1. TERM OF TRANSACTION

For Assign Ref(s): 74669223

Service Agreement Start Date: at 0000 hours on October 1, 2016.

Service Agreement Termination Date: at 0000 hours on October 1, 2028.

2. NETWORK RESOURCES

Pursuant to section 29.2 and 30.2 of Transmission Provider's Tariff, Transmission Customer has designated the following Network Resources:

(a) **Generation Owned by the Transmission Customer**

Resource Name	Start Date	Stop Date	Designated Capacity (MW)	Point of Receipt & Source	Balancing Authority	Associated Assign Ref
N/A						

(b) **Generation Purchased by the Transmission Customer**

Source (Contract No.) or Resource Name	Start Date	Stop Date	Designated Capacity (MW)	Point of Receipt & Source	Balancing Authority	Associated Assign Ref
09PB-13037	10/1/2011	10/1/2028	Net Requirements	BPAPOWER & FCRPS	BPAT	N/A ¹
PUD No. 1 of Chelan County	10/1/2019	10/1/2024	1 MW	BPAT,CHPD & COLMBIA230CHPD	CHPD	83508024

(c) **Local Resource Behind the Meter (owned or purchased)**

Resource Name	Start Date	Stop Date	Designated Capacity (MW)	Balancing Authority	Associated Assign Ref
N/A					

¹ There is no associated Assign Ref for this Network Resource.

3. POINT(S) OF RECEIPT

(a) Federal Generation Point(s) of Receipt

Transmission Customer Point of Receipt: Federal Columbia River Power System (FCRPS);

POR Number: 3453;

Balancing Authority: BPAT;

Location: FCRPS;

Voltage: 500 kV;

Metering: scheduled quantity;

Exceptions: not applicable.

(b) Non-Federal Generation Point(s) of Receipt

Transmission Customer Point of Receipt: Columbia 230 kV - CHPD;

POR Number: 3360;

Balancing Authority: CHPD;

Location: the point in the Transmission Provider's Columbia Substation, where the 230 kV facilities of the Transmission Provider and the Public Utility District No. 1 of Chelan County are connected;

Voltage: 230 kV;

Metering: scheduled quantity;

Metering Loss Adjustment: not applicable;

Exceptions: not applicable.

4. POINT(S) OF DELIVERY

(a) Description of Network Point(s) of Delivery

(1) Transmission Customer Point of Delivery:

East Ellensburg 115 kV;

BPA POD Name: ELLENSBURG;

BPA POD Number: 3426;

Balancing Authority: BPAT;

Location: the point in the City of Ellensburg's East Ellensburg Substation where the 115 kV facilities of the Transmission Provider and the City of Ellensburg are connected;

Voltage: 115 kV;

Metering: in the City of Ellensburg's East Ellensburg Substation in the 12.5 kV circuit over which such electric power flows;

(i) **BPA Meter Point Name:** East Ellensburg Out;

BPA Meter Point Number: 971;

Direction for Billing Purposes: positive;

Manner of Service: direct, the Transmission Provider to the City of Ellensburg;

(ii) **BPA Meter Point Name:** East Ellensburg In;

BPA Meter Point Number: 4381;

Direction for Billing Purposes: negative;

Manner of Service: direct, the City of Ellensburg to the Transmission Provider;

Metering Loss Adjustment: the Transmission Provider will adjust for losses between the Transmission Customer's Point of Delivery and Point of Metering (POM). Such adjustments shall be specified in written correspondence between the Transmission Provider and the Transmission Customer;

Exceptions: the City of Ellensburg owns the 12.5 kV metering CT's and PT's located in the City's East Ellensburg Substation. BPA owns the revenue meter.

(2) **Transmission Customer Point of Delivery:** Ellensburg 115 kV;

BPA POD Name: ELLENSBURG;

BPA POD Number: 3435;

Balancing Authority: BPAT;

Location: the point in the Transmission Provider's Ellensburg Substation where the 115 kV facilities of the Transmission Provider and the City of Ellensburg are connected;

Voltage: 115 kV;

Metering:

(A) in the City of Ellensburg's Dolarway Substation in the 12.5 kV circuits over which such electric power flows;

(i) **BPA Meter Point Name:** Dolarway Fdr 2 Out;

BPA Meter Point Number: 3120;

Direction for Billing Purposes: positive;

Manner of Service: direct, the Transmission Provider to the City of Ellensburg;

(ii) **BPA Meter Point Name:** Dolarway Fdr 2 In;

BPA Meter Point Number: 3123;

Direction for Billing Purposes: negative;

Manner of Service: direct, the City of Ellensburg to the Transmission Provider;

Metering Loss Adjustment: the Transmission Provider shall adjust for losses between POD and the Dolarway Fdr 2 In and the Dolarway Fdr 2 Out POMs. Such adjustments shall be specified in writing between the Transmission Provider and the City of Ellensburg;

Exceptions: The City of Ellensburg owns all of the equipment (including metering CTs and PTs) located in the City of Ellensburg's Dolarway Substation. BPA owns the revenue meter.

(B) in the Transmission Provider's Ellensburg Substation, in Feeder No. 1, in the 12.5 kV circuit over which such electric power flows;

(i) **BPA Meter Point Name:** Ellensburg #1 Out;

BPA Meter Point Number: 424;

Direction for Billing Purposes: positive;

Manner of Service: direct, the Transmission Provider to the City of Ellensburg;

(ii) **BPA Meter Point Name:** Ellensburg #1 In;

BPA Meter Point Number: 4387;

Direction for Billing Purposes: negative;

Manner of Service: direct, the City of Ellensburg to the Transmission Provider;

Metering Loss Adjustment: the Transmission Provider shall adjust for losses between the POD and the Ellensburg #1 Out POM. Such adjustments shall be specified in writing between the Transmission Provider and the City of Ellensburg;

Exceptions: The City of Ellensburg owns the 115 kV transformer fuses, the 115-12.5 kV transformer, and the low-side (12.5 kV) equipment (including CTs and PTs) located in Ellensburg substation that serves the City of Ellensburg.

(C) in the Public Utility District No. 1 of Kittitas County's Anderson Hay point of metering in the 12.5 kV circuit over which such electric power flows between the City of Ellensburg and Public Utility District No. 1 of Kittitas County;

(i) **BPA Meter Point Name:** Anderson Hay Out;

BPA Meter Point Number: 3415;

Direction for Billing Purposes: negative;

Manner of Service: direct, Transmission Provider to the City of Ellensburg to the Public Utility District No. 1 of Kittitas County;

(ii) **BPA Meter Point Name:** Anderson Hay In;

BPA Meter Point Number: 3416;

Direction for Billing Purposes: positive;

Manner of Service: direct, the Public Utility District No. 1 of Kittitas County to the City of Ellensburg to the Transmission Provider;

Metering Loss Adjustment: not applicable;

Exceptions: the Public Utility District No. 1 of Kittitas County owns the Anderson Hay metering CTs and PTs, and the revenue metering equipment.

(3) **Transmission Customer Point of Delivery:**

Helena Avenue Tap 115 kV;

BPA POD Name: ELLENSBURG;

BPA POD Number: 4459;

Balancing Authority: BPAT;

Location: the point at structure 2/4 of the Transmission Provider's East Ellensburg Tap to Columbia - Ellensburg No. 1 115 kV Transmission line, where the 115 kV facilities of the Transmission Provider and the City of Ellensburg are connected;

Voltage: 115 kV;

Metering: in the City of Ellensburg's Helena Avenue Substation in the 12.5 kV circuit over which such electric power flows;

(a) **BPA Meter Point Name:** Helena Ave Out;

BPA Meter Point Number: 4354;

Direction for Billing Purposes: positive;

Manner of Service: direct, the Transmission Provider to the City of Ellensburg;

(b) **BPA Meter Point Name:** Helena Ave In;

BPA Meter Point Number: 4355;

Direction for Billing Purposes: negative;

Manner of Service: direct, the City of Ellensburg to the Transmission Provider;

Metering Loss Adjustment: the Transmission Provider shall adjust for losses between the POD and the Helena Ave Out POM. Such adjustments shall be specified in writing between the Transmission Provider and the City of Ellensburg;

Exceptions: the City of Ellensburg owns the 12.5 kV metering CT's and PT's located in the City's Helena Avenue Substation. BPA owns the revenue meter.

(b) **Description of Transfer Point(s) of Delivery**
Not applicable.

5. **NETWORK LOAD**

The Application provides the Transmission Customer's initial annual load and resource information. Annual load and resource information updates shall be submitted to the Transmission Provider at the address specified in Exhibit D (Notices), by September 30th of each year, unless otherwise agreed to by the Transmission Provider and the Transmission Customer.

6. **DESIGNATION OF PARTY(IES) SUBJECT TO RECIPROCAL SERVICE OBLIGATION**

Transmission Customer and its affiliates (if they own or control transmission facilities).

7. **NAMES OF ANY INTERVENING SYSTEMS PROVIDING TRANSMISSION SERVICE**

Not applicable.

8. **SERVICE AGREEMENT CHARGES**

Service under this Agreement may be subject to some combination of the charges detailed below. (The appropriate charges for transactions will be determined in accordance with the terms and conditions of the Tariff.)

8.1 **Transmission Charge**

Network Integration Rate Schedule, or its successor, in effect at the time of service.

Short Distance Discount

Short Distance Discount is not applicable to service under this Agreement.

8.2 **System Impact and/or Facilities Study Charges**

System Impact and/or Facilities Study Charges are not required for service under this Agreement.

8.3 **Direct Assignment Facilities Charges**

Described in Exhibit B (Direct Assignment and Use-of-Facilities Charges) of this Agreement.

8.4 **Ancillary Service Charges**

Described in Exhibit C (Ancillary Service Charges) of this Agreement.

9. **OTHER PROVISIONS SPECIFIC TO THIS SERVICE AGREEMENT**

Not applicable.

10. **SIGNATURES**

This Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement, and the Agreement may be executed and delivered electronically. The parties have executed this Agreement as of the last date indicated below.

By: _____

By: _____

Title: _____

Title: Transmission Account Executive

If opting out of the electronic signature:

By: _____

Name: _____
(Print/Type)

Title: _____

Date: _____

University Way Banner Request Form

Contact Person: Windy Mayer Phone Number: 509-859-2632

Name of Event/Program: EYBS Registration

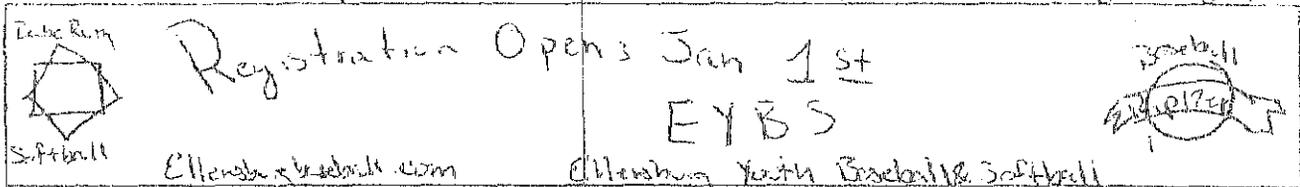
Banner Dates: Hang Banner: Jan 23rd 2017 Take Banner Down: Jan 29th 2017



* Example of a correctly made banner:

- This Banner is a maximum of 35' x 52" and a minimum of 24' x 48" with 3" turnback that will allow steel cable to be strung through it, and no grommets. We recommend that wind flaps be cut into the banner to prevent wind damage. (Additional fees may apply, if CWU provides the services of adding wind flaps to your banner).
- I have contacted the City of Ellensburg for approval to hang this banner on the above dates. City of Ellensburg, Phone 509-962-7204, Fax 509-962-7130.
- I have contacted CWU Scheduling Services for a cost estimate and to reserve the banner poles. Phone 509-963-1321, Fax 509-963-1894.

Please Provide an Example of Your Banner in the Box Below (Please fill in writing and logos)



* If your banner does not meet specifications, we will be unable to process your request *

City of Ellensburg approved by: _____ Date: _____

Disapproval/Reasons: _____

CWU Student Union Operations approved by: _____ Date: _____

For more information please contact CWU Student Union Operations & Scheduling Services at 509-963-1321
The CWU scheduling center will not be held responsible for any weather related damage that occurs to your banner.



AGENDA REPORT

DATE: November 7, 2016
TO: City Council
THRU: John Akers, City Manager
FROM: Larry Dunbar, Director of Energy Services
RE: Street Lighting and Renewable Energy Park Resolution

SUMMARY: Staff recommends City Council adopt the attached resolution to acknowledge compliance with the National Electric Safety Code for the City owned street lighting system and the renewable energy park.

BACKGROUND: The street lighting system is an integral part of and is under the exclusive control of the electric utility. The street lighting system is owned by the City but not by the electric utility.

The renewable energy park is an integral part of and is under the exclusive control of the electric utility. The renewable energy park is owned by the City's electric utility. The electric utility leases property for the renewable energy park, and the property is owned by the City but not by the electric utility.

ANALYSIS/FINDINGS: The 2014 National Electric Code 90.2(B)(5)(c) does not cover street light installations under the exclusive control of an electric utility where such installations are located in legally established easements or rights-of-way or on City owned property. Since the National Electric Code does not cover street light installations, the electric utility is required to comply with the National Electric Safety Code regarding the City owned street lighting system.

The 2014 National Electric Code 90.2(B)(5)(b) does not cover generation installations under the exclusive control of the electric utility where such installation is located on property owned or leased by the electric utility. Since the National Electric Code does not cover generation installations, the electric utility is required to comply with the National Electric Safety Code regarding the City electric utility owned renewable energy park.

If the street lighting system or the renewable energy park were not under the exclusive control of the electric utility as outlined above, there would be substantial costs to make either system comply with the National Electric Code.

FISCAL IMPACT: There is no fiscal impact related to the proposed resolution.

RECOMMENDATION: Staff recommends that City Council adopt the proposed Resolution.

Attachment: Proposed Resolution

RESOLUTION NO. 2016-

A **RESOLUTION** relating to electric utility compliance with the National Electric Safety Code for the City owned street lighting system and the City owned renewable energy park.

WHEREAS, the City of Ellensburg owns the street lighting system, which is located in legally established easements or rights-of-way or on City owned property; and

WHEREAS, the City of Ellensburg owns the renewable energy park, which is located on City owned property; and

WHEREAS, the City of Ellensburg owns the electric utility; and

NOW THEREFORE, BE IT RESOLVED, by the City Council for the City of Ellensburg as follows:

Section 1. The City of Ellensburg hereby acknowledges that the street lighting system is an integral part of and is under the exclusive control of the electric utility. The street lighting system is owned by the City but not by the electric utility. The 2014 National Electric Code 90.2(B)(5)(c) does not cover street light installations under the exclusive control of an electric utility where such installations are located in legally established easements or rights-of-way or on City owned property. Since the National Electric Code does not cover street light installations, the electric utility is required to comply with the National Electric Safety Code regarding the City owned street lighting system. If the street lighting system was not under the exclusive control of the electric utility as outlined above, there would be substantial costs to make the system comply with the National Electric Code.

Section 2. The City of Ellensburg hereby acknowledges that the renewable energy park is an integral part of and is under the exclusive control of the electric utility. The renewable energy park is owned by the City's electric utility. The 2014 National Electric Code 90.2(B)(5)(b) does not cover generation installations under the exclusive control of the electric utility where such installation is located on property owned or leased by the electric utility. The electric utility leases property for the renewable energy park, and the property is owned by the City but not by the electric utility. Since the National Electric Code does not cover generation installations, the electric utility is required to comply with the National Electric Safety Code regarding the renewable energy park. If the renewable energy park was not under the exclusive control of the electric utility as outlined above, there would be substantial costs to make the generation installation comply with the National Electric Code.

Section 3. This resolution shall take effect and be in force immediately upon its adoption.

ADOPTED by the City Council of the City of Ellensburg this **7th day of November, 2016.**

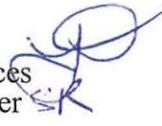
Mayor

Attest:

City Clerk



AGENDA REPORT

DATE: November 7, 2016
TO: City Council
THRU: John Akers, City Manager 
FROM: Larry Dunbar, Director of Energy Services 
Shan Rowbotham, Power & Gas Manager 
RE: Super One Foods Conservation Agreement

SUMMARY: Staff requests City Council authorize the City Manager to execute an energy conservation agreement with Rosauers Supermarkets dba Super One Foods in an amount not to exceed \$50,000.

BACKGROUND: Super One Foods wants to upgrade their Ellensburg store to Light Emitting Diode (LED) lighting under the Bonneville Power Administration (BPA) conservation program. The incentive would exceed the City Manager's contracting authority level thus requiring City Council approval.

ANALYSIS/FINDINGS: A total of 2,625 fluorescent lamps and a total of 900 linear feet of refrigerated case lighting lamps will be replaced with LED lamps. Annual energy savings are estimated at 445,218 kWh valued at \$25,688 at today's electric rate. This will be a major upgrade in lighting for this large supermarket with less than a one-year simple payback after BPA incentives. The BPA commercial lighting program has a 70% cap on incentives based on project cost. This is a large project with some unknown installation costs that may change the final incentive from the calculated \$48,824 staff has estimated. Staff is requesting up to \$50,000 authorization and will return to Council if the final incentive exceeds \$50,000.

FISCAL IMPACT: The light fund budget for the BPA conservation program is \$225,000 for 2016. Customer interest in the conservation program has been below normal with only \$31,291 paid out year to date. As of this date we have \$102,379 signed agreements for projects that are "In Progress". The proposed incentives of up to \$50,000 will not exceed the BPA conservation budget in the light fund.

RECOMMENDATION: Staff recommends that City Council authorize the City Manager to execute an energy conservation agreement with Rosauers Supermarkets dba Super One Foods in an amount not to exceed \$50,000.



Commercial Lighting Program

IMPLEMENTATION AGREEMENT

This agreement is entered into November 8th between the City of Ellensburg (hereinafter referred to COE) and Rosauers Supermarkets dba Super One Foods the owner of the commercial building, (hereinafter referred to as Owner) located at 200 E Mt View Ave, Ellensburg, Washington.

The COE has received funds from Bonneville Power Administration's Purchase of Conservation Agreement to provide rebates to commercial building owners who retrofit their lighting systems to make them more energy efficient. The Owner intends to retrofit the lighting in the below described commercial building, submit an invoice, and have final inspection by City staff prior to Sept 15th 2017 and has requested a rebate from the COE.

The COE and the Owner agree as follows:

1. **Premises:** Owner agrees to retrofit the lighting system at Super One Foods 200 E Mt View Ave, Ellensburg, WA, in accordance with the attached BPA C&I Lighting Calculator and Exhibit A, COE Commercial Lighting Program Requirements.
2. **Award of Funds.** Upon completion of the lighting retrofit as agreed by the Owner, a site inspection, copies of invoices and project approval by COE staff, COE agrees to award the Owner a rebate in the amount of \$ 48,824 not to exceed 70% of total project costs.
Rebate amount as installed:\$_____ Initialed by Owner_____ by COE_____
3. **Completed Agreement.** Owner understands only complete agreements can be processed for rebates. Failure to submit a completed agreement, including all documentation requirements, may result in delay or rejection of a rebate request.
4. **COE Inspection.** Owner will allow, if requested, a representative from COE reasonable access to their property to verify the installed product before a rebate is credited. Owner understands a rebate will not be credited if they refuse to participate in any required verification that is scheduled within 30 days of COE contact/request. COE may contact the product vendor or installer, if needed, to verify purchase or installation and may provide my name and address to third parties to complete this verification.
5. **Separate Contract:** The purchase and installation of the lighting equipment is to be provided under a separate contract between the Owner and the electrical contractor (Contractor). COE shall not be, and shall not be deemed to be, a party to such contract. All obligations to the Contractor shall be the Owner's and not COE's responsibility. The Owner expressly acknowledges that COE's involvement with respect to the lighting retrofit project, including but not limited to any energy cost analysis or inspection by COE of the Premises or the lighting retrofit project, is solely undertaken in connection with furnishing the Rebate. The types of lighting systems, materials, methods of installation, quality and timing thereof, and any warrants with respect to the retrofit lighting project or its installation at the Premises are matters to be agreed upon between the Owner and the Contractor
6. **Use of Billing Information.** Owner agrees to allow the COE to provide monthly electrical billing information to Bonneville or its contractors for evaluation purposes for a period of 12 months prior to the project installation. Should this billing information not be releasable without tenant approval following occupancy, Owner further agrees to allow the City to request from those tenants that the monthly electrical billing information for their spaces be supplied to Bonneville or its contractor for the same consecutive time period.

7. **Disclaimer.** Owner acknowledges that, due to the variability of energy use, it is not possible to accurately predict energy savings and that by providing information in good faith concerning the benefits of energy saving strategies and by entering into this agreement, the City does not warrant energy savings.
8. **Installations Specifications & Environmental Requirements:** Owner agrees to comply with the COE's Commercial Lighting Program Requirements (See Exhibit A).
9. **Codes and Permits.** Owner agrees to secure permits and comply with all applicable federal, state and local codes and requirements in the design and installation of all lighting retrofit measures. Where permits are required, appropriate building officials must approve installation. Owner agrees to maintain compliance documents in their files and have them available for review if requested.
10. **Loss of Reimbursement:** Failure to meet all COE's Commercial Lighting Retrofit Program Requirements may result in a reduction or elimination of reimbursements.
11. **Disclaimer of Warranties.** SELECTION OF QUALIFYING EQUIPMENT, MANUFACTURER, DEALER, SUPPLIER AND/OR INSTALLER AND PURCHASE, INSTALLATION AND OWNERSHIP/MAINTENANCE OF THE QUALIFYING EQUIPMENT REFERENCED IN THE REBATE FORM ARE THE RESPONSIBILITY OF THE CUSTOMER. COE DOES NOT ENDORSE ANY SPECIFIC MANUFACTURER, DEALER OR CONTRACTOR AND MAKES NO REPRESENTATIONS REGARDING SPECIFIC MANUFACTURER, DEALER OR CONTRACTOR OR THEIR WORKMANSHIP. COE MAKES NO REPRESENTATION OR WARRANTY, AND ASSUMES NO LIABILITY WITH RESPECT TO QUALITY, SAFETY, PERFORMANCE, OR OTHER ASPECT OF ANY DESIGN, SYSTEM OR APPLIANCE INSTALLED PURSUANT TO THIS AGREEMENT, AND EXPRESSLY DISCLAIMS ANY SUCH REPRESENTATION, WARRANTY OR LIABILITY. BY APPLYING, OWNER AGREES TO INDEMNIFY COE, ITS OFFICERS, EMPLOYEES, ELECTED OFFICIALS AND AGENTS, FROM/AGAINST ALL LOSS, DAMAGE, EXPENSE, FEES, COSTS AND LIABILITY ARISING FROM ANY PRODUCTS INSTALLED.

I hereby certify that all information is accurate, including claims of customer and equipment information. My signature below indicates I have read, understand and agree to all terms and conditions on this application and acknowledge the City of Ellensburg may verify all the information provided.

Owner or Legally Authorized Representative:

Check to be issued to: Rosauers Supermarkets
 Address: 1815 W Garland Ave
 Spokane WA 99205

Signature: _____

City of Ellensburg

Signature: _____ Date: ____/____/____
 (City Manager)

Project Complete and Department Authorizes Payment

Signature: _____ Date: ____/____/____

EXHIBIT A

Itemized Measures to be Installed

Rebates are based on square footage of windows installed, square footage of walls, floor and attics insulated, linear feet of duct sealing and specific lighting upgrades. Items identified and the associated rebates offered at the time this agreement was executed may change during construction work. The rebates offered in the agreement will change to represent actual work completed and both parties will initial the space on page one of the agreement recognizing this modification to the original agreement.

Original Agreement	Conservation Measure	As Completed
	Square feet of windows	
	Square feet of wall insulation	
	Square feet of attic insulation	
	Square feet of floor insulation	
	Linear feet of duct sealing	
	Heating system upgrade	
\$48,824	Commercial Lighting (see lighting calculator)	
	Other: _____	



AGENDA REPORT

DATE: November 7, 2016
TO: City Council
THRU: John Akers, City Manager
FROM: Larry Dunbar, Director of Energy Services
Shan Rowbotham, Power & Gas Manager
RE: CWU Interlocal Agreement for Interruptible Natural Gas Service Rate Increase

SUMMARY: Staff and the Utility Advisory Committee recommend that City Council approve the proposed increase to the fixed monthly service charge component of the Central Washington University (CWU) Interlocal Agreement for Interruptible Natural Gas Service.

BACKGROUND: The Interruptible Natural Gas Service agreement signed in 2014 has a provision for bi-annual adjustments to the fixed monthly service charge. The \$15,547/month rate was established from the 2014 Cost of Service Analysis (COSA) and was a reduction from the previous agreement's rate of \$19,248/month. The 2015-16 budget and COSA indicated the need to increase the rate \$3,537/month but per the agreement we could not do so at that time. Wholesale natural gas commodity costs are a pass through to CWU under the agreement and are not affected by the proposed fixed monthly service charge rate adjustment.

ANALYSIS/FINDINGS: The natural gas fund draft budget is substantially complete as well as the COSA. A COSA identifies cost causation and allocates expenses to appropriate rate class by function. Administration costs are shared by all, natural gas commodity costs are allocated by consumption percentage and rate classes can be isolated from expenses they are not contributing to. Staff met with CWU facilities staff on October 13, 2016 to explain in detail how the rate increase was derived for natural gas. Wholesale natural gas commodity costs are dramatically down which is beneficial to CWU's overall cost of natural gas utility service.

FISCAL IMPACT: The estimated two-year revenue shortfall in 2017/2018 for CWU is \$113,020, which needs to be recovered via a fixed monthly service charge rate increase from \$15,547 to \$20,213. The rate increase is proposed to be effective February 1, 2017 per the notification required under the agreement. Based on the estimated total cost of service (i.e., the fixed monthly charge plus natural gas commodity charges), in 2017 CWU would have a 9.9% overall reduction in its cost and in 2018 would have an overall 14% reduction compared to the 2016 budget. In summary, due to the significantly lower commodity charges, CWU's overall cost of natural gas service will be lower if the fixed monthly charge is increased as proposed.

RECOMMENDATION: Staff and the Utility Advisory Committee recommend that City Council approve the proposed increase to the fixed monthly service charge component of the CWU Interlocal Agreement for Interruptible Natural Gas Service.



Agenda Report

Date: November 7, 2016
To: Ellensburg City Council
From: John Akers, City Manager 
Re: Authorization for the City Manager to Sign the 2017 Benefit Contracts

SUMMARY: With the passing of the Affordable Care Act (ACA or Healthcare Reform), the City is looking for options to better navigate the complexities and identify new potential efficiencies and savings each year. The City of Ellensburg and the City's Insurance Broker, Alliant review and update the benefit programs to comply with the Affordable Care Act and union contracts.

BACKGROUND: In 2010, the City of Ellensburg went to a partially self-funded medical, dental, vision plan and revised the life and Long Term Disability insurance programs for a cost savings. At that time, the City of Ellensburg signed agreements with First Choice Health (Medical), Employers Health – CVS Prescription Drug Program, Guardian – Dental, ING-Stoploss Insurance and Standard – Life, LTD.

ANALYSIS/FINDINGS: Each year, the City and our broker Keith Robertson of Alliant Insurance Services, Inc. analyze and market our benefits programs for the best value. The policies are updated to comply with the ACA regulations, market adjustments and require a new agreement. The renewal documents are attached to this agenda report and staff is requesting authority for the City Manager to sign the contracts.

FISCAL IMPACT: The benefit programs are in the 2017-2018 budget.

RECOMMENDATION: Authorize the City Manager to sign the 2017 benefit contracts.

Sent via email

September 2, 2016

RE: City of Ellensburg
January 1, 2017 Administrative Services Renewal with First Choice Health

Sawyer,

First Choice Health values the opportunity to partner with you (Alliant) to provide Health Benefit solutions for City of Ellensburg.

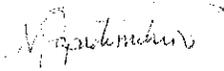
The enclosed renewal workbook contains the following documents:

- 2017 Renewal Checklist
- Appendix D – 2017 Fee Schedule
- Appendix F – 2017 Performance Guarantees
- First Choice Health Renewal Recommendations and Benefit Changes
- First Choice Health 2017 Preauthorization List

Appendix D reflects a standard administrative rate increase of 3%. There are no increases in the cost of Case Management or Nurseline.

Michelle King will finish up the renewal with you as I am leaving First Choice.

Best Regards,



Nikki Papadimitriou, Sr. Account Executive

cc: Sara Kasper, VP of TPA, Michelle King Director of TPA

City of Ellensburg Renewal Checklist / Due Dates

January 1, 2016 Renewal Date

Renewal Checklist		
Due Date	Item	Notes
11/1/2016*	Renewal Changes and Recommendations & Final Benefit Changes* Pre-Authorization List* Appendix D Fee Schedule* Appendix F Performance Guarantees*	Signed by Client SBC will be provided within 20 days following finalization
11/1/2016	Pre-Authorization List	Signed by Client
11/2/2016	Appendix D - Fee Schedule	Signed by Client
11/3/2016	Appendix F - Performance Guarantees	Signed by Client
11/15/2016	COBRA Rates for Upcoming Plan Year	Provided to FCHA
12/1/2016	Renewed Stop Loss Contract	Signed by Client
12/1/2016	Stop Loss Renewal Rates	Provided to FCHA

Appendix D - Fee Schedule

First Choice Health Administrators

City of Ellensburg

1. For services provided by TPA pursuant to this agreement, the Plan Sponsor will pay the TPA the following administrative fees:

TPA & Network Services	January 1, 2016 - December 31, 2016	January 1, 2017 - December 31, 2017
General Administration of Medical/Vision Plan: TPA services include: customer service call center, benefit administration, stop loss reporting and claims processing	\$27.85 pepm	\$28.69 pepm
FCHN PPO Access Fee	Included	Included
First Health National Wrap Network	20% of savings	20% of savings
Out of Network Claims Negotiation Services (via FCHA-contracted vendor.) Available for out of network claims exceeding \$1,000 in billed charges	20% of savings	20% of savings
COBRA Administration	\$1.75 pepm	\$1.75 pepm
HIPAA Notice of Creditable Coverage Administration	N/A	N/A
Dental Plan Administration	Not Selected	Not Selected
Cafeteria Plan Administration		
Health Flexible Spending Arrangement (FSA)	\$5.50 pppm	\$5.50 pppm
Dependent Care Assistance Program (DCAP)	\$5.50 pppm	\$5.50 pppm
Health Reimbursement Arrangement (HRA) Administration	Not Selected	Not Selected
Debit Card Administration	Included	Included

Medical Management	January 1, 2016 - December 31, 2016	January 1, 2017 - December 31, 2017
Inpatient and Outpatient Utilization Management	Included	Included
Disease Management - 8 Conditions	Not Selected	Not Selected
Case Management	\$300 per hour physician; \$185 per hour RN	\$300 per hour physician; \$185 per hour RN
Independent Review Organization (IRO)	Pass Through	Pass Through
24 / 7 Nurse Line	\$0.75 pepm	\$0.75 pepm
Maternity Program	Not Selected	Not Selected
Web Portal: Online Health Assessment	Not Selected	Not Selected

Additional Services	January 1, 2017 - December 31, 2017
PPO Directories - First Choice Health Network ID Cards	Online access included; Paper: First 50, no charge; 51+ @\$3.50 each Full Reissue at cost Replacement/ongoing no charge
Check Stock Administrative Services Agreement (Contract)	Cost Included
Governmental Assessed Fees Ongoing Packet Collating/Copying	Pass Through Cost + 15%
Mailing Costs including Postage Online - Eligibility	Cost + 15% Included
Online - Claims Status Online - Enrollment/Changes	Included Included
Online - Reporting Database Access Data Extracts	Included Included
Auto Voice Response System New York and Massachusetts Surcharge Reporting	Included Note: the function of reporting NY and MA surcharge is included in the admin fee. The actual taxes are to be paid by the group.
Open Enrollment - Representative Dedicated Toll Free Number	Included Included
Standard Reporting Package (Appendix E) Custom Reports - TPA and Medical Management Custom HPS Reports	Included \$150 per hour for development \$100 per hour (one hour minimum) per report to run and distribute reports \$205 per hour for development \$205 per hour (one hour minimum) per report to run and distribute reports
Third Party Stop Loss Vendor Interface Language Translation Services required under PPACA (Written)	Included Cost
Language Translation Services required under PPACA (Oral) Other (Please Specify)	Included

2. TPA will submit a billing statement to the Plan Sponsor ten (10) days prior to the first of the month in which payment is due. The monthly administrative fee is due and payable no later than the tenth day of the month of coverage. Payments not received by the last day of the month of coverage will be subject to a fee of 12% per annum.

3. All services not specifically referenced in this agreement as the responsibility of TPA will be provided, at TPA's discretion, at the expense of the Plan Sponsor. TPA will not incur such expense without prior approval by Plan Sponsor.

4. The Plan Sponsor will reimburse TPA for programming or reports required as a result of changes in the Plan, as mutually agreed upon prior to TPA incurring expense.

5. In the event of termination of this Agreement, the TPA will perform administrative services on claims incurred prior to, but paid after, the date of termination (runout services) for a six (6) month period. Fees for administration of runout services will be equal to two (2) full months of administration fees, based on an average of the enrollment during the last calendar year. In addition, the Plan Sponsor will be liable to the TPA for fees, which are due and unpaid as of the date of termination.

6. TPA reserves the right to re-evaluate administration fees if enrolled population varies by more than 10% from initial or renewal proposal.

7. TPA will prepare one (1) draft each of restated Plan Document at no additional charge.

8. TPA will provide the Plan Sponsor with all renewal fees at least ninety (90) days in advance of the first day of each subsequent term.

AGREED TO this _____ day of _____, 20_____

City of Ellensburg

On Behalf of City of Ellensburg Health and Welfare Plan

Signature: _____

Printed Name: _____

Title: _____



November 1st, 2016

City of Ellensburg
Attn: City Council members
501 N Anderson St
Ellensburg, WA 98926

Dear City of Ellensburg Council members,

I am writing this letter for the opportunity to a street closure. The Kittitas County Chamber of Commerce is producing a MYELLENSBURG.com commercial and will need to close 4th Avenue from Main Street to Pine Street in the hours of 6:30 a.m. to 9 a.m. on November 8th, 2016.

We will be shooting a commercial named FACES OF ELLENSBURG and this particular day we will be having a cowboy on horseback at sunrise in front of the Davidson building for the beginning of the multiple faces of Ellensburg.

We connected with the departments listed in the application and we are finalizing the details. We have the insurance arranged and is included with the application for street closure. Lastly, we have the signatures of the businesses along the street mentioned above.

Thank you for your time. Please if you have any questions or concerns I am available via email or phone which both are listed below.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy McGuffin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Amy McGuffin
Director of Tourism

(P) 509.925.2002
(E) amy@kittitascountychamber.com



CITY OF ELLENSBURG
 501 North Anderson Street
 Ellensburg, WA 98926

STREET CLOSURE APPLICATION

Application Date: 11/1/16

1. Kitt Co. Chamber of Commerce
 Organization Sponsoring the Event

2. Amy McGuffin 509.925.2007
 Contact Person Telephone Number

609 N. Main St. Ellensburg Wa 98926
 Mailing Address of Contact Person

3. 4th Avenue from Main Street to Pine Street
 Streets To Be Closed

4. 11/8/16 6:30am to 9:00 am
 Date of Event Hours of Closure

5. Describe Event and Activities Proposed:
Commercial shoot - horseback rides east/west @ sunrise in front of Davidson Building

.....

FOR DEPARTMENT USE ONLY

The following items have been considered and adequately arranged for:

- 1. A certificate of insurance in the amount of \$1,000,000 listing the City of Ellensburg as an additional insured is attached or has been arranged for.

 Insurance Company providing Certificate

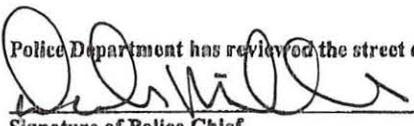
- 2. A written petition of approval from all businesses fronting on the street to be closed is attached.

- 3. Public Works has reviewed the street closure request.

R. W. [Signature]
 Signature of Public Works Director

Comments: _____

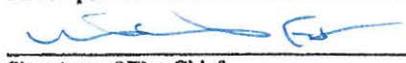
4. Police Department has reviewed the street closure request.



Signature of Police Chief

Comments: _____

5. Fire Department has reviewed the street closure request.



Signature of Fire Chief

Comments: _____

6. An Event License will be required for the event. Yes _____ No _____

Applicants are cautioned that the sale, service or consumption of alcoholic beverages on public streets, sidewalks and other City property is not authorized by this permit and is unlawful. In the event an applicant intends to serve alcoholic beverages on privately-owned property in conjunction with this street closure, applicant must first obtain all required licenses and/or permits from the Washington State Liquor Control Board.

Commercial Shoot

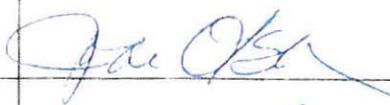
Monday, October 24th

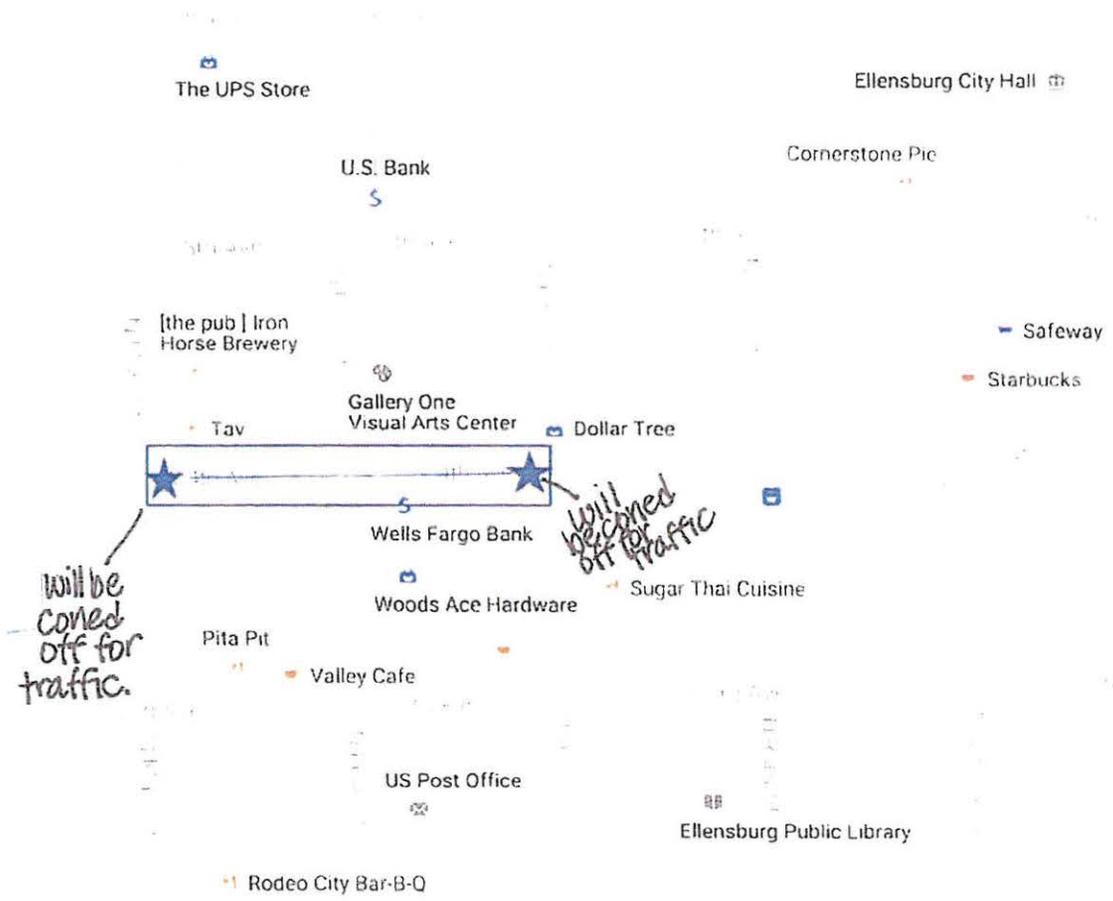
Kittitas County Chamber of Commerce

609 N. Main St, Ellensburg, WA 98926

The following businesses approve the closure of 4th Avenue between Main Street and Pine Street from 6:30a to 9:00a

Business Name	Address	Signature
Matthews Firm Sleep Country (on Back)		
The TAV	117 4 th st	[Signature]
Frontier	111 W. 21 th Ave	[Signature]
Scott Rollins Inc	400 N. Pearl	[Signature]
Mtn. High Sports	105 E 4 th	Janni Walt
Central City Comics	105 E 4 th	[Signature]
Grapes n Crepes		
Ell. Floral	120 E 4 th Ave.	Pat Rogers
Busy B Kids	118 E 4 th Ave	[Signature]
Maurices	116 E Fourth	[Signature]
Wells Fargo Bank	1021 E 4 th Ave	[Signature]
Filterer's Furniture	114 West 4 th	[Signature]
Care Net	111 E 4 th	Cheryl Carlin
Central Party + Costume	117 & 119 E 4 th	Eric J. Turk

Business Name	Address	Signature
James W McKeen ^{CPT}	110 E 4th	
MATTRESS FIRM	400 N MAIN ST	



will be
coned
off for
traffic.

will
be
coned
off for
traffic

October 24th
6:30 a.m. - 9 a.m.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/31/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

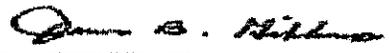
PRODUCER Mitchell Reed & Schmitt Insurance Inc 124 E. Penny Road, Suite 101 Wenatchee, WA 98801	CONTACT NAME: PHONE (A/C No, Ext): (509) 665-0500		FAX (A/C No): (509) 664-4004	
	E-MAIL ADDRESS:			
INSURED Kittitas County Chamber of Commerce 609 N Main St Ellensburg, WA 98926	INSURER(S) AFFORDING COVERAGE		NAIC #	
	INSURER A: American States Insurance Co		19704	
	INSURER B:			
	INSURER C:			
	INSURER D:			
	INSURER E:			

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVP	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	01CI48906160	5/20/2016	5/20/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PROP AGG \$ 2,000,000 EPLI \$ 10,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		01CI48906160	5/20/2016	5/20/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uncombined single limit \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	Washington State Employers Liab (Stop Gap) 01CI48906160	5/20/2016	5/20/2017	<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
City of Ellensburg are additional insureds under General Liability coverage only as per a signed written contract

CERTIFICATE HOLDER City of Ellensburg 501 N Anderson St Ellensburg, WA 98926	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Jim Gibbons/JS 



AGENDA REPORT

DATE: November 7, 2016
TO: City Council
THRU: John Akers, City Manager
FROM: Larry Dunbar, Director of Energy Services
Shan Rowbotham, Power and Gas Manager 
RE: Bonneville Power Administration Mutual Assistance Agreement

SUMMARY: Staff recommends that City Council authorizes the Mayor to execute the Mutual Assistance Agreement with Bonneville Power Administration (BPA).

BACKGROUND: The Energy Services Department has mutual aid agreements with Puget Sound Energy, Kittitas Public Utility District and BPA to provide or receive assistance from other utilities in the event of an emergency. While rarely used, mutual aid provides additional personnel resources, equipment and materials to restore power after a storm or natural disaster. The City has a Reciprocal Operating and Emergency Repair Agreement with BPA dated April 14, 1966 that is still in effect.

ANALYSIS/FINDINGS: BPA has been working to update the mutual aid agreements with utilities including Ellensburg. They have drafted a new Mutual Assistance Agreement and are requesting the City execute the new agreement. The new agreement updates several things including contact information and terminates and replaces the prior agreement in its entirety. In the case of electric service interruption, one Party can provide valuable assistance to the other Party in the form of personnel, equipment and/or materials, and other technical assistance. The purpose of this Agreement is to provide the procedures under which one Party may request and receive assistance from the other Party. If the final Mutual Assistance Agreement is materially different than we expect we will return to Council for further review/approval prior to executing.

FISCAL IMPACT: If an emergency event hit Ellensburg causing widespread outages to the City, the light utility could call on other utilities for assistance to restore service to our customers. Those other utilities including BPA would invoice Ellensburg for labor, material and equipment used to restore service. Emergency costs in such cases are not budgeted and would come out of the light fund's unreserved ending fund balance.

RECOMMENDATION: Staff recommends that City Council authorize the Mayor to sign the Mutual Assistance Agreement with Bonneville Power Administration.

Attached: Mutual Assistance Agreement with Bonneville Power Administration

MUTUAL ASSISTANCE AGREEMENT

executed by the

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

acting by and through the

BONNEVILLE POWER ADMINISTRATION

and

CITY OF ELLENSBURG

This MUTUAL ASSISTANCE AGREEMENT (Agreement) is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA) and CITY OF ELLENSBURG (Ellensburg). BPA and Ellensburg may participate in this Agreement as either "Assisting Party" or "Requesting Party" as the situation requires. BPA and Ellensburg may be referred to individually as "Party" and collectively as "Parties." This Agreement terminates and replaces in its entirety the prior Reciprocal Operating and Emergency Repair Agreement, Contract No. 14-03-57668.

RECITALS

Whereas, the Parties recognize that assistance may be desired when electric service has been disrupted by acts of the elements, equipment malfunctions, accidents or any other occurrence where the Parties deem assistance to be necessary or advisable;

Whereas, it is in the mutual interest of the Parties to be prepared to provide or receive assistance for emergency repair and restoration to such electric service and facilities; and

Whereas, the Parties recognize that, in the case of electric service interruption, one Party can provide valuable assistance to the other Party in the form of personnel, equipment and/or materials, and other technical assistance. The purpose of this Agreement is to provide the procedures under which one Party may request and receive assistance from the other Party.

The Parties therefore agree as follows:

1. DEFINITIONS

When used in this Agreement, the following terms have the meaning shown below:

- (a) "Assistance" means the actions taken by the Assisting Party, including during Mobilization, to provide personnel, materials, equipment, supplies and/or tools to the Requesting Party in order to expedite restoration of electrical service that has been disrupted by acts of the elements, equipment malfunctions, accidents or any other emergencies. Assistance does not include routine maintenance or work stoppages.
- (b) "Assistance Period" means the period of time that starts when the Assisting Party has mobilized and dispatched resources to the Requesting Party and shall be deemed to have terminated when Demobilization is complete.
- (c) "Demobilization" means the actual return of all of the Assisting Party's mobilized resources to the Assisting Party's normal base.
- (d) "Mobilization" means the planning, collecting, assigning, preparing and transporting of all assistance personnel, materials, equipment, supplies and/or tools. Mobilization also includes any pre-engineering work necessary to provide Assistance. Mobilization may start in advance of execution of the Reimbursable Agreement.
- (e) "Reimbursable Agreement" means a separate agreement whereby the Assisting Party agrees to provide Assistance to the Requesting Party, and the Requesting Party agrees to pay the Assisting Party's expenses incurred while providing Assistance.
- (f) "Assisting Party" means the Party that is asked to provide Assistance.
- (g) "Requesting Party" means the Party that is requesting Assistance.

2. TERM OF AGREEMENT

This Agreement will be effective at 0000 hours on the date that this Agreement has been signed by the Parties (Effective Date), and shall terminate on the earlier of: (1) 90 days written notice of either Party, or (2) 30 years after the Effective Date.

3. EXHIBITS

Exhibit A, Notices, is incorporated into and made part of this Agreement.

4. NO OBLIGATION TO REQUEST OR PROVIDE ASSISTANCE

Nothing in this Agreement shall be construed to create an enforceable legal obligation to provide or receive Assistance. The Assisting Party has the right to refuse, in its sole discretion, to provide Assistance, or to discontinue providing Assistance with notice to the Requesting Party, and shall not be liable for any damage or consequences resulting from any refusal, failure or delay in providing Assistance. The Requesting Party shall be liable for all costs incurred by the

Assisting Party up to the point the Assisting Party no longer provides Assistance. All costs incurred by the Assisting Party will be resolved in accordance with Section 5(e) of this Agreement.

5. REQUESTING AND PROVIDING ASSISTANCE

- (a) In the event of an emergency affecting the generation, transmission or distribution services and/or related facilities owned or controlled by a Party, the Requesting Party may request the Assisting Party to provide Assistance by contacting the appropriate representative listed in Exhibit A.
- (b) The Requesting Party shall provide the Assisting Party with a general description of the damage sustained, including location of the damages, and the Assistance desired.
- (c) The Assisting Party shall, in its sole discretion, determine if it will provide Assistance, including the extent and limitations of Assistance.
- (d) If the Assisting Party determines it can provide Assistance, the Assisting Party shall document in an email or letter to the Requesting Party of the Assistance it will provide, including equipment, materials, supplies, number of personnel by job function and an estimate of the Assistance Period. Before Mobilization can occur, the Requesting Party shall confirm in an email or letter to the Assisting Party that it will accept the Assistance.

By accepting Assistance, the Requesting Party agrees to pay all costs that the Assisting Party incurs to provide Assistance, including applicable overheads, from the period when Mobilization begins through the term of the Reimbursable Agreement executed by the Parties pursuant to section 5(e) below or Demobilization. The Requesting Party shall also pay the costs for any materials that are used to provide Assistance that the Assisting Party determines it cannot re-use. The Assisting Party will determine the costs for such materials by either determining the cost to replace the materials, including applicable overheads, or, if the Assisting Party chooses to not replace the materials, the current value of the materials, including applicable overheads.

The Assisting Party shall specify all costs it incurs to provide Assistance in an invoice that it will send to the Requesting Party, and the Requesting Party shall pay the Assisting Party consistent with the instructions on the invoice.

- (e) A Reimbursable Agreement shall be executed by the Parties as soon as possible after the agreement to proceed with Mobilization. Before a Reimbursable Agreement is executed, the Assisting Party may provide Assistance to the Requesting Party under this Agreement. Cost of Assistance provided under this Agreement prior to the Reimbursable Agreement will be reflected in the Reimbursable Agreement. After the Reimbursable

Agreement is executed, the Reimbursable Agreement shall provide the terms and conditions under which Assistance is provided and will supersede this Agreement for the Assistance Period; provided, however, that the Reimbursable Agreement will not relieve the Requesting Party of its obligation to pay the Assisting Party for all costs it incurs providing Assistance under this Agreement.

6. SCOPE OF ASSISTANCE

- (a) All costs associated with the furnishing of Assistance shall be the responsibility of the Requesting Party and are deemed to have commenced upon Mobilization by the Assisting Party.
- (b) The Assisting Party and Requesting Party shall coordinate the preparation of Mobilization and Demobilization.
- (c) Wages, hours and other terms and conditions of employment applicable to personnel provided by the Assisting Party shall continue to be those of the Assisting Party.
- (d) If the Assisting Party provides a crew or crews, it shall assign supervisory personnel as deemed necessary by the Assisting Party, who shall be directly in charge of the crew or crews providing Assistance.
- (e) All time sheets, equipment and work records pertaining to personnel, material, vehicles, equipment, supplies and/or tools provided by the Assisting Party shall be kept by the Assisting Party for billing and auditing purposes as provided in this Agreement.
- (f) No Party shall be deemed the employee, agent, representative, partner or the coventurer of another Party or the other Parties in the performance of activities undertaken pursuant to this Agreement.
- (g) The Parties shall, in good faith, attempt to resolve any differences in work rules and other requirements affecting the performance of the Parties' obligations pursuant to this Agreement.

7. OPERATION OF FACILITIES

- (a) **Dispatch Jurisdiction**
Dispatch jurisdiction and switching authority will not change during the period Assistance is provided, except that in emergency situations when life or property is endangered, any Party may de-energize lines or equipment and perform such switching as necessary according to its best judgment. The jurisdictional dispatcher must be notified and involved as soon as practical. The Parties will continue to follow all instructions issued by the jurisdictional dispatcher.

(b) **Safety Standards and Work Procedures**

The Assisting Party shall follow the Requesting Party's and jurisdictional dispatcher's safety standards and work practices when providing Assistance. However, the Assisting Party shall have the right to stop work if it has concerns regarding safety.

8. **ACCESS**

The Requesting Party shall grant access to the Assisting Party in accordance with the Requesting Party's safety and security requirements. Access and escort by the Requesting Party shall be sufficient to allow the Assisting Party to provide Assistance.

9. **LIABILITY**

Within the limitations of applicable law, each Party assumes all liability for injury or damage to person or property from the intentional actions or negligence of its own employees and agents. Notwithstanding the preceding sentence, neither Party shall be liable to the other Party hereto for any lost or prospective profits or any special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Agreement, whether or not arising from such Party's sole, joint or concurrent negligence and whether or not such Party has been advised of the possibility of such damages.

10. **STANDARD PROVISIONS**

(a) **Amendments**

Except where this Agreement explicitly allows one Party to unilaterally amend a provision or revise an exhibit, no amendment or exhibit revision to this Agreement shall be of any force or effect unless set forth in a written instrument signed by authorized representatives of each Party.

(b) **Assignment**

This Agreement is binding on any successors and assigns of the Parties. Neither Party may otherwise transfer or assign this Agreement, in whole or in part, without the other Party's written consent. Such consent shall not be unreasonably withheld.

(c) **Choice of Law**

This Agreement shall be interpreted, construed and enforced in accordance with Federal law.

(d) **Entire Agreement**

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the Parties. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement.

(e) **Freedom of Information Act (FOIA)**

BPA may release information provided by Ellensburg to comply with FOIA or if required by any other federal law or court order. For information that Ellensburg designates in writing as proprietary, BPA will limit the use and dissemination of that information within BPA to employees who need the information for purposes of this Agreement.

(f) **No Third Party Beneficiaries**

This Agreement is made and entered into for the sole benefit of the Parties, and the Parties intend that no other person or entity shall be a direct or indirect beneficiary of this Agreement.

(g) **Uncontrollable Forces**

The Parties shall not be in breach of their respective obligations to the extent the failure to fulfill any obligation is due to an Uncontrollable Force.

"Uncontrollable Force" means an event beyond the reasonable control of, and without the fault or negligence of, the Party claiming the Uncontrollable Force, that prevents that Party from performing its contractual obligations under this Agreement and which, by exercise of that Party's reasonable care, diligence and foresight, such Party was unable to avoid. Uncontrollable Forces include, but are not limited to:

- (1) strikes or work stoppage;
- (2) floods, earthquakes, or other natural disasters; terrorist acts; and
- (3) final orders or injunctions issued by a court or regulatory body having competent subject matter jurisdiction which the Party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction.

Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable Force. Nothing contained in this provision shall be construed to require either Party to settle any strike or labor dispute in which it may be involved.

If an Uncontrollable Force prevents a Party from performing any of its obligations under this Agreement, such Party shall: (1) immediately notify the other Party of such Uncontrollable Force by any means practicable and confirm such notice in writing as soon as reasonably practicable; (2) use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligation hereunder as soon as reasonably practicable; (3) keep the other Party apprised of such efforts on an ongoing basis; and (4) provide written notice of the resumption of performance. Written notices sent under this section must comply with Exhibit A, Notices.

(h) **Waivers**

No waiver of any provision or breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving Party, and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other breach of this Agreement.

11. **SIGNATURES**

This Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement, and the Agreement may be executed and delivered electronically. The parties have executed this Agreement as of the last date indicated below.

CITY OF ELLENSBURG

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By: _____

By: _____

Title: _____

Title: Transmission Account Executive

If opting out of the electronic signature:

By: _____

Name: _____

(Print/Type)

Title: _____

Date: _____

**EXHIBIT A
NOTICES**

1. **REQUESTS FOR ASSISTANCE AND NOTICES OF AN OPERATING NATURE**
Any notice, request, or demand of an operating nature by the Transmission Provider or the Transmission Customer shall be made either orally or in writing by First Class mail or by facsimile.

If to Ellensburg:

City of Ellensburg
501 North Anderson Street
Ellensburg, WA 98926

To request Assistance of personnel material, equipment, supplies and/or tool, contact the City of Ellensburg in the order listed below:

- (1) Energy Services Department:
Phone: (509) 962-7124
Fax: (509) 925-8662
- (2) Light Operations Supervisor:
(509) 962-7219
- (3) Senior Electrical Engineer:
(509) 925-8602
- (4) After Hours Emergency
Dispatch: (509) 925-8534
- (5) Energy Services Director:
(509) 962-7226
- (6) Power & Gas Manager:
(509) 962-7251

If to BPA:

(a) To request Assistance of personnel, material, equipment, supplies and/or tools, contact the BPA representative in the order listed below:

- (1) District Manager: (509) 886-6001
- (2) Dispatch with Primary Jurisdiction for the Customer:
Munro Dispatch:
Phone: (509) 465-1820
or (509) 465-0315
Fax: (509) 466-2444
- (3) Dispatch with Alternate Jurisdiction:
Dittmer Dispatch:
Phone: (360) 418-2281
or (360) 418-2280
Fax: (360) 418-2938
- (4) Chief Substation Operator: (509) 886-6000
- (5) Transmission Customer Service Engineer:
(360) 907-4217
- (6) Transmission Account Executive:
(360) 607-8411 or (360) 619-6005

(b) To request Assistance for materials-only, contact the BPA Representative in the order listed below:

- (1) BPA Logistics Services Foreman:
(360) 907-4217
- (2) Traffic Management Specialist:
(360) 518-0784

2. ADMINISTRATIVE CONTACTS

Any notice or other communication related to this Agreement, other than notices of an operating nature (Section 1 above), shall be in writing and shall be deemed to have been received if delivered in person, by First Class mail, by facsimile or sent by overnight delivery service.

If to Ellensburg:

City of Ellensburg
501 North Anderson Street
Ellensburg, WA 98926
Attention: Energy Services
Department
Phone: (509) 962-7226
Fax: (509) 925-8662
E-mail:
energyservices@ci.ellensburg.wa.us

If to BPA:

To request a Reimbursable Agreement
Attention: Transmission Account Executive for City
of Ellensburg – TSE/TPP-2
Phone: (360) 619-6016
Fax: (360) 619-6940

If by First Class Mail:

Bonneville Power Administration
P.O. Box 61409
Vancouver, WA 98666-1409

If by Overnight Delivery Service:

Bonneville Power Administration – TSE/TPP-2
905 NE 11th Avenue
Portland, OR 97232

3. CHANGES IN NOTICES

If either Party changes its contact(s), that Party shall notify the other Party by voice phone, facsimile transmission, or other means immediately. The Party making the change shall send written notice of the change to the other Party within 3 business days. BPA shall revise this Exhibit upon such notice.

Agenda Report

Date: November 7, 2016
To: City Council
Through: John Akers, City Manager 
From: Brad Case, Parks & Recreation Director 
Subject: Grant Acceptance from Kittitas County

Summary: An agreement accepting a \$50,000.00 grant through the Kittitas County 'Tourism-Related, Small Scale Municipality Owned Capital Projects' program for the purchase and installation of a restroom at Veterans Memorial Park is presented to Council for consideration and acceptance.

Background: In June 2016, City staff applied for funding through the above mentioned program to purchase a restroom for Veterans Memorial Park. There has never been a flush restroom facility at Veterans Memorial Park, for years park patrons would use the bathroom facilities at the Kittitas Valley Memorial Pool & Fitness Center. Four years ago the pool operating hours were reduced, many of which were weekend hours, creating an impact on members of the public using the park on weekends. As a result, the City started to rent a portable bathroom facility for the park. In our '2016 Park, Recreation, and Open Space Plan' update, improving existing park facilities was identified as a top priority. One of the ways this can be accomplished at Veterans Memorial Park is by installing a flush restroom building.

The benefit of this project for Kittitas County is the opportunity to provide additional restroom facilities for those attending the Kittitas County Fair and Rodeo. City staff will work County staff to ensure the placement of the restroom has as little impact on the Fair set up as possible.

Fiscal Impact: The City would match the contribution through park impact fees. Staff has requested a budget allocation in the 2017 budget for funds to purchase the restroom.

Recommendation: Authorize the Mayor to sign the agreement accepting the grant on the City's behalf.

**2016 LODGING TAX SERVICES AGREEMENT
BETWEEN KITTITAS COUNTY AND THE CITY OF ELLENSBURG**

This Contract, effective August 16, 2016 is made and entered into by and between KITTITAS COUNTY ("County"), a subdivision of the State of Washington, and the City of Ellensburg, a Washington municipal corporation ("Contractor").

WHEREAS, the purpose of this Agreement is to provide for Tourism-Related, Small-Scale Municipality-Owned Capital Projects relating to activities and expenditures designed to increase tourism,

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the County and the Contractor mutually agree as follows:

Section 1. Scope of Work.

- a. Contractor shall provide the services and staff described in its **Application for Lodging Tax Funds** submitted to the Lodging Tax Advisory Committee, attached hereto as **Exhibit "A"** which is attached hereto and incorporated herein by this reference.
- b. Except as otherwise specifically provided in this Agreement, Contractor shall furnish the following as required to perform the services, described in Paragraph (a) above, in accordance with this Agreement: Personnel, labor and supervision; technical, professional and other services. All such services, property and other items furnished or required to be furnished, together with all other obligations performed, or required to be performed, by Contractor under this Agreement are collectively referred to herein as "Services."

Section 2. Payment.

- a. As full compensation for satisfactory performance of the Contractor's Services, the County agrees to pay Contractor the sum of fifty thousand dollars (\$50,000.00) to be used for capital project- Veteran's Memorial Park Restroom.
- b. Additional payment terms: The County will make payment to the Contractor only on a reimbursement basis, as receipts for any items are submitted to the County, not to exceed the sum of fifty thousand dollars (\$50,000.00) to be used for Veteran's Memorial Park Restroom.
- c. Services/Expenses that are reimbursed must be dated during the 24 (twenty-four) months (or two years) of the date of the Agreement and final date to submit reimbursements requests is August 16, 2018 after this date funds lapse.
- d. Requests for reimbursements must be submitted to:
Kittitas County Auditor

Attn: Judy Pless
205 West 5th Ave – Suite 105
Ellensburg, WA 98926
auditoraccounting@co.kittitas.wa.us

- e. Reporting requirements of your events will be required on prescribed forms from the County Auditor.

Section 3. Performance by Contractor.

- a. Contractor shall not (by contract, operation of law or otherwise) delegate or subcontract performance of any Services to any other person or entity without the prior written consent of the County. Any such delegation or subcontracting without the County's prior written consent shall be voidable at the County's option.
- b. Contractor shall at all times be an independent contractor and not an agent or representative of the County with regard to performing the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of the County. In no event shall Contractor be authorized to enter into any Agreement or undertaking for or on behalf of the County. It is understood that the Contractor and the Contractor's staff and employees are not employees of the County and are not, therefore, entitled to any benefits provided employees of the County.
- c. Contractor shall comply with all applicable laws, ordinances, rules, regulations, orders, licenses, permits, and other requirements, now or hereafter in effect, of any governmental authority (including, but not limited to, such requirements as may be imposed upon the County and applicable to Services). Contractor shall furnish such documents as may be required to effect or evidence such compliance. All laws, ordinances, rules, and orders required to be incorporated into agreements of this character are incorporated into this Agreement by this reference. Contractor agrees to obtain all required licenses and permits, and further agrees to keep them in full force and effect during the term of this Agreement.
- d. The County and the Contractor agree that in fulfilling the terms and conditions of this Agreement neither shall discriminate on the basis of race, creed, color, national origin, age, sex, marital status, or the presence of a physical, sensory, or mental handicap.
- e. The Services shall at all times be subject to inspection by and approval of the County, but the County's making (or failure or delay in making) such inspection or approval shall not relieve Contractor of its responsibility to perform the Services in accord with this Agreement, notwithstanding the County's knowledge of defective or non-complying performance, or the substantiality or ease of discovering the same. Contractor shall provide the County with sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.
- f. This contract is subject to review by any Federal or State auditor. Contractor shall promptly furnish the County or its designee, or such Federal or State auditor with such information related to the Services as may be requested by the applicable governmental entity.

Contractor shall preserve and maintain all financial records and records relating to performance of Services under this Agreement for six (6) years after contract termination. For such duration after the County makes final payment of compensation due hereunder, Contractor shall provide the County access to (and the County shall have the right to examine, audit and copy, with or without notice) all of Contractor's books, documents, papers and records related to the Services or this Agreement.

- g. Contractor understands and acknowledges that Contractor is solely responsible for its own reporting and accounting of all state, federal, social security, and local taxes, of every nature, arising from Contractor's performance of this Agreement. All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accord with the applicable IRS regulations.

Section 4. Release, Indemnity, and Hold Harmless.

The County assumes no liability for the Contractor's actions under this Agreement. Contractor releases and shall defend, indemnify, and hold harmless the County, its officers and employees, agents, representatives, attorneys and/or volunteers, from and against all claims, costs, liabilities, damages, and expenses, (including, but not limited to, reasonable attorney fees) which arise or may arise or be alleged to arise out of or by reason of this Agreement including:

- Any fault, negligence, strict liability or product liability of Contractor in connection with the Services for this Agreement;
- Any lien asserted upon any property of the County in connection with the Services for this Agreement;
- Any failure of Contractor, or of the Services, to comply with any applicable law, ordinance, rule, regulation, order, license, permit and other requirement, now or hereafter in effect, of any governmental authority; or
- Any breach of or default under this Agreement by Contractor.

Section 5. Compliance with Public Records Law.

- a. In compliance with Washington's public records law, the County will retain copies of any documents associated with this Agreement, which may be required by law unless legally exempt from such retention, for any applicable legally required retention period.
- b. In the event a public records request is made to the County for documents created in relation to this Agreement, should legal uncertainty arise regarding the disclosability of any documents under federal or state public records laws, the County shall provide notice to Contractor pursuant to Washington's public records act, chapter 42.56 RCW, to allow Contractor to seek a court injunction.
- c. The County specifically shall not be liable to Contractor for the County's release under public records laws of any documents not protected by trademark, copyright or other law.

Section 6. Industrial Insurance Waiver.

With respect to performance of this Agreement and as to any claims against the County, its Additional Insureds, officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for Injuries to Contractor's employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. **This waiver is mutually negotiated by the parties to this Agreement.**

Section 7. Insurance and Endorsements.

- a. The County may require through a request in writing that the Contractor provide the County with a certificate, binder, or policy of liability insurance, acceptable to the County in an amount specified by the County.
- b. Such liability insurance shall be such as will protect Contractor, its employees, agents and representatives, from all claims, losses, harm, costs, liabilities, damages and expenses arising out of personal injury (including death) or property damage that may result from performance of the Services or this Agreement, whether such performance is by Contractor or any of its employees, agents or representatives.
- c. Should the County require such liability insurance, the Contractor agrees to provide proof of insurance prior to commencing performance of this Agreement.
- d. Copies of the County's written request and the insurance documents provided by Contractor shall be attached to this Agreement and by this reference will be made part hereof.
- e. Where insurance is requested by the County, all liability insurance policies shall be endorsed to include the County as an Additional Insured and shall stipulate that the insurance afforded by the policies shall be primary insurance, and that any insurance, self-insured retention, deductibles, or risk retention trusts maintained or participated in by the Parties shall be excess and not contributory to any other insurance maintained by the County. Contractor shall furnish the County a certificate of insurance with Endorsement as evidence that the required policies are in full force and effect.

Section 8. Termination.

The County may, by written notice thereof to Contractor, terminate this Agreement as to all or any portion of the Services not yet performed, whether or not Contractor is in breach or default. Upon receiving such notice of termination, Contractor shall, except as otherwise directed by the County, immediately stop performing the Services to the extent specified in the notice. In the event the County terminates the Contractor's Services, the Contractor is obligated and hereby agrees to refund to the County all monies paid for Services not yet rendered by the Contractor, if any, as of the date of the notice of termination.

Section 9. Miscellaneous.

- a. Contractor shall not (by contract, operation of law or otherwise) assign this Agreement or any right or interest in this Agreement without the County's prior written consent.
- b. This Agreement embodies the entire Agreement between the County and Contractor, and supersedes any and all prior oral or written communications, proposals, conditions, promises, representations, or understandings regarding the Services. No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to the Agreement signed by both parties.
- c. Notice for any purpose under this Agreement, except service of process, shall be given by the Contractor to the Kittitas County Commissioners and the Kittitas County Auditor, 205 West 5th Ave. Ellensburg, WA 98926. For all purposes under this Agreement, any notice by the County to the Contractor shall be given to the Contractor's address provided on the signature page. Notice may be given by delivery or by depositing in the U.S. Mail, first class, postage prepaid, certified mail, return receipt requested.
- d. The section and paragraph headings of this Agreement are for reference convenience only and are not intended to restrict, affect or be of any weight in interpreting or construing the provisions of such sections or paragraphs.
- e. This Agreement may be executed in one or more counterparts and by facsimile, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- f. Contractor warrants to the County that the individual signing on Contractor's behalf has the requisite power and authority to enter into and to perform Contractor's obligations under this Agreement. Contractor further warrants to the County that Contractor has made no misrepresentation or misleading statement in connection with this Agreement, and is not in violation of any applicable law, ordinance, or regulation the consequence of which will or may materially affect Contractor's ability to perform its obligations under this Agreement.
- g. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect the other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.
- h. The exclusive venue for any action brought to enforce this Agreement or any of its terms shall be in Kittitas County, State of Washington.

KITTITAS COUNTY

BOARD OF COUNTY COMMISSIONERS

CONTRACTOR


 Chair

 [Print Name]

Vice Chair

[Handwritten signature]

Commissioner

[Address]

[Telephone]



[Handwritten signature]

Clerk of the Board

APPROVED AS TO FORM:

Deputy Prosecuting Attorney

APPLICATION FOR LODGING TAX FOR TOURISM-RELATED, SMALL-SCALE MUNICIPALITY-OWNED CAPITAL PROJECTS AND OPERATIONS

Applicant Information Capital Project Operations (Circle One or Both)

Name of Municipality: CITY OF EWENSBURG

Mailing Address: 501 N ANDERSON

EWENSBURG, WA 98926

Contact Person and Title: BREND CASE, PARKS & RECREATION DIRECTOR

Phone: (509) 925-8639

Email: case@cityofewensburg.org

Project Title: VETERAN MEMORIAL PARK RESTROOM

Project Location: VETERAN MEMORIAL PARK

Funding Request: \$50,000.00

JUN 17 2016

Application Requirements

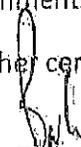
1. The project qualifies for lodging tax funds as a capital expenditure of a tourism-related facility owned or operated by a municipality or is supporting the operations of tourism-related facilities owned or operated by a municipality.
2. The municipality has submitted no more than two applications for capital project funding in the current year.
3. The municipality's lodging tax advisory committee (or equivalent) has been informed of the project and endorsed it (not required for Kittitas County). A letter from the municipality is included.
4. Lodging tax capital project funds are not being substituted for other funds that are already secured or applied for (if applicable).
5. Municipality has secured matching funds of at least 50% of the total project costs.
6. A completed project budget is included in the application (if applicable).
7. A detailed 8 1/2 X 11 vicinity map that clearly shows the project is included (if applicable).

Tourism-Related, Small-Scale Municipality-Owned Capital Project Narrative

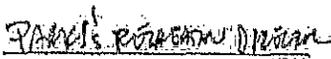
1. **Project Description:** Please describe the project in detail. Indicate the major work to be completed, any milestones that need to be overcome in order for the project to move forward, and include a comparison of existing and proposed conditions.
2. **Kittitas County Tourism Infrastructure Plan:** Please explain how the project meets the goals and priorities in the Kittitas County Tourism Infrastructure Plan as adopted. Also, describe the specific county tourism infrastructure needs the project addresses and how the project directly increases tourism. Explain how the improvements will promote tourism in Kittitas County and indicate specifically how the improvements will directly increase economic activity resulting from tourists (see the definition of tourist on page 3 of this application).
3. **Use of Grant Funds:** Please explain exactly how the requested funds will be used. Include an itemized list.
4. **Real Property:** If real property acquisition is a component of the project, please explain. Include any information of property already secured or evidence of the ability to secure the real property.
5. **Capital Assets:** If capital asset acquisition is a component of the project, please explain. Include any bids solicited and received from potential vendors willing to supply the asset. *All capital asset purchases require at least three bids.* If you have already selected one of the bids, please provide justifications in writing.
6. **Coordination:** Please explain how this project has been coordinated with other jurisdictions as well as affected stakeholders. Please include letters of support from stakeholders.
7. **Studies:** Please attach any feasibility or other studies that demonstrate linkages between the proposed project and the anticipated tourism impacts. Also please include your operations/maintenance funding strategy and business plan for long-term project sustainability (how the facility or facilities will be operated and maintained for at least three years following completion).
8. **Project Readiness:** Please provide a detailed project schedule, including milestones necessary for completion as mentioned in question 1 above. On the schedule, indicate items completed and exactly where in the schedule the project is at this time. Be sure to include expected completion date.
9. **Applicant Certification:** Please sign below in agreement with statement of certification.

Certification is hereby given that the information provided is accurate and the applicable attachments are complete and included as part of the application package.

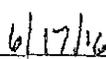
I further certify that the application thresholds are met at the time of application.



Signature of Official Representative



Title



Date

1. Project Description:

This project calls for the purchase and installation of a flush restroom facility at Veterans Memorial Park. In 2016 the City of Ellensburg updated their 'Park, Recreation, and Open Space Plan'; a component of this process was developing a master plan for Veterans Memorial Park. This master plan, which was adopted by the Ellensburg City Council at their May 16, 2016 meeting, included the addition of a flush restroom facility, located just west of the existing playground area. For years the patrons of Veterans Memorial Park could use the restrooms at the Kittitas Valley Memorial Pool & Fitness Center. A few years ago the operating hours at the pool were reduced, especially weekend hours when the majority of park use; specifically picnic shelter rentals take place. To address this issue the City started to provide a portable restroom facility at the park. Veterans Memorial Park is one of two City neighborhood parks without a flush restroom facility; the City has a total of seven neighborhood parks.

This new restroom will not only serve the patrons of Veterans Memorial Park but will also be open during the annual Kittitas County Fair & Ellensburg Rodeo, as well as other events throughout the year that take place at the Fairgrounds and Veterans Memorial Park, such as the Washington Fly Fishing Fair.

2. Kittitas County Tourism Infrastructure Plan:

This project benefits Kittitas County with their most visible and important tourism event each year, the Kittitas County Fair & Rodeo, with an attendance of 65,000 per year. Each year the County rents approximately 35 portable restrooms for the Fair at a cost of \$18,000.00 per year. The addition of this restroom will reduce the rental cost the county pays each year, in less than 30 years (assuming the rental costs for portable restrooms increases) the County will have recovered their portion of a new restroom at Veterans Memorial Park with the savings from portable restrooms.

The overall level of satisfaction of those traveling to Ellensburg for the Fair increases when we offer better facilities. Improved facilities not only mean better grandstands in the arena, and closer parking, but it can also mean better bathroom facilities. Families with small children would much rather use a flush restroom facility than a portable restroom. Most women would much rather use a flush restroom than a portable restroom.

3. Use of Grant Funds:

The funds would be used to purchase and install a precast flush restroom facility. Precast restrooms are assembled off-site and delivered to the site which has been prepped for the restroom.

4. Real Property:

The restroom would be located within Veterans Memorial Park, a city owned park facility.

5. Capital Assets:

All of the City of Ellensburg's newer public restrooms (within the last 15 years) are from CXT, a company based out of Spokane, and purchased off of the Washington State Contract. This allows us to purchase a restroom without going through a competitive bidding process, which expedites the process and reduces cost.

6. Coordination:

The addition of a restroom at Veterans Memorial Pool & Fitness Center was discussed as a part of the development of the Veterans Memorial Park master planning effort. Community input for the park plan was gathered through two community meetings and on-line data gathering, which over 450 people participated in.

7. Studies:

Operations and maintenance of the restrooms will be the responsibility of the City of Ellensburg Parks & Recreation Department.

8. Project Readiness:

This project is shovel ready, the City owns the property, the park master plan, which includes the restroom has been adopted by Council. City staff has applied for matching funds through the Washington Recreation and Conservation Office. Cost estimates for the restroom, including the infrastructure and prep work have already been provided by a landscape architect.

Tourism-Related, Small-Scale Municipality-Owned Capital Project Budget

All applicants for capital project funding must supply a detailed and complete project budget utilizing the following basic format:

Funding Sources

Lodging Tax Funds Request

*Other Grant Funds

List By Source (indicate if secured or applied)

*Other Local Government Funds

List By Source

*Private Funds

List By Source (may include in-kind)

Total Available Funding

Project Expenses

Real Property or "Right-of-Way" Acquisition Cost

Capital Asset Cost

Construction Cost or "Hard" Cost

Include an itemized list of general costs

For example: asset type and cost, site prep, building foundation and structure, mechanical work, finish work, site restoration, electrical work, technology, etc.

Soft Cost

Include an itemized list of soft costs

For example: design fees, construction management fees, survey costs, engineering fees, permitting costs, special inspections, cultural resource surveys, etc.

Total Project Costs

*Verifying documentation must be provided and attached to this budget. This documentation may include award letters, letters of commitment, or loan approval documentation. You must include this in order to meet the matching funds requirement. If the funding source includes applicant funds, proof of available funding in the form of a letter of commitment from an authorized body or representative of the applicant is adequate.

Tourism – Related, Small – Scale Municipality- Owned Capital Project Budget

Funding Sources

Lodging Tax Funds Request -	\$50,000.00
Other Grant Funds	
Other Local Government Funds -	\$40,000.00
Recreation & Conservation Office – applied for -	\$90,000.00

Total Available Funding - \$180,000.00

Project Expenses

Construction Cost or "Hard Costs"

Bathroom Building -	\$100,000.00
Site Prep -	\$10,094.40

Soft Cost

Mobilization -	\$15,000.00
Sales Tax -	\$9,200.00
A/E -	\$17,388.00
Contingency -	\$28,317.60

Total Project Costs - \$180,000.00

**Recreation and Conservation Office
Washington Wildlife and Recreation Program (WWRP)
Application Resolution/Authorization**

Organization Name City of Ellensburg Resolution No. (if applicable) 2016-17

Project Name and Number (s) Veterans Memorial Park Restroom

This form authorizes submitting application(s) for grant funding assistance for Washington Wildlife and Recreation Program (WWRP) project(s) to the Recreation and Conservation Funding Board as provided in Chapter 79A.15 and 79A.25 RCW, WAC 286, and other applicable authorities.

WHEREAS, our organization has approved a comprehensive parks and recreation or habitat conservation plan that includes this project; [not required for farmland preservation projects] and

WHEREAS, under provisions of the WWRP program, state grant assistance is requested to aid in financing the cost of \$90,000. [choose all that apply: acquisition, facility development or renovation, restoration]; and

WHEREAS, our organization considers it in the best public interest to complete the project described in the application(s).

NOW, THEREFORE, BE IT RESOLVED that:

1. The Brad Case, Parks & Recreation Director [insert NAME AND TITLE] is authorized to make formal application to the Recreation and Conservation Funding Board for grant assistance.
2. Our organization has reviewed the sample project agreement on the Recreation and Conservation Office's web site at: <http://www.rcp.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf> and authorizes Brad Case, Parks & Recreation Director [insert NAME AND TITLE] to enter into such a project agreement, if funding is awarded. We understand and acknowledge that the project agreement will contain the indemnification (applicable to any sponsor) and waiver of sovereign immunity (applicable to Tribes) and other terms and conditions that are contained in the sample project agreement. The sample project agreement may be revised periodically by the Recreation and Conservation Office. Our organization recognizes that such changes might occur prior to our authorized representative signing the actual project agreement, and we accept the responsibility and the presumption that our authorized representative shall have conferred with us as to any such changes before he/she executes the project agreement on behalf of our organization and so executes with our authorization.
3. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
4. Our organization expects our matching share of project funding will be derived from Kittitas County Lodging Tax Advisory Committee [insert your anticipated sources] and that pursuant to WAC 286-13-040 we must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash commitments to this project should they not materialize.
5. We acknowledge that if the Recreation and Conservation Funding Board approves grant assistance for the project(s), the Recreation and Conservation Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Recreation and Conservation Office after we incur eligible and allowable costs and pay them. The Recreation and Conservation Office may also determine an amount of retainage and hold that amount until the project is complete.
6. [Acquisition Projects Only] We acknowledge that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to by our organization and the Recreation and Conservation Funding Board. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents

will be based upon RCO's standard versions of those documents), to be recorded on the title of the property with the county auditor.

7. *[Acquisition Projects Only]* We acknowledge that any property acquired in fee title must be immediately made available to the public unless the Recreation and Conservation Office director or the Recreation and Conservation Funding Board agrees to other restrictions.
8. *[Development, Renovation, and Restoration Projects Only – If your organization owns the property]* We acknowledge that any property owned by our organization that is developed, renovated or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity after the project is complete unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board in the project agreement or an amendment thereto.
9. *[Development, Renovation, and Restoration Projects only – If your organization DOES NOT own the property]* We acknowledge that any property not owned by our organization that is developed, renovated or restored with grant assistance must be dedicated for the purpose of the grant for at least twenty-five (25) years after the project is complete unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board in the project agreement or an amendment thereto.
10. *[Projects located in Water Resources Inventory Areas 1 – 19 and applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, and Urban Wildlife Habitat categories only]* We certify that the project(s) does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310. When completed, the project will not result in water quality degradation in Puget Sound, nor loss of ecosystem process, structure, or functions. The project will meet or exceed all permitting requirements.
11. *[Nonprofit Nature Conservancy Organizations Only]* Our organization certifies it is a registered nonprofit corporation with the Washington Secretary of State and has been active in managing similar types of projects for a minimum of three (3) years. Should our organization dissolve or disband during the period of this project, we agree to name a successor organization pursuant to Recreation and Conservation Funding Board policy.
12. This application authorization becomes part of a formal application to the Recreation and Conservation Funding Board for grant assistance.
13. We provided appropriate opportunity for public comment on this application.
14. We certify that this application authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that the person signing as authorized representative is duly authorized to do so.

[Native American Tribes, Local Governments, and Nonprofit Organizations Only] This application authorization was adopted by our organization during the meeting held:

Location Ellensburg City Hall Date May 2, 2016

[All Applicants] Signed and approved on behalf of the resolving body of the organization by the following authorized representative:

Signed [Signature]

Title Mayor Date 5/2/16

Washington State Attorney General's Office

Approved as to form [Signature] March 15, 2016

Assistance Attorney General Date

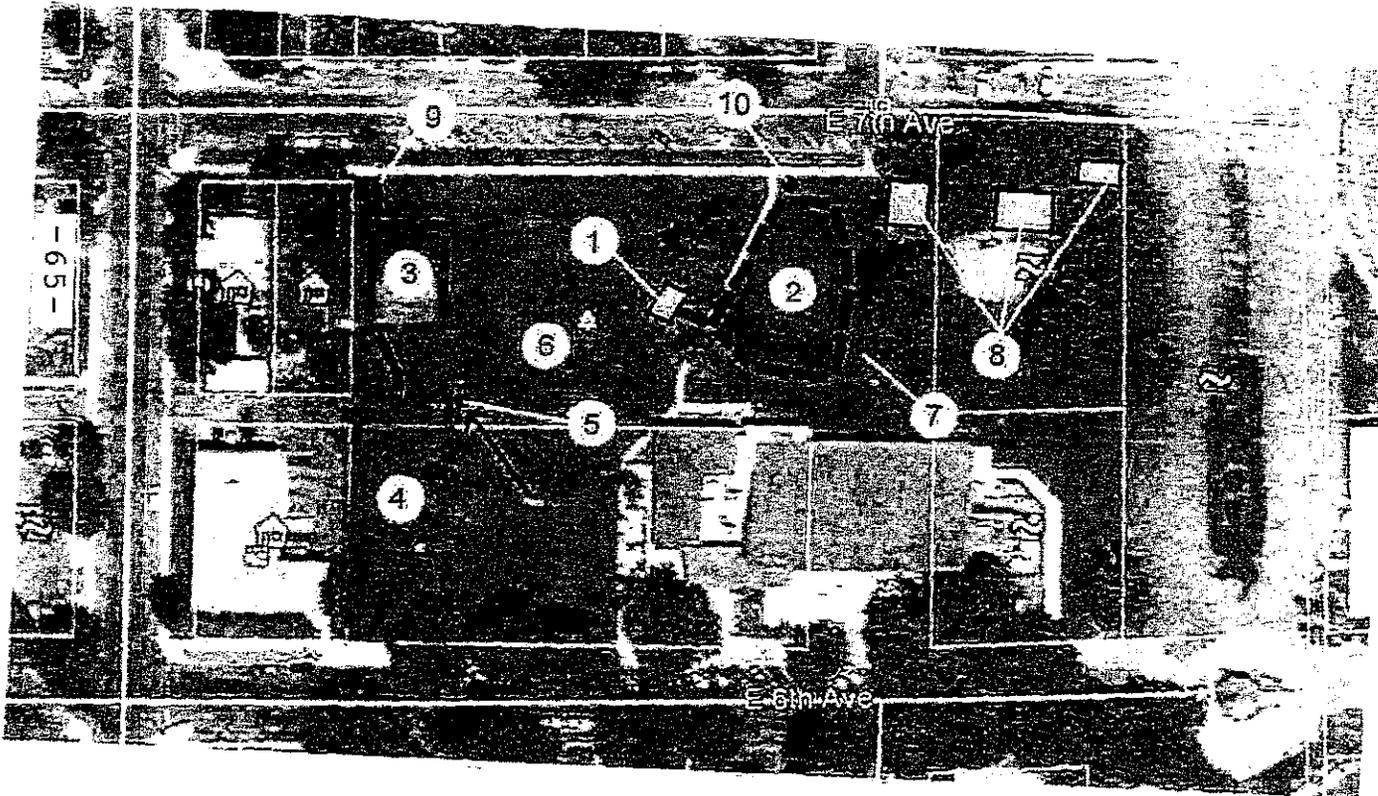
You may reproduce this form in your own format; text however may not change.

Ellensburg Park, Recreation &
Open Space Plan

Memorial Park Concept Master Plan

Legend

- 1 Restroom
- 2 Play Plaza
- 3 Basketball Court (50'x84')
- 4 Ex. Parking, orient stalls @
90 degrees; 24 stalls +/-
- 5 Relocate Light
- 6 Open Field Play: land-
scape & irrigation
restoration
- 7 Picnic Table Pads
- 8 Remodel Shelters &
Storage Unit
- 9 Trails/Sidewalk
- 10 Park Identification Sign



AJO Consulting
Robert W. Droll, Landscape Architect, PS
14023 4/25/15

VOUCHER APPROVAL

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT TO THE BEST OF MY KNOWLEDGE THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED ON THE VOUCHERS LISTED ON THE ATTACHED STATEMENT AND THAT THE CLAIMS ARE A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF ELLENSBURG, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS.


AUDITING OFFICER

CLAIMS VOUCHERS AUDITED AND CERTIFIED BY THE AUDITING OFFICER HAVE BEEN RECORDED ON THE ATTACHED LISTING, WHICH HAS BEEN MADE AVAILABLE TO THE COUNCIL AS OF THIS **7TH DAY OF NOVEMBER 2016**. THE COUNCIL, BY A VOTE, HAS APPROVED FOR PAYMENT THE VOUCHERS INCLUDED IN THE ABOVE LIST AND FURTHER DESCRIBED AS FOLLOWS:

CLAIMS FUND VOUCHER NUMBERS - **130735 - 131041**
IN THE TOTAL AMOUNT OF **\$1,723,403.30**
ACH DIRECT PAYMENTS **2031 - 2061** IN THE AMOUNT OF **\$1,263,402.43**

PAYROLL FUND CHECK NUMBERS - **92039 THROUGH 92083**
IN THE TOTAL AMOUNT OF **\$57,278.98**
DIRECT DEPOSIT IN THE AMOUNT OF **\$263,017.13**
ELECTRONIC FUND TRANSFER **\$3,650.00**

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST: _____
CITY CLERK



AGENDA REPORT

DATE: November 7, 2016

TO: City Council

THRU: John Akers, City Manager 

FROM: Jerica Pascoe, Finance Director 

RE: **Public Hearing (Legislative) for 2017 Property Tax Levy Ordinance (First Reading)**

SUMMARY: The proposed ordinance reflects the 2017 levy for property taxes to be collected in 2017 for municipal purposes. The ordinance establishes the 2017 regular property tax levy, the 2017 excess property tax levy, and certifies the 2017 property tax levy to the Kittitas County Commissioners. The City Council held a public hearing on revenue sources, including property tax, on October 3, 2016.

BACKGROUND: RCW 84.55.005 limits the increase in property taxes to the lower of one percent over the prior year levy rate or the implicit price deflator (IPD). The IPD is .953 for 2nd quarter of 2016; therefore, the City is limited to 100.953% without a declaration of substantial need by Council.

Tax revenue funds over 66% of the General Fund budget, of which property tax alone accounts for 28%. Because Council has very limited control over revenue/funding sources that support general government activities, without an increase in General Fund revenues such as property tax, the City cannot fund the necessary overhead increases without further reducing the fund balance. In order for delivery of service to remain consistent from year to year, funding of these services must also remain consistent and thus rise as expenses rise.

This is the second year in a row and the third time since 1998 that the inflation rate has fallen below 1%. This drop in IPD does not reflect the overall rate of inflation that we are seeing locally. Dispatch services, jail fees, cleaning services, leases, supplies, and labor increases are just a few of the general fund increases in 2017 resulting in over \$471,000 in additional operating expenditures for 2017.

ANALYSIS/FINDINGS: Tax collections for the City of Ellensburg are estimated to be \$2,866,548, which is an increase of \$58,242 over the 2016 levy. This reflects a point nine-five-three percent (.953%) increase of \$26,763. An increase of \$31,479 is attributed to new construction and \$0 from annexation. The increase attributed to new construction and annexation may change slightly as

updated numbers come in from the County. If Council feels the need is warranted, and wishes to pass a substantial need resolution bringing the increase up to one percent (1%), the increase would only change the highest lawful levy by \$1,320.

Included in the tax levy ordinance is \$175,000 for the excess levy approved by voters of the City in 2003 for the Library expansion and remodel.

The ordinance is predicated on Council NOT adopting a resolution declaring a substantial need exists which would establish the levy at one hundred (101%) of last year's property tax plus new construction and changes in State Utilities and Annexations.

FISCAL IMPACT: Adoption of the Ordinance at .953% will increase the property tax revenue by \$26,763. Adoption of a resolution and amendment of the ordinance to 1% would increase the property tax revenue by \$28,083.

RECOMMENDATION(S):

- 1.) Conduct Public Hearing for proposed Ordinance establishing the Ad Valorem Property Tax Levy for 2017;
- 2.) Give first reading to the proposed ordinance establishing the Ad Valorem Property Tax Levy for 2017.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, LEVYING PROPERTY TAXES FOR THE CITY OF ELLENSBURG FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2017, ON ALL PROPERTY IN SAID CITY WHICH IS SUBJECT TO TAXATION FOR THE PURPOSE OF PAYING SUFFICIENT REVENUE TO CARRY ON GENERAL OPERATIONS, RECOGNIZE VOTER APPROVED LEVIES AND PAY DEBT SERVICE OBLIGATIONS OF SAID CITY AS REQUIRED BY LAW.

WHEREAS, Chapter 35A.34 RCW provides the legislative body of any code city the authority by ordinance to elect to have a two-year fiscal biennium budget in lieu of an annual budget; and

WHEREAS, the City Council of the City of Ellensburg has met and considered its budget for 2017-2018 biennial budget pursuant to RCW 84.55.120; and

WHEREAS, pursuant to RCW 84.55.120, the City Council of the City of Ellensburg held a public hearing on November 7, 2016, to consider possible increases in property tax revenue for the calendar year 2017; and

WHEREAS, the City's actual levy amount from previous year was \$2,808,306; and

WHEREAS, the population of the city is more than 10,000,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. General Tax Levy for 2017. An increase in the regular property tax levy is hereby authorized for the levy to be collected in the 2017 tax year. The dollar amount of the increase over the actual levy amount from previous year shall be \$26,763, which is a percentage increase of .953% from previous year. This increase is exclusive of additional revenue resulting from new construction, improvements to property, newly constructed wind turbines, any increase in the value of the state assessed property, any annexations that have occurred and refunds made.

Section 2. Excess Tax Levy for 2017. In addition to the above levies for the ensuing fiscal year of 2017, there shall be and are hereby levied current taxes of \$175,000, the purpose of which is to retire the outstanding obligation incurred by the City for general obligation bonds that have been issued after an affirmative vote of the citizens in favor thereof.

Section 3. Majority Approval. This ordinance was passed by a majority of the entire Council.

Section 4. Transmittal to Auditor. A certified copy of this Ordinance shall be transmitted to the Kittitas County Assessor's Office and to the Clerk of the Kittitas County Commissioners, and such other governmental agencies as provided by law.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. 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 errors, references, ordinance numbering, section/subsection numbers and any references thereto.

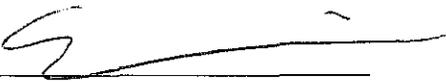
Section 7. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of the ordinance or a summary thereof consisting of the title.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the ____ day of November, 2016.

Mayor

Attest: _____
City Clerk

Approved as to form:



City Attorney

Publish: November __, 2016

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

COREEN M. RENO, CMC



AGENDA REPORT

DATE: November 07, 2016

TO: City Council

THRU: John Akers, City Manager *JA*

FROM: Jerica Pascoe, Finance Director *JP*
Keith Bassett, Sr. Financial Analyst/ Budget Officer *KTB*

Re: Public Hearing (legislative) and First Reading of proposed Ordinance amending the 2015-2016 Biennial Budget (Ordinance No. 4692, previously amended by Ordinance No. 4715 and Ordinance No. 4723)

SUMMARY: The proposed ordinance adopts amendments to the 2015-2016 biennial budget to reflect changes in operational requirements and adjustments to capital project plans.

BACKGROUND: Council adopted the 2015-2016 Biennial Budget in Ordinance No. 4692 at its December 15, 2014 regular meeting. Following a Mid-Biennium Review, Council adopted Ordinance No. 4715 at its November 2, 2015 regular meeting to adjust the biennial budget in preparation for the second year of the biennium. The Council adopted Ordinance No. 4723 on April 4, 2016 to amend the budget to “carry forward” appropriations from 2015 to 2016 for projects that were budgeted but not expended in 2015. State law requires that all budget amendments are adopted with the same protocol as the original budget.

ANALYSIS/FINDINGS: Over the course of 2016, items have been approved by City Council that require a supplemental budget adjustment in order to be implemented. The anticipated budget impacts are presented as part of the City’s standard agenda reports that accompany the initial request. The proposed ordinance will officially authorize appropriations and transfers in support of previously approved projects and program changes.

- Grant awards for public safety, stormwater management, telecommunications, and transportation
- Kittitas Valley Memorial Pool siding remediation
- Capital project related costs approved during bid or contract award
- Debt issuance for the Telecommunications and Natural Gas funds
- Communications Officer position establishment

Several items included in the budget ordinance have not been preliminarily approved by City Council. These items provide the necessary budget to maintain the programs previously adopted by City Council. Unemployment compensation is an unpredictable cost and not typically included in the City’s operating budget. It is anticipated that the City’s Finance and Engineering departments will require supplemental appropriations to cover their unemployment costs in 2016. Additional Library staff hours are necessary to provide coverage for two employees on unexpected

medical leave.

Two items do not increase the overall level of city expenditures. These requests authorize a transfer of appropriation to other funds and approve expenditures from those funds. The transfers are necessary in order to meet accounting and reporting needs.

- Police Department expenditures related to the Kittitas Valley Fire and Rescue vacating the public safety building
- Finance Department customer service counter reconfiguration

Several capital projects appropriated in the 2016 budget will not be expended as currently adopted. The proposed reduction in expenditure appropriations and budgeted grant revenue clarifies the level of anticipated expenditures and revenues this year. Projects removed from the 2016 budget are now anticipated for 2017.

Three items included in the proposed ordinance correct errors in prior amendments. Additional grant related expenditures of \$2,000 are anticipated in the Library Fund and were inadvertently omitted from the carryforward budget amendment. The Street Fund supplemental budget adopted following the Mid-Biennium Review inadvertently omitted \$1,126 necessary to fund a contractual wage increase. Information Technology fund revenues from providing services to Ellensburg Community Television were budgeted higher than the actual payments. These amendments reduce the budgeted Information Technology Fund revenues by \$23,805.

Detailed figures are included in attached Tables 1 and 2.

FISCAL IMPACT: The proposed ordinance amends the biennial budget, increasing budgeted 2016 expenditures by \$5,350,585, revenue by \$4,897,514 and budgeted beginning fund balances by \$225,905.

RECOMMENDATION(S):

- 1.) Hold a Public Hearing and consider first reading of Ordinance No. ____ to amend the 2015-2016 Biennial Budget.

Attachments: Table 1 – Summary of Proposed 2016 Supplemental Budget Items
Table 2 – 2016 Summary of Supplemental Budget Adjustments - All Funds
2016 Supplemental Budget, 2016 Ordinance

**Table 1 - 2016 Supplemental Budget Ordinance
Summary of Proposed 2016 Supplemental Budget Items**

Fund	Item Description	Beg Fund		
		Balance	Revenue	Expense
012	Finance Dept. employee Unemployment Compensation			9,480
012 Total				9,480
013	Communications Officer Budget Consolidation			45,000
013 Total				45,000
016	Public Safety Grant Awards		9,130	
016 Total			9,130	
019	Engineering Dept employee Unemployment			8,000
019 Total				8,000
023	Additional Staff Coverage for Medical Leave			5,500
	Library Grant Budget Correction			2,000
023 Total				7,500
120	Contractual wage increase inadvertently omitted from past budget amendments			1,126
120 Total				1,126
123	Wildcat Way / University Way Traffic Study		26,000	26,000
	Capitol Avenue / Sampson Street Pedestrian		200,380	225,380
	Citywide Traffic Counts		9,283	13,925
	University Way Overlay - Chestnut Street to West City		1,151,000	1,560,000
	Vantage Highway and Pfenning Road Signalization		898,062	957,650
	LED Streetlight Replacement		942,601	942,601
	State Grant RTPO		20,000	
	Engineering Analysis of Wildcat Way and University Way			26,808
	Helena Avenue Surveying - Planned for 2017			(20,000)
	Umptanum Road / Canyon Road Signal Improvements - Planned for 2017			(25,000)
	Water Street Extension - Planned for 2017			(330,099)
	J. Wayne Trail - Grant Revenue - Planned for 2017		(378,000)	
	J. Wayne Trail Extension - Planned for 2017			(473,000)
123 Total			2,869,326	2,904,265
125	Wildcat Way / University Way Traffic Study - Transfer Out			26,000
125 Total				26,000
140	LED Streetlight Replacement - Transfer Out			236,000
140 Total				236,000
155	Council Chamber Touch Screen Control Panel			5,950
	Wind-down ECTV Capital Outlay Fund	13,241		18,494
155 Total		13,241		24,444
198	Pool Wall Repair - Transfer Out			4,205
198 Total				4,205
325	Pool Wall Repair - Transfer Out	57,054		57,103
325 Total		57,054		57,103
365	Pool Wall Repair	(19,390)	261,308	282,937
	Police Department Facilities Fit-up		15,500	15,500
	Finance Customer Service Counter Remodel		42,608	42,608
365 Total		(19,390)	319,416	341,045

Summary of Proposed 2016 Supplemental Budget Items

Fund	Item Description	Beg Fund		
		Balance	Revenue	Expense
366	Capitol Avenue / Sampson Street Pedestrian Improvements- Transfer Out			28,618
	University Way Overlay - Chestnut Street to West City Limits - Transfer Out			250,000
	Vantage Highway and Pfenning Road Signalization - Transfer Out			176,391
	Sidewalk Revenue Adjustment	175,000	75,000	
366 Total		175,000	75,000	455,009
431	Wildcat Way Cured-in-Place Storm Line Repair			71,842
	Capitol Avenue / Sampson Street Pedestrian			2,850
	DOE Capacity Grant - Stormwater Permit Compliance Activities		50,000	50,000
	Public Safety Building Parking Lot Retro-Fit		253,839	298,634
431 Total			303,839	423,326
451	Capitol Avenue / Sampson Street Pedestrian			3,912
	Distressed County Sales and Use Tax Grant/ Fiber Expansion and Redundancy		122,470	124,475
	Telecom Interfund Loan Refunding Bond		290,243	264,746
	Telecom Interfund Loan Refunding Bond Issuance Costs			6,300
	Telecommunications Expenditure Reductions and Revenue Forecast Update		28,864	(92,044)
451 Total			441,577	307,389
461	Bull Rd Utility Extension Design			45,000
	Natural Gas Capital Debt		859,015	
	Natural Gas Capital Debt Issuance Costs			11,200
461 Total			859,015	56,200
471	Vantage Highway and Pfenning Road Signalization			38,000
	City Shops Parking Pavement			35,281
	Bull Rd Utility Extension Design			45,000
471 Total				118,281
481	Airport Well Retrofit/Submersible Pump Design - Transfer Out			44,016
	Sanders Road Water Main Construction			20,000
481 Total				64,016
485	Airport Well Retrofit/Submersible Pump Design		44,016	44,016
485 Total			44,016	44,016
491	Cured-in-Place Sewer Line Rehabilitation			6,000
491 Total				6,000
545	Pool Wall Repair - Transfer Out			200,000
545 Total				200,000
550	City Hall Emergency Generator Project			12,180
	Update ECTV Payment for IT Services		(23,805)	
550 Total			23,805	12,180
Grand Total		225,905	4,897,514	5,350,586

**Table 2 - 2016 Supplemental Budget Ordinance
2016 Summary of Supplemental Budget Adjustments - All Funds**

Fund/Department	Changes to Budgeted Beg Fund Balance	Changes to 2016 Revenues	Changes to 2016 Expenditures	Changes to Budgeted Ending Fund Balance
General Fund				
City General	0	0	0	
Finance		0	9,480	
Administration		0	45,000	
Police		9,130	0	
Community Development		0	0	
Engineering		0	8,000	
Parks & Recreation		0	0	
Library		0	7,500	
Total General Fund	0	9,130	69,980	-60,850
Special Revenue Funds				
Street	0	0	1,126	-1,126
Arterial Street	0	2,869,326	2,904,266	-34,940
Traffic Impact Fee	0	0	26,000	-26,000
Ellensburg Public Transit	0	0	0	0
Criminal Justice	0	0	0	0
Drug	0	0	0	0
Sales Tax	0	0	236,000	-236,000
CATV Ops. and & Maint.	0	0	0	0
CATV Capital	13,241	0	24,444	-11,203
Police Equipment Reserve	0	0	0	0
Park Acquisitions	0	0	0	0
Public Art Acquisition	0	0	0	0
Lodging Tax	0	0	0	0
Geddis Building Fund	0	0	0	0
Special Project	0	0	4,205	-4,205
Total Special Revenue Funds	13,241	2,869,326	3,196,041	-313,474
Debt Service Funds				
2010 Maintenance Bond	0	0	0	0
Library Bond Debt	0	0	0	0
LID Guarantee Fund	0	0	0	0
Total Debt Service Funds	0	0	0	0
Capital Project Funds				
2010 GO Maint Bond Fund	57,054	0	57,103	-49
General Capital Projects	-19,390	319,416	341,045	-41,019
Sidewalk Improvements	175,000	75,000	455,009	-205,009
Total Capital Project Funds	212,664	394,416	853,157	-246,077
Trust & Agency Funds				
Library Trust	0	0	0	0
Hal Holmes Trust	0	0	0	0
Fire Relief & Pension Trust	0	0	0	0
Total Trust & Agency Funds	0	0	0	0
Enterprise Funds				
Stormwater	0	303,839	423,326	-119,487
Telecommunications	0	441,578	307,389	134,189
Gas	0	859,015	56,200	802,815
Light	0	0	118,281	-118,281
Water	0	0	64,016	-64,016
Water Construction	0	44,016	44,016	0
Sewer	0	0	6,000	-6,000
Total Enterprise Funds	0	1,648,448	1,019,228	629,220
Internal Service Funds				
Shop & Equipment	0	0	0	0
Health Insurance	0	0	0	0
Risk Management	0	0	200,000	-200,000
IT Fund	0	-23,806	12,180	-35,986
Total Internal Service Funds	0	-23,806	212,180	-235,986
Grand Total	\$225,905	\$4,897,514	\$5,350,586	-\$227,167

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2015-2016 BIENNIAL BUDGET OF THE CITY OF ELLENSBURG AS SET FORTH IN ORDINANCE NO. 4723 TO ADJUST APPROPRIATIONS IN THE CITY'S FUNDS.

WHEREAS, the City Council approved Ordinance No. 4692, which adopted a biennial budget for fiscal years 2015-2016; and

WHEREAS, the City Council approved Ordinance No. 4715 and Ordinance No. 4723, which amended the biennial budget for fiscal years 2015-2016; and

WHEREAS, the City Manager has identified the need to make certain revisions to the 2015 -- 2016 biennial budget; and

WHEREAS, the City Council has reviewed the proposed adjustments to the budget and has determined that they should be made;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. **2015-2016 Supplemental Budget.** The 2015-2016 biennial budget for the City of Ellensburg for the period January 1, 2015 through December 31, 2016, as authorized in Ordinance 4692 and subsequently amended by Ordinance 4715 and Ordinance 4723, is hereby amended as revised in attached Exhibits A and B, and are hereby appropriated for expenditure at the fund level during the 2015-2016 biennium.

Section 2. **Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. **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/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. **Effective Date.** This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of the ordinance or a summary thereof consisting of the title.

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The foregoing ordinance was passed and adopted at regular meeting of the City Council on this 21st day of November, 2016.

Mayor

Attest:

City Clerk

Approved as to form:



CITY ATTORNEY

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

COREEN M. RENO, CMC

Exhibit A - 2016 Supplemental Budget Ordinance
2015 Summary of Revenue and Expenditures - All Funds as Amended

Fund/Department	Budgeted Beg Fund Balance	2015 Revenues	2015 Expenditures	Budgeted Ending Fund Balance
General Fund				
City General	3,011,702	9,956,813	2,831,419	
Finance		1,827,210	1,589,131	
Administration		465,297	876,888	
Police		155,718	4,463,799	
Community Development		506,001	852,295	
Engineering		734,533	911,738	
Parks & Recreation		475,938	2,262,482	
Library		257,391	1,151,505	
Total General Fund	3,011,702	14,378,901	14,939,257	2,451,347
Special Revenue Funds:				
Street	843,575	1,655,136	1,661,000	837,711
Arterial Street	1,470,239	2,993,430	2,825,844	1,637,825
Traffic Impact Fee	970,507	115,100	8,685	1,076,922
Ellensburg Public Transit	106,021	107,500	157,584	55,937
Criminal Justice	357,451	720,520	758,834	319,137
Drug	23,338	1,600	10,000	14,938
Sales Tax	1,135,397	3,580,000	3,449,668	1,265,729
CATV Ops. and & Maint.	61,583	93,200	95,501	59,282
CATV Capital	89,103	50	72,323	16,830
Police Equipment Reserve	30,384	30,000	50,700	9,684
Park Acquisitions	308,947	186,800	192,760	302,987
Lodging Tax	468,166	453,000	576,996	344,170
Geddis Building Fund	49,697	19,434	69,130	0
Special Project	4,205	0	0	4,205
Total Special Revenue Funds	5,918,613	9,955,770	9,929,025	5,945,357
Debt Service Funds				
2010 Maintenance Bond	39,915	213,953	213,953	39,915
Library Bond Debt	50,561	150,000	149,402	51,159
LID Guarantee Fund	130,777	0	47,296	83,481
Total Debt Service Funds	221,253	363,953	410,651	174,555
Capital Project Funds				
2010 GO Maint Bond Fund	57,041	75	57,067	49
General Capital Projects	68,869	47,296	75,146	41,019
Sidewalk Improvements	543,794	150,400	231,000	463,194
Total Capital Project Funds	669,704	197,771	363,213	504,262
Trust & Agency Funds				
Library Trust	289,649	15,600	29,800	275,449
Hal Holmes Trust	39,243	21,000	60,243	0
Fire Relief & Pension Trust	396,938	21,380	174,715	243,603
Total Trust & Agency Funds	725,830	57,980	264,758	519,052
Enterprise Funds				
Stormwater	291,011	976,766	1,094,334	173,443
Telecommunications	387,689	477,038	721,844	142,883
Gas	2,866,403	7,591,547	8,173,298	2,284,652
Light	11,487,891	15,642,039	18,990,578	8,139,352
Water	3,341,330	4,559,267	5,630,657	2,269,940
Water Construction	76,696	902,623	912,290	67,029
Sewer	3,344,319	3,755,995	3,903,459	3,196,855
Total Enterprise Funds	21,795,339	33,905,275	39,426,460	16,274,154
Internal Service Funds				
Shop & Equipment	4,207,020	3,765,928	1,509,789	6,463,159
Health Insurance	898,707	2,006,801	2,005,316	900,192
Risk Management	469,465	638,907	614,897	493,475
IT Fund	456,625	1,282,568	1,047,525	691,668
Total Internal Service Funds	6,031,817	7,694,204	5,177,527	8,548,494
Grand Total	\$38,374,258	\$66,553,854	\$70,510,891	\$34,417,221

Exhibit B - 2016 Supplemental Budget Ordinance
2016 Summary of Revenue and Expenditures - All Funds as Amended

Fund/Department	Budgeted Beg Fund Balance	2016 Revenues	2016 Expenditures	Budgeted Ending Fund Balance
General Fund				
City General	2,451,347	9,055,558	1,465,091	
Finance		1,855,541	1,709,351	
Administration		474,604	953,127	
Police		183,232	4,674,029	
Community Development		324,001	1,070,442	
Engineering		734,658	952,118	
Parks & Recreation		485,788	2,311,471	
Library		175,938	1,077,818	
Total General Fund	2,451,347	13,289,320	14,213,447	1,527,220
Special Revenue Funds				
Street	837,711	1,672,061	2,155,983	353,789
Arterial Street	1,637,825	5,061,048	6,387,088	311,785
Traffic Impact Fee	1,076,922	95,100	927,315	244,707
Ellensburg Public Transit	55,937	132,500	152,500	35,937
Criminal Justice	319,137	734,922	794,634	259,425
Drug	14,938	1,600	9,745	6,793
Sales Tax	1,265,729	3,651,000	4,077,608	839,121
CATV Ops. and & Maint.	59,282	93,200	96,228	56,254
CATV Capital	30,071	50	30,121	0
Police Equipment Reserve	9,584	51,188	51,500	9,372
Park Acquisitions	302,987	36,921	170,000	169,908
Public Art Acquisition	0	48,487	48,487	0
Lodging Tax	344,170	485,000	594,000	235,170
Geddis Building Fund	0	0	0	0
Special Project	4,205	0	4,205	0
Total Special Revenue Funds	5,958,598	12,063,077	15,499,414	2,522,261
Debt Service Funds				
2010 Maintenance Bond	39,915	215,653	215,653	39,915
Library Bond Debt	51,159	150,000	157,102	44,057
LID Guarantee Fund	83,481	0	0	83,481
Total Debt Service Funds	174,555	365,653	372,755	167,453
Capital Project Funds				
2010 GO Maint Bond Fund	57,103	0	57,103	0
General Capital Projects	21,629	319,416	341,045	0
Sidewalk Improvements	638,194	225,400	858,009	5,585
Total Capital Project Funds	716,926	544,816	1,256,157	5,585
Trust & Agency Funds				
Library Trust	275,449	7,500	8,800	274,149
Hal Holmes Trust	0	0	0	0
Fire Relief & Pension Trust	243,603	162,669	166,025	240,247
Total Trust & Agency Funds	519,052	170,169	174,825	514,396
Enterprise Funds				
Stormwater	173,443	2,590,543	2,602,328	161,658
Telecommunications	142,883	609,918	582,956	169,845
Gas	2,284,652	8,660,054	8,563,687	2,381,019
Light	8,139,352	15,694,878	18,010,488	5,823,742
Water	2,269,940	4,772,172	5,824,258	1,217,854
Water Construction	67,029	413,528	331,726	148,831
Sewer	3,196,855	3,898,988	5,194,063	1,901,780
Total Enterprise Funds	16,274,154	36,640,081	41,109,506	11,804,729
Internal Service Funds				
Shop & Equipment	6,463,159	1,852,638	2,152,497	6,163,300
Health Insurance	900,192	2,095,111	2,088,209	907,094
Risk Management	493,475	670,812	832,300	331,987
IT Fund	691,668	1,114,328	1,617,773	188,223
Total Internal Service Funds	8,548,494	5,732,889	6,690,779	7,590,604
Grand Total	\$34,643,126	\$68,806,005	\$79,316,883	\$24,132,249



AGENDA REPORT

DATE: November 7, 2016

TO: City Council

THRU: John Akers, City Manager 

FROM: Jerica Pascoe, Finance Director 
Larry Dunbar, Energy Services Director 

RE: Ordinance 4746 –Telecommunications LTGO Bond (second reading)
Ordinance 4747 – Natural Gas Revenue Bond (second reading)

SUMMARY: Attached, are the proposed ordinances as prepared by Stradling Yocca Carlson & Rauth, P.C., the City’s bond counsel, authorizing the issuance and sale of a not-to-exceed \$865,000 Natural Gas Revenue Bond and a not-to-exceed \$295,000 Limited Tax General Obligation Bond (the “LTGO Bond”) for the Telecommunications Utility.

BACKGROUND: On September 6, 2016, the City Manager informed the City Council that the Finance and Energy Services Departments were working with Northwest Municipal Advisors and Stradling Yocca Carlson & Rauth, P.C. (bond counsel), on a Request for Proposals (RFP) for long-term debt financing. The RFP was issued by the Finance Director on September 12, 2016. On October 17, 2016, City Council gave first reading to the proposed ordinances.

Ordinance 4746 authorizes the issuance of an LTGO Bond to be used to repay an interfund loan in the amount of \$283,943 for the City’s Telecommunication Utility, and pay estimated costs of issuance over a 20-year repayment period. The Telecommunications Fund debt will be secured by a limited tax general obligation pledge. Interest on the LTGO Bond will be taxable because a declaration of intent to reimburse expenditures from proceeds of bonds was not completed prior to the interfund loan. The Telecommunications Utility’s current debt only has a 3-year repayment term, which places undue burden on the current customers for capital investments that benefit both current and future ratepayers.

Ordinance 4747 authorizes the issuance of a Natural Gas Revenue Bond, which will be used to fund certain capital improvements approved by City Council totaling \$795,700, as part of the 2015 six-year Capital Facility Plan update adopted in Ordinance No. 4720, fund a deposit to the debt service reserve account and to pay estimated costs of issuance over a 20-year repayment period. The capital improvements cover the years 2017, 2018 and 2019. The Net Revenue of the Natural Gas Utility is pledged to the payment of the Natural Gas Revenue Bond. The Natural Gas utility currently has no debt, which places undue burden on the current customers for capital investments that benefit both current and future rate payers.

ANALYSIS/FINDINGS: A total of 3 financial institutions provided a proposal in response to the City’s RFP. Northwest Municipal Advisors, the City’s financial advisor, prepared a summary of the RFP responses (see attachment).

Staff recommends that the lowest responsible proposal be accepted from Cashmere Valley Bank. In addition to being the lowest responsible proposal, Cashmere Valley Bank's prepayment terms are most favorable to the City.

FISCAL IMPACT: The Natural Gas Utility and the Telecommunications Utility have included the debt service for the 2016 Bonds in the proposed 2017/2018 biennial budget and their proposed rates.

RECOMMENDATION: Staff recommends City Council give second readings to: 1) Ordinance 4746 for the Telecommunications LTGO Bond; and 2) Ordinance 4747 for the Natural Gas Revenue Bond.

Attachment: Northwest Municipal Advisors summary of the RFP responses
Ordinance 4746, Telecommunications Limited Tax General Obligation Bond
Ordinance 4747, Natural Gas Revenue Bond, 2016 Ordinance

**City of Ellensburg
RFP Response Summary**

	Capital One		Washington Federal		Cashmere Valley Bank	
	Gas	LTGO	Gas (1)	LTGO	Gas	LTGO
Tax Status	BQ	Taxable	BQ	Taxable	BQ	Taxable
Rate Type	Fixed	Fixed	Fixed	Fixed	Adjustable (3)	Adjustable (3)
Interest Rate	3.24%	4.99%	No Prepay: 3.35% With Prepay: 3.55%	No Prepay: 5.07% With Prepay: 5.27%	1.95%	2.80%
Prepayment	Call Date 12/1/2026. In whole afterward.		Prepayable with Fee or With Prepay: After 10 Years + 0.20%		Prepayable anytime	
Reserve Required?	None	N/A	Max Annual/125% Average	N/A	Required (2)	N/A
Bank Counsel Fee	\$0		\$10,000		\$0	
Bank Fee	\$0		\$5,000		\$0	
Continuing Disclosure	Audit due in 270 days (Upon request)		Audit due in 270 days		Annual Financial Report	
Average Annual Debt Service	\$55,431	\$23,610	No Prepay: \$60,736 With Prepay: \$61,937	No Prepay: \$24,378 With Prepay: \$24,794	\$52,256 (4)	\$19,414 (4)
Total Debt Service	\$1,108,640	\$472,206	No Prepay: \$1,214,719 With Prepay: \$1,238,741	No Prepay: \$487,560 With Prepay: \$495,871	\$1,045,117 (4)	\$388,292 (4)

Sensitivity (5)		
1.95%, then 2.90%	2.80%, then 6.50%	
Average Annual Debt Service (2017- 2021)	\$52,339	\$19,414
Average Annual Debt Service (2021-2036)	\$56,392	\$25,009
Total Debt Service	\$1,107,571	\$472,219

(1) Washington Federal's loan for Natural Gas Utility assumes approximately \$62,000 contributed to Reserve Account. Funds would be available to pay debt service in final year.

(2) Assumed at Max Annual Debt Service. Does not increase if interest rate increases. \$52,256 up front. Funds would be available to pay debt service in final year.

(3) Rate is fixed at issuance until 12/1/2021, then adjusts December 1, 2021, 2026, and 2031.

(4) Assumes initial rate remains unchanged for the life of the bonds.

(5) The sensitivity looks at how much interest rates could increase to in 2021 - 2036 for total debt service to equal the fixed rate debt service in the Capital One proposal. Assumes the initial rate in Cashmere Valley Bank's proposal for the years 2016-2021, then increases the rate so that total debt service equals Capital One total debt service. Actual interest rate adjustments in 2021, 2026, and 2031 may be more or less than the amount shown in this sensitivity analysis.

CITY OF ELLENSBURG, WASHINGTON

ORDINANCE NO. 4746

AN ORDINANCE of the City of Ellensburg, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$295,000 principal amount taxable limited tax general obligation bond to provide funds necessary to repay an interfund loan thereby providing for long term financing of the City's telecommunications infrastructure, and to pay the costs of issuance and sale of the bond; fixing or setting parameters with respect to certain terms and covenants of the bond; appointing the City's designated representative to approve the terms of the sale and delivery of the bond to Cashmere Valley Bank; and providing for other related matters.

Passed November 7, 2016

This document prepared by:

Stradling Yocca Carlson & Rauth, P.C.
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Seattle, Washington 98104
(206) 829-3000

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**The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

CITY OF ELLENSBURG, WASHINGTON

ORDINANCE NO. 4746

AN ORDINANCE of the City of Ellensburg, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$295,000 principal amount taxable limited tax general obligation bond to provide funds necessary to repay an interfund loan thereby providing for long term financing of the City's telecommunications infrastructure, and to pay the costs of issuance and sale of the bond; fixing or setting parameters with respect to certain terms and covenants of the bond; appointing the City's designated representative to approve the terms of the sale and delivery of the bond to Cashmere Valley Bank; and providing for other related matters.

THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings and Determinations. The City takes note of the following facts and makes the following findings and determinations:

(a) *Telecommunications Services*. The City currently owns and operates a high capacity telecommunications fiber optic network that serves the City's utility operations, public safety operations and other City and public agency services, and desires to extend and improve that system in order to enhance other utility operations, and public safety operations. The extension and improvement of the City's existing fiber optic network creates excess capacity that may be used to provide access to ultra high capacity internet and other telecommunications services; capacity for accommodating expanding technologies and demand; and intergovernmental coordination and services (including educational and health institutions).

(b) *Description of Telecommunications Utility*. Pursuant to chapter 9.110 of the Ellensburg Municipal Code and applicable state law, the City previously established its Telecommunications Utility to maintain and operate its high capacity telecommunications fiber optic network in a manner that is intended to satisfy the City's ongoing need for a cost-effective fiber optic telecommunications system to support City services; to ensure cost-effective telecommunications services continue to be available to public agencies and the City; to operate, manage, and maintain telecommunications facilities owned by the City in the right-of-way up to the point of delivery to public agencies and the City; to manage and regulate competing demands for the use of the public right-of-way by minimizing the installation of duplicative communications lines and facilities on, over or under the public right-of-way; to provide for the operation, management and maintenance of the City's metropolitan area network; and to own and operate the telecommunications facilities.

(c) *Telecommunications Strategic Plan.* The City previously adopted a Telecommunications Utility Strategic Plan, dated April 13, 2015. The City is now in need of funds to repay an interim interfund loan incurred for the construction of the telecommunications network for the Telecommunications Utility (the "Project"). The City is in need of financing for the Project, the estimated total cost of which is more than \$295,000, and the City does not have available sufficient funds to pay the cost. The City Council therefore finds that it is in the best interests of the City to issue the Bond authorized by this ordinance in order to provide the funds for these purposes.

(d) *Plan of Financing.* The City Council finds it necessary and advisable that the City issue and sell its limited tax general obligation bond (the "Bond") in a principal amount not to exceed \$295,000 to provide financing for the Project, to enhance the City's telecommunications utility infrastructure for use by City departments in order to enhance other utility operations, public safety operations, and other City services, to provide access for use by other governmental, and educational and health institutions pursuant to interlocal agreements and other contractual arrangements. Pursuant to applicable law, including without limitation chapters 35.37, 39.36 and 39.46 RCW, the City is authorized to issue general obligation bonds for the purposes described herein.

(e) *Issuance and Sale of the Bond.* For the purpose of providing the funds necessary to repay an interfund loan for the Telecommunications Utility and to pay the costs of issuance and sale of the Bond, the City Council finds that it is in the best interests of the City and its taxpayers to issue and sell the Bond to the Bank, pursuant to the terms set forth in the Purchase Offer as approved by the City's Designated Representative, consistent with this ordinance.

(f) *Debt Capacity.* The maximum amount of indebtedness authorized by this ordinance is \$295,000. Based on the following facts, this amount is to be issued within the amount permitted to be issued by the City for general municipal purposes without a vote:

(1) The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for collection in the calendar year 2016 is \$1,270,554,665.

(2) As of December 31, 2015, the City had nonvoted limited tax general obligation indebtedness outstanding in the principal amount of \$2,285,000, incurred within the limit of up to 1½% of the value of the taxable property within the City permitted for general municipal purposes without a vote. Since that date, other than the Bond, the City has not incurred additional nonvoted general obligation indebtedness.

(3) As of December 31, 2015, the City had voter-approved unlimited tax general obligation indebtedness for capital purposes only outstanding in the principal amount of \$1,060,000 for general municipal purposes and no other outstanding voter-approved indebtedness for City-owned water, artificial light, and sewers or for acquiring or developing open space, park facilities, and capital facilities associated with economic development. The indebtedness described in this paragraph was incurred with the approval of the requisite proportion of the City's qualified voters at an election meeting the minimum turnout requirements, within the limit of up to 2½% of the value of the taxable property within the City for general municipal purposes (when

combined with the outstanding limited tax general obligation indebtedness), 2½% for utility purposes and 2½% for open space, parks and economic development purposes. Since December 31, 2015, the City has not incurred additional voter-approved indebtedness.

Section 2. Definitions. As used in this ordinance, the following capitalized terms shall have the following meanings:

- (a) “*Bank*” means Cashmere Valley Bank, or its corporate successor.
- (b) “*Bond*” means the bond issued pursuant to and for the purposes provided in this ordinance.
- (c) “*Bond Counsel*” means the firm of Stradling Yocca Carlson & Rauth, P.C., 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.
- (d) “*Bond Debt Service Fund*” means the general indebtedness fund of the City created for the payment of the principal of and interest on general obligations of the City, including the Bond.
- (e) “*Bond Register*” means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of the Bond.
- (f) “*Bond Registrar*” means the Finance Director.
- (g) “*City*” means the City of Ellensburg, Washington, a municipal corporation duly organized and existing under the laws of the State.
- (h) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.
- (i) “*Designated Representative*” means the officer of the City appointed in Section 4 of this ordinance to serve as the City’s designated representative in accordance with RCW 39.46.040(2).
- (j) “*Finance Director*” means the Finance Director or such other officer of the City who succeeds to substantially all of the responsibilities of that office.
- (k) “*Government Obligations*” has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.
- (l) “*Index Rate*” means the interest rate swap for a 5-year term, as published in the printed edition of the Wall Street Journal, on the last day of the month preceding each Interest Rate Reset Date, or, if such rate is no longer published, an index rate selected by the Bank, and generally accepted in the industry as a substantially equivalent replacement index.
- (m) “*Interest Rate*” means the Index Rate, plus 1.65%. The Interest Rate shall be fixed on the Issue Date and shall be reset on each Interest Rate Reset Date.

(n) “*Interest Rate Reset Date*” means December 1, 2021, December 1, 2026 and December 1, 2031.

(o) “*Interfund Loan*” means the interfund loan from the Shop Fund to the Telecommunications Utility, authorized pursuant to City Council Resolution No. 2014-07, passed on September 15, 2014, for the purpose of paying a portion of the costs incurred in relation to the City’s telecommunications network construction, which is authorized in a maximum principal amount not to exceed \$283,943.

(p) “*Issue Date*” means the date of issuance and delivery of the Bond to the Bank in exchange for the purchase price of the Bond.

(q) “*Maturity Date*” means a date not later than December 1, 2036.

(r) “*Project*” means the design and construction of extensions to and improvements of the City’s existing fiber optic network, including the creation of excess capacity that may be used to provide access to ultra-high capacity internet and other telecommunications services. The Project includes repayment of an interim interfund loan incurred to pay capital expenses in connection with the construction of the telecommunications network for the Telecommunications Utility.

(s) “*Purchase Offer*” means the offer of the Bank for the purchase of the Bond, which offer is authorized to be accepted by the Designated Representative on behalf of the City, consistent with this ordinance.

(t) “*Record Date*” means the Bond Registrar’s close of business on the 15th day of the month preceding an interest payment date.

(u) “*Registered Owner*” means, with respect to the Bond, the person in whose name the Bond is registered on the Bond Register.

(v) “*Sale Terms*” means the terms and conditions for the sale of the Bond including the amount, date or dates, denomination, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants.

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

(x) “*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.

(y) “*Telecommunications Utility*” means the Telecommunications Utility of the City established and operating under chapter 9.110 of the Ellensburg Municipal Code.

(z) “*Telecommunications Utility Fund*” means the Telecommunications Utility Fund of the City created pursuant to Ellensburg Municipal Code §2.16.4640 through .4680 for the purposes of paying the costs of the construction, operation and maintenance and the payment of outstanding indebtedness of the City’s telecommunications utility.

Section 3. Authorization of Bond. The City is authorized to borrow money on the credit of the City and issue a negotiable limited tax general obligation bond evidencing indebtedness in the principal amount of not to exceed \$295,000 to provide funds necessary for the purposes described in Section 1(d), including paying the costs of issuance and sale of the Bond. The proceeds of the Bond shall be deposited as set forth in Section 5 of this ordinance and shall be used for the purposes described herein in such order of time as the City determines is advisable and practicable.

Section 4. Description of the Bond; 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 Bond in the manner and upon the terms deemed most advantageous to the City, and to approve the Sale Terms of the Bond, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit A, which is attached to this ordinance and incorporated by this reference.

The Bond shall be issued in fully registered form, shall be numbered R-1, shall be dated the Issue Date and shall mature on the Maturity Date. Interest on the Bond shall accrue at the Interest Rate (which shall reset on each Interest Rate Reset Date) from the Issue Date of the Bond through and including the Maturity Date, and shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The City Council finds that the fixing of the interest rate using the Index Rate as set forth herein is in the best interests of the City.

Section 5. Deposit and Use of Bond Proceeds. On the Issue Date, the proceeds received from the sale and delivery of the Bond shall be deposited into the Telecommunications Utility Fund and shall be used (a) to repay the Interfund Loan, and (b) to pay costs of issuance of the Bond.

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

(a) *Registration of Bond.* The Bond 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.* The Finance Director shall serve 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 the Bond in accordance with the provisions of the Bond and this ordinance, and to serve as the City's authenticating agent, transfer agent, registrar and paying agent for the Bond 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 the Bond.

(c) *Bond Register; Transfer of Bond.* The Bond Register shall contain the name and mailing address of the Registered Owner and the principal amount and number of the Bond held by the Registered Owner. The Bond shall state on its face that the principal and interest shall be paid only to the Registered Owner thereof registered as such on the Bond Register as of the Record Date and to no other person or entity, and that such Bond may not be assigned except on the books

of the Bond Register. The Bond may be assigned or transferred only in whole by the Registered Owner to a single investor that is a financial institution or person who is reasonably believed to be a qualified institutional buyer or accredited investor within the meaning of the applicable federal securities laws. The Bond Registrar shall not be obligated to transfer registered ownership during the period between the applicable Record Date and the next upcoming installment payment or the Maturity Date. When the Bond has been paid in full, as to principal, interest and/or other costs and expenses due by the City to the Bank with respect to the Bond, the Registered Owner shall promptly present and surrender the Bond to the City as the principal offices of the City for cancellation.

Section 7. Form and Execution of Bond.

(a) *Form of Bond; Signatures and Seal.* The Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. The Bond shall be signed by the Mayor and the 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 the 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. The Bond also may be signed on behalf of the City by any person who, on the actual date of signing of 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.* Only if the Bond bears a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall it be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate Of Authentication. This Bond is the fully registered City of Ellensburg, Washington, Limited Tax General Obligation Bond, 2016, described in the Bond Ordinance." The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 8. Payment of Bond. Principal of and interest on the Bond shall be payable in lawful money of the United States of America. Principal of and interest on the Bond is payable in approximately equal semiannual installments by electronic transfer on each semiannual installment payment date, beginning June 1, 2017 (or such other date as may be acceptable to the Designated Representative), or by check or draft of the Bond Registrar mailed on the payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. The Bond is not subject to acceleration under any circumstances.

The debt service schedule shall be recalculated on each Interest Rate Reset Date, to reflect any change in the Interest Rate, and on each prepayment date, to reflect any prepayment of principal, in order to achieve approximately equal semiannual installment payments to final maturity. The final installment payment, whether at maturity or earlier prepayment of the Bond, shall be in an amount equal to all then outstanding principal of the Bond, plus all accrued interest then due and payable.

Section 9. Pledge of Taxes. The Bond constitutes a general indebtedness of the City and is payable from tax revenues of the City and such other money as is lawfully available and pledged by the City for the payment of principal of and interest on the Bond. For as long as the Bond is outstanding, the City irrevocably pledges that it shall, in the manner provided by law within the constitutional and statutory limitations provided by law without the assent of the voters, include in its annual property tax levy amounts sufficient, together with other money that is lawfully available (including net revenues from operation of the City's Telecommunications Utility to the extent any such money is available after payment of the costs of operation and maintenance of the telecommunications system), to pay principal of and interest on the Bond as the same become due. The full faith, credit and resources of the City are pledged irrevocably for the prompt payment of the principal of and interest on the Bond and such pledge shall be enforceable in mandamus against the City.

Section 10. Prepayment or Redemption Provisions of the Bond. The City reserves the right to prepay at any time, upon 15 days advance notice, any or all of the principal amount of the Bond then outstanding at a price equal to 100% of the principal to be prepaid plus all accrued but unpaid interest thereon, as further set forth in the Sale Terms. Interest on the principal amount of the Bond that is prepaid shall cease to accrue on the date of such prepayment. After any partial prepayment, the remaining semiannual installment payments shall be recalculated to reflect a reduction in the semiannual installment amounts as described in Section 8. Within seven business days after any partial prepayment, the Bank shall provide to the City a revised payment schedule.

Section 11. Refunding or Defeasance of the Bond. 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 accounts 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 Sale Terms for a prepayment or redemption prior to maturity of the Bond.

Section 12. Failure to Pay Bond. If the principal of the 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 Debt Service 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 13. Bond Debt Service Fund. The general indebtedness fund of the City shall serve as the Bond Debt Service Fund for the purpose of paying principal of and interest on the Bond. All amounts allocated to the payment of the principal of and interest on the Bond shall be deposited in the Bond Debt Service Fund as necessary for the timely payment of amounts due with respect to the Bond. The principal of and interest on the Bond shall be paid out of the Bond Debt Service Fund. Until needed for that purpose, the City may invest money in the Bond Debt Service Fund temporarily in any legal investment, and the investment earnings shall be retained in the Bond Debt Service Fund and used for the purposes of that fund.

Section 14. Sale and Delivery of the Bond. The Designated Representative is authorized to sell the Bond by negotiated sale or private placement based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors. The Purchase Offer for the Bond shall set forth the Sale Terms. In accepting those 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. The Designated Representative is authorized to execute the Purchase Offer on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance. The City shall be responsible for costs of issuance, including its own legal and administrative costs and the fees of Bond Counsel. The Bond will be prepared at City expense and will be delivered to the Bank in accordance with the Purchaser Offer, together with the approving legal opinion of Bond Counsel regarding the Bond.

Section 15. Governing Law. This ordinance and the Bond shall be governed and interpreted according to the laws of the State. Nothing in this paragraph shall be constructed to limit or otherwise affect any rights or remedies of the Bank under federal law.

Section 16. Reports and Information. For so long as the Bond is outstanding, the City shall provide to the Registered Owner, within 270 days after the end of the fiscal year (i.e., September 30) a copy of its annual financial statements, as submitted to the State Auditor's Office pursuant to RCW 43.09.230. If such statements are unaudited, the audit report shall be provided to the Registered Owner within 10 business days after the audit becomes available.

Section 17. 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 the Bond to the Bank thereof and for the proper application, use and investment of the proceeds of the Bond. 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 18. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all

other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 19. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

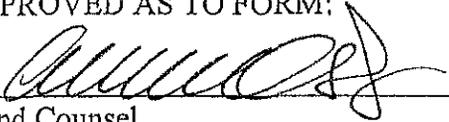
PASSED by the City Council of the City of Ellensburg, Washington, at an open public meeting thereof, this 7th day of November, 2016, and signed in authentication of its passage this _____ day of November, 2016.

Mayor

ATTEST:

Coreen Reno, City Clerk

APPROVED AS TO FORM:



Bond Counsel

EXHIBIT A
DESCRIPTION OF THE BOND

- (a) Principal Amount. The Bond shall not exceed the principal amount of \$295,000.
- (b) Date or Dates. The Bond shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance.
- (c) Denominations, Name, etc. The Bond shall be issued as a single bond and shall be numbered R-1 or in any other the manner and with any additional designation as deemed necessary or appropriate by the Designated Representative.
- (d) Interest Rate(s). The Bond shall bear interest at the variable Interest Rate equal to the Index Rate, plus 1.65%. The Interest Rate shall be fixed on the Issue Date and shall be reset on December 1, 2021, December 1, 2026 and December 1, 2031 (each, an "Interest Rate Reset Date"). The "Index Rate" shall mean the interest rate swap for a 5-year term, as published in the printed edition of the Wall Street Journal, on the last day of the month preceding each Interest Rate Reset Date, or, if such rate is no longer published, an index rate selected by the Bank, and generally accepted in the industry as a substantially equivalent replacement index.
- (e) Payment Dates. Installments of principal and interest shall be payable beginning on June 1, 2017 and semi-annually thereafter on each June 1 and December 1 (or such other dates as are acceptable to the Designated Representative) through and including the Maturity Date.
- (f) Final Maturity. The Bond shall mature on December 1, 2036.
- (g) Redemption Rights. The Bond shall be pre-payable in whole or in part at any time, upon 15 days notice, without prepayment penalty.
- (h) Price. The purchase price for the Bond shall be the stated principal amount of the Bond.
- (i) Other Terms and Conditions. (1) The Bond may not be issued if it would cause the indebtedness of the City to exceed the City's legal debt capacity on the Issue Date.
- (2) The Designated Representative may agree to additional terms, conditions or covenants in the Purchase Offer, including information reporting, requirements notice requirements and such other requirements as she may deem advisable and in the best interests of the City and not inconsistent with the terms of this ordinance.

CERTIFICATION

I, the undersigned, City Clerk of the City of Ellensburg, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 4746 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on November 7, 2016, as that ordinance appears on the minute book of the City.
2. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date was November 10, 2016.
5. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: _____, 2016.

CITY OF ELLENSBURG, WASHINGTON

Coreen Reno, City Clerk

CITY OF ELLENSBURG, WASHINGTON

ORDINANCE NO. 4747

AN ORDINANCE of the City of Ellensburg, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$865,000 principal amount gas utility revenue bond to provide funds to pay or reimburse the costs of certain capital improvements to and extensions of the Natural Gas Utility, funding a deposit to the debt service reserve account, and to pay the costs of issuance and sale of the bond; creating a revenue bond debt service account and such additional special funds or accounts 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 bond; appointing the City's designated representative to approve the Sale Terms and providing for the sale and delivery of the bond to Cashmere Valley Bank; and providing for other related matters.

Passed November 7, 2016

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**The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

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THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings and Determinations. The City takes note of the following facts and makes the following findings and determinations:

(a) *Natural Gas Utility.* Pursuant to RCW 35A.80.010 and chapter 35.92 RCW, the City now owns, operates and maintains the Natural Gas Utility, consisting of its existing natural gas utility, and including any and all additions, extensions and betterments thereto at any time made.

(b) *Outstanding Natural Gas Utility Revenue Debt.* The City currently has no outstanding debt secured by the revenues of its Natural Gas Utility. It previously issued senior lien revenue bonds in 1998, all of which were redeemed or defeased in 2011.

(c) *Plan of Additions.* The City specifies, adopts and orders the carrying out of the Plan of Additions, which includes the Projects intended to be financed with the proceeds of the Bonds. The aggregate estimated total cost of the Projects is more than \$865,000. The City does not have available sufficient funds from current resources, grants and state loans to pay the costs and is in need of funds with which to finance the remaining costs of the Projects. The Projects shall be carried out in accordance with the plans and specifications therefor 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 purposes of the Projects, or if such modifications provide 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 Natural Gas 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 Natural Gas Utility at the rates to be charged for services from the Natural Gas Utility will be more than sufficient to meet all Maintenance and Operations Expense and to permit the setting aside into the Bond Debt Service

Account 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 Debt Service Account 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 Debt Service Account a greater amount of Gross Revenue of the Natural Gas Utility than in its judgment will be available over and above such Maintenance and Operations Expense.

(e) *Issuance and Sale of the Bond.* 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 Bond to the Bank, pursuant to the Sale Terms set forth in the Purchase Offer as approved by the City's Designated Representative, consistent with this ordinance.

Section 2. Definitions. As used in this ordinance, the following capitalized terms shall have the following meanings:

(a) *"Adjusted Annual Debt Service"* means, for any 12-month period, Annual Debt Service, less Tax Credit Subsidy Bond Payments expected to be received in that year.

(b) *"Adjusted Net Revenue"* means Net Revenue, plus withdrawals from the Rate Stabilization Account and less deposits into the Rate Stabilization Account, and less Tax Credit Subsidy Bond Payments expected to be received in that year.

(c) *"Annual Debt Service"* means, for series of the Parity Bonds during any 12-month period, all interest, plus principal (excluding the principal of Term Bonds due in any Term Bond Maturity Year but including mandatory redemption and sinking fund installments due in that year), less all bond interest payable from the proceeds of Parity Bonds in that year. For purposes of calculating the Reserve Requirement and Coverage Requirement, calculations of Annual Debt Service shall include all Parity Bonds then outstanding, excluding those maturities that have been redeemed or defeased as of the date of the calculation. If the calculation is performed in connection with the issuance of Future Parity Bonds, the issue date of such Future Parity Bonds may be deemed to be the calculation date.

(d) *"Assessment Bonds"* means the principal portion of any issue of Parity Bonds allocated to the financing of improvements within a ULID. The allocation shall be determined as of the issue date of each series of Parity Bonds (and as of any date on which any Parity Bonds are redeemed, defeased or purchased), and the total amount so allocated shall be equal to the principal amount of ULID Assessments on the final assessment roll for that ULID remaining unpaid as of that date. Assessment Bonds shall be allocated pro rata to each maturity within a series of Parity Bonds. (For example, if the then-outstanding assessments equal 70% of the total principal amount of a series of bonds that financed ULID improvements, then 70% of each maturity of that series shall be deemed Assessment Bonds.) Upon redemption, defeasance or purchase of all or a portion of a series of Parity Bonds that includes an allocation of Assessment Bonds, the amount of Assessment Bonds remaining outstanding shall be reduced on a pro rata basis with bonds that are not Assessment Bonds.

(e) *"Average Annual Debt Service"* means, as of its date of calculation, the sum of the Annual Debt Service for the remaining 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 required under federal arbitrage regulations.

- (f) “*Bank*” means Cashmere Valley Bank, or its corporate successor.
- (g) “*Bond*” means the bond issued pursuant to and for the purposes provided in this ordinance.
- (h) “*Bond Counsel*” means the firm of Stradling Yocca Carlson & Rauth, P.C., 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.
- (i) “*Bond Debt Service Account*” means that special fund of the City known as the Gas Utility Revenue Bond Debt Service Fund created pursuant to this ordinance to pay and secure the payment of the principal of and interest on the Bonds and any Future Parity Bonds.
- (j) “*Bond Insurance Policy*” means a municipal bond insurance policy issued by a Bond Insurer insuring the payment when due of the principal of and interest on Parity Bonds as provided in such policy.
- (k) “*Bond Insurer*” means a bond insurance company providing a Bond Insurance Policy for the Bonds at the request of the City, if such Bond Insurance Policy is included in the Sale Terms approved by the Designated Representative.
- (l) “*Bond Register*” means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of the Bond.
- (m) “*Bond Registrar*” means the Finance Director.
- (n) “*City*” means the City of Ellensburg, Washington, a municipal corporation duly organized and existing under the laws of the State.
- (o) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.
- (p) “*Code*” means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.
- (q) “*Construction Fund*” means a construction fund or account established within the Natural Gas Utility Fund, the creation of which is authorized, ratified and confirmed by this ordinance.
- (r) “*Coverage Requirement*” in any calendar year means (1) an amount of Adjusted Net Revenue that is at least equal to 1.25 times the Adjusted Annual Debt Service in that year on Parity Bonds that are not Assessment Bonds; and (2) an amount of ULID Assessments, plus Adjusted Net Revenue remaining after meeting the requirement of clause (1), that is at least equal to the Adjusted Annual Debt Service on Parity Bonds that are Assessment Bonds.
- (s) “*Designated Representative*” means the officer of the City appointed in Section 4 of this ordinance to serve as the City’s designated representative in accordance with RCW 39.46.040(2).
- (t) “*Finance Director*” means the Finance Director or such other officer of the City who succeeds to substantially all of the responsibilities of that office.

(u) “*Future Parity Bond Authorizing Ordinance*” means an ordinance of the City authorizing the issuance of Future Parity Bonds.

(v) “*Future Parity Bonds*” means any and all revenue obligations of the Natural Gas Utility issued after the Issue Date of the Bond, 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 Debt Service Account to pay and secure the payment of the principal of and interest on the Bond.

(w) “*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.

(x) “*Gross Revenue of the Natural Gas Utility*” or “*Gross Revenue*” means all of the earnings and revenues received by the City from the maintenance and operation of the Natural Gas Utility; all earnings from the investment of money in the Bond Debt Service Account which earnings are deposited in the Principal and Interest Account; and all connection and capital improvement charges collected for the purpose of defraying the cost of capital facilities of the Natural Gas Utility. Gross Revenue shall exclude: revenues from City-imposed utility or similar taxes; principal proceeds of Parity Bonds or any other borrowings, or earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund obligations relating to the Natural Gas Utility (until commingled with other earnings and revenues included in the Gross Revenue) or held in a special account for the purpose of paying a rebate to the United States Government under the Code; income and revenue which may not legally be pledged for revenue bond debt service; improvement district assessments (including ULID Assessments); federal or state grants, and gifts from any source allocated to capital projects; payments under bond insurance or any other credit enhancement policy or device; insurance or condemnation proceeds used for the replacement of capital projects or equipment; proceeds from the sale of Natural Gas Utility property; earnings on bond proceeds in any construction fund or bond redemption fund; and revenue from any Separate Utility System.

(y) “*Independent Utility Consultant*” means a professional, independent consultant, including an engineer, financial advisor, certified public accountant or other similar consultant who is experienced with municipal utilities of comparable size and character to the Natural Gas Utility and in such areas as are relevant to the purpose for which he or she is being retained. Such a consultant shall be deemed independent if he or she is not an employee or officer of the City.

(z) “*Index Rate*” means the interest rate swap for a 5-year term, as published in the printed edition of the Wall Street Journal, on the last day of the month preceding each Interest Rate Reset Date, or, if such rate is no longer published, an index rate selected by the Bank, and generally accepted in the industry as a substantially equivalent replacement index.

(aa) “*Interest Rate*” means 65.01% of the Index Rate, plus 1.20%. The Interest Rate shall be fixed as of the Issue Date and shall be reset on each Interest Rate Reset Date.

(bb) “*Interest Rate Reset Date*” means December 1, 2021, December 1, 2026 and December 1, 2031.

(cc) “*Issue Date*” means the date of initial issuance and delivery of the Bond to the Bank in exchange for the purchase price.

- (dd) “*Maturity Date*” means December 1, 2036.
- (ee) “*Maintenance and Operation Expense*” means all reasonable expenses incurred by the City in causing the Natural Gas Utility to be operated and maintained in good repair, working order and condition, including payments made to any other municipal corporation or private entity for the purchase of natural gas or other utility service. Maintenance and Operation Expense shall exclude depreciation and similar non-cash expenses recognized for accounting purposes only; taxes levied or imposed by the City or payments to the City in lieu of taxes; or any capital expenses relating to additions, betterments and replacements of portions of the Natural Gas Utility.
- (ff) “*Maximum Annual Debt Service*” means, as of the date of calculation, the maximum amount of Annual Debt Service that will mature or come due in the current 12-month period or any future such 12-month period.
- (gg) “*Natural Gas Utility*” of the City means the natural gas supply and distribution system of the City, 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 Natural Gas Utility.
- (hh) “*Net Revenue of the Natural Gas Utility*” or “*Net Revenue*” means the Gross Revenue less Maintenance and Operation Expense.
- (ii) “*Parity Bonds*” means the Bond and any Future Parity Bonds.
- (jj) “*Parity Conditions*” means, as to the issuance of any Future Parity Bonds, the conditions set forth in Exhibit A and incorporated by this reference.
- (kk) “*Permitted Investments*” means any investment that, at the time of such investment, is permitted as legal investment for City funds under state law.
- (ll) “*Plan of Additions*” means the system or plan of additions and improvements to and betterments and extensions of the Natural Gas Utility identified in the City’s Capital Facilities Plan, as adopted and in effect from time to time (most recently, the October 15, 2015 Capital Facilities Plan, adopted by the City Council on October 15, 2015).
- (mm) “*Principal and Interest Account*” means the account of that name authorized by this ordinance to be created in the Bond Debt Service Account for the payment of the principal of and interest on the Parity Bonds.
- (nn) “*Projects*” means those projects described in the Plan of Additions which are specified, adopted and ordered to be carried out by this ordinance. All costs incurred in connection with carrying out and accomplishing the Projects, consistent with RCW 39.46.070, may be deemed costs of the Projects. The Projects include acquisition, construction and installation of all necessary furniture, equipment, apparatus, accessories, fixtures and appurtenances.
- (oo) “*Purchase Offer*” means the offer of the Bank for the purchase of the Bond, which offer is authorized to be accepted by the Designated Representative on behalf of the City, consistent with this ordinance.
- (pp) “*Rate Stabilization Account*” means the fund or account authorized to be established pursuant this ordinance, as further described in Section 18.

(qq) "*Record Date*" means the Bond Registrar's close of business on the 15th day of the month preceding an interest payment date.

(rr) "*Registered Owner*" means, with respect to the Bond, the person in whose name the Bond is registered on the Bond Register.

(ss) "*Reserve Account*" means the account of that name authorized by this ordinance to be created in the Bond Debt Service Account for the purpose of securing the payment of the principal of and interest on any or all of the Parity Bonds. The Reserve Account shall be a pooled reserve securing all series of Parity Bonds that the City, in the Parity Bond Authorizing Ordinance, designates as secured by the Reserve Account.

(tt) "*Reserve Requirement*" means, in the aggregate for all Parity Bonds that are secured by the Reserve Account, sum of the Reserve Requirement set for each such series of Parity Bonds in the ordinance authorizing its issuance. The Reserve Requirement for each series of the Parity Bonds that is to be secured by the Reserve Account shall be set forth in the ordinance authorizing the issuance of such series of Parity Bonds and shall be equal to an amount that does not exceed the least of (i) Maximum Annual Debt Service of such series, (ii) 125% of Average Annual Debt Service for such series, or (iii) 10% of the proceeds of such series. The Reserve Requirement for the Bond shall be established and funded as set forth in Section 13(c). The maximum amount payable under any Reserve Security obtained by the City at any time to satisfy all or a portion of the aggregate Reserve Requirement may be credited against the amount required to be held in the Reserve Account (if any). Nothing herein shall require that a series of Future Parity Bonds be secured by the Reserve Account.

(uu) "*Reserve Security*" means any bond insurance, collateral, security, letter of credit, standby bond purchase agreement, 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 secured by such Reserve Security equal to or better than the highest then-existing rating for any of the Parity Bonds.

(vv) "*Sale Terms*" means the terms and conditions for the sale of the Bond including the amount, date or dates, denomination, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants.

(ww) "*Separate Utility System*" means any natural gas utility service or facilities that may be created, acquired or constructed by the City as provided in Section 19 of this ordinance.

(xx) "*State*" means the State of Washington.

(yy) "*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.

(zz) "*Tax Credit Subsidy Bond*" means any bond that is designated by the City as a "build America bond" or other type of tax credit bond, pursuant to the Code, and which is further designated as a "qualified bond" under Section 6431 of the Code (or under similar provisions of the Code providing for "direct-pay" tax credit bonds), and with respect to which the City expects to receive a Tax Credit Subsidy Payment.

(aaa) "*Tax Credit Subsidy Payment*" means the amounts which the City is eligible to request as a tax credit payable by the United States Treasury to the City under Section 6431 of the Code (or under similar provisions of the Code providing for "direct-pay" tax credit bonds), in respect of any bonds issued as Tax Credit Subsidy Bonds.

(bbb) "*Term Bond*" means each Bond designated as a Term Bond and subject to mandatory redemption in the years and amounts set forth in a bond purchase agreement entered into pursuant to a Parity Bond Authorizing Ordinance.

(ccc) "*Term Bond Maturity Year*" means any calendar year in which any Term Bond is scheduled to mature.

(ddd) "*ULID*" means any utility local improvement district now existing or hereafter created for the acquisition or construction of additions, extensions or betterments of any portion of the Natural Gas Utility, which additions, extensions or betterments are financed through the issuance of Parity Bonds. As used in this ordinance, the term ULID does not include any utility local improvement district created for the financing of additions, extensions or betterments by methods other than the issuance of Parity Bonds or as part of a Separate Utility System.

(eee) "*ULID Assessments*" means all assessments levied and collected in any ULID of the City created pursuant to law or the acquisition or construction of additions and betterments to and extensions of the Natural Gas Utility if such assessments are pledged to be paid into the Bond Debt Service Account (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.

Section 3. Purpose and Authorization of Bond. The City is authorized to issue a negotiable gas utility revenue bond evidencing indebtedness in the principal amount of not to exceed \$865,000 for the purpose of (a) paying or reimbursing the costs of the Projects, (b) making a deposit to the Reserve Account, and (c) paying the costs of issuance of the Bond. The proceeds of the Bond shall be allocated to paying the costs of the Projects, or a portion of the Project, in such order of time as the City determines is advisable and practicable.

Section 4. Description of the Bond; 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 Bond in the manner and upon the terms deemed most advantageous to the City and to approve the Sale Terms of the Bond, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit B, which is attached to this ordinance and incorporated by this reference.

The Bond shall be issued in fully registered form, shall be numbered R-1, shall be dated the Issue Date and shall mature on the Maturity Date. Interest on the Bond shall accrue at the Interest Rate (which shall reset on each Interest Rate Reset Date) from the Issue Date of the Bond through and including the Maturity Date, and shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The City Council finds that the fixing of the interest rate using the Index Rate, as set forth herein is in the best interest of the City.

Section 5. Deposit and Use of Bond Proceeds. On the Issue Date, proceeds of the Bond in an amount sufficient to satisfy the Reserve Requirement for the Bond shall be deposited into the

Reserve Account. The remaining proceeds of the Bond shall be deposited in the Construction Fund and be used to pay or reimburse the costs of carrying out the Projects and to pay the costs of issuance and sale of the Bond. Until needed to pay such costs, the City may invest those proceeds temporarily in any Permitted Investment, and the investment earnings shall be retained in the Construction Fund and used for the purposes of that fund, except that earnings subject to a federal tax or rebate requirement (if applicable) may be withdrawn from the Construction Fund and used for those tax or rebate purposes.

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

(a) *Registration of Bond.* The Bond 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.* The Finance Director is designated to act as 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 the Bond in accordance with the provisions of the Bond and this ordinance, to serve as the City's paying agent for the Bond 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 the Bond.

(c) *Bond Register; Transfer of Bond.* The Bond Register shall contain the name and mailing address of the Registered Owner and the principal amount and number of the Bond held by the Registered Owner. The Bond shall state on its face that the principal and interest shall be paid only to the Registered Owner thereof registered as such on the Bond Register as of the Record Date and to no other person or entity, and that such Bond may not be assigned except on the books of the Bond Register. The Bond may be assigned or transferred only in whole by the Registered Owner to a single investor that is a financial institution or person who is reasonably believed to be a qualified institutional buyer or accredited investor within the meaning of the applicable federal securities laws. The Bond Registrar shall not be obligated to transfer registered ownership during the period between the applicable Record Date and the next upcoming installment payment or the Maturity Date. When the Bond has been paid in full, as to principal, interest and/or other costs and expenses due by the City to the Bank with respect to the Bond, the Registered Owner shall promptly present and surrender the Bond to the City as the principal offices of the City for cancellation.

Section 7. Form and Execution of Bond.

(a) *Form of Bond; Signatures and Seal.* The Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. The Bond shall be signed by the Mayor and the 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 the 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. The Bond also may be signed on behalf of the City by any person who, on the actual date of signing of 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.* Only if the Bond bears a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall it be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate Of Authentication. This Bond is the fully registered City of Ellensburg, Washington, Natural Gas Utility Revenue Bond, 2016, described in the Bond Ordinance." The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 8. Payment of Bond. Principal of and interest on the Bond shall be payable in lawful money of the United States of America. Principal of and interest on the Bond is payable in approximately equal semiannual installments by electronic transfer on each semiannual installment payment date, beginning June 1, 2017 (or such other date as may be acceptable to the Designated Representative), or by check or draft of the Bond Registrar mailed on the payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. The Bond is not subject to acceleration under any circumstances.

The debt service schedule shall be recalculated on each Interest Rate Reset Date, to reflect any change in the Interest Rate, and on each prepayment date, to reflect any prepayment of principal, in order to achieve approximately equal semiannual installment payments to final maturity. The final installment payment, whether at maturity or earlier prepayment of the Bond, shall be in an amount equal to all then outstanding principal of the Bond, plus all accrued interest then due and payable.

Section 9. Prepayment or Redemption Provisions of the Bond. The City reserves the right to prepay at any time, upon 15 days advance notice, any or all of the principal amount of the Bond then outstanding at a price equal to 100% of the principal to be prepaid plus all accrued but unpaid interest thereon, as further set forth in the Sale Terms. Interest on the principal amount of the Bond that is prepaid shall cease to accrue on the date of such prepayment. After any partial prepayment, the remaining semiannual installment payments shall be recalculated to reflect a reduction in the semiannual installment amounts as described in Section 8. Within seven business days after any partial prepayment, the Bank shall provide to the City a revised payment schedule.

Section 10. Refunding or Defeasance of the Bond. 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 accounts 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 Sale Terms for a prepayment or redemption prior to maturity of the Bond.

Section 11. Failure To Pay Bond. If the principal of the 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 Debt Service Account, 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 12. Pledge of Revenue and Lien Position. The Net Revenue and ULID Assessments are pledged irrevocably to make the payments into the Bond Debt Service Account in respect of the Parity Bonds as set forth in Section 13. This pledge shall constitute a lien and charge upon the Net Revenue of the Natural Gas Utility prior and superior to any other charges whatsoever and on a parity with the lien and charge with respect to any Future Parity Bonds.

Section 13. Bond Debt Service Account. The Bond Debt Service Account is hereby created as a "special fund" within the Natural Gas Utility Fund, and is divided into the Principal and Interest Account and the Reserve Account. The Finance Director may create such accounts and subaccounts in the Bond Debt Service Account as may be convenient for the payment of the Parity Bonds as long as the maintenance of such accounts does not conflict with the rights of the Owners of Parity Bonds.

(a) *Payments into Bond Debt Service Account.* So long as any Parity Bonds are outstanding, the City shall set aside and pay into the Bond Debt Service Account all ULID Assessments upon their collection, and out of the Net Revenue shall pay certain fixed amounts, without regard to any fixed proportion, namely:

- (1) Into the Principal and Interest Account on or before each interest payment date, an amount sufficient (together with other money on deposit therein) to pay the interest then coming due and payable; and
- (2) Into the Principal and Interest Account, on or before each principal payment date (including any date on which a mandatory redemption of Term Bonds is required), an amount that will be sufficient, together with other money then on deposit therein, to pay the principal of the Parity Bonds then coming due and payable (including mandatory redemption amounts with respect to Term Bonds); and
- (3) Into the Reserve Account, an amount necessary to provide for the Reserve Requirement in the time and manner required under subsection (c) of this section.

(b) *The Principal and Interest Account.* For so long as any Parity Bonds are outstanding, the City shall maintain the Principal and Interest Account for the payment of the Parity Bonds and shall make deposits therein as set forth in subsection (a), above. If there is a deficiency in the Principal and Interest Account to make the next upcoming payment of either principal of or interest on the Bond or any Parity Bonds that are secured by the Reserve Account, such deficiency shall be made up from the Reserve Account by the withdrawal of amounts necessary for that purpose.

(c) *The Reserve Account; Reserve Requirement.*

(1) For so long as any Parity Bonds secured by the Reserve Account remain outstanding, the City shall maintain a balance in the Reserve Account (including the value of all

Reserve Securities) equal to the aggregate of the Reserve Requirements set for each series of Parity Bonds secured thereby, except for withdrawals as authorized in this subsection.

(2) The Reserve Requirement for the Bond shall be calculated as of the Issue Date and shall be equal to the least of (i) Maximum Annual Debt Service on the Bond, (ii) 125% of Average Annual Debt Service on the Bond, or (iii) 10% of the proceeds of the Bond. The amount of the Reserve Requirement for the Bond shall be recalculated upon prepayment of 25% or more of the principal amount outstanding immediately prior to such prepayment. The Reserve Requirement for the Bond shall be satisfied on the Issue Date by a deposit of Bond proceeds.

(3) On any principal or interest payment date in which there is a deficiency in the Principal and Interest Account with respect to a Parity Bond secured by the Reserve Account, amounts sufficient to make up that deficiency shall be withdrawn from the Reserve Account (or by drawing on a Reserve Security) and transferred to the Principal and Interest Account. If, by reason of such withdrawal, the Reserve Account balance remaining is insufficient to meet the Reserve Requirement, then such deficiency shall then be made up from the next available payments of Net Revenue and ULID Assessments after making necessary provision for the required payments into the Principal and Interest Account. Except for withdrawals described above, the money in the Reserve Account and its subaccounts otherwise shall be held intact and may be applied against the last outstanding Parity Bonds. However, if at any time the Reserve Account (or any subaccount) is fully funded, money in excess of the Reserve Requirement shall be withdrawn and deposited, first, in any other subaccount having a deficiency in its Reserve Requirement, and second, at the option of the Finance Director, either in the Principal and Interest Account and spent for the purpose of retiring Parity Bonds or in into the Natural Gas Utility Fund and spent for other lawful system purposes.

(d) *Investment of Money Deposited in Bond Debt Service Account.* All money in the Bond Debt Service Account may be kept in cash or shall be invested in Permitted Investments maturing not later than the date when needed (for investments in the Principal and Interest Account) or the last maturity of any outstanding Parity Bonds (for investments in the Reserve Account). Income 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 until the amount therein is equal to the Reserve Requirement, and thereafter shall be deposited in the Principal and Interest Account or used for other Natural Gas Utility purposes.

(e) *Failure to Make Payments; Action to Compel Payments.* The City may transfer any money from any funds or accounts of the City legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the Bond Debt Service Account. If the City fails to set aside and pay into the Bond Debt Service Account the amounts set forth above, the owner of any of the outstanding Parity Bonds may bring action against the City and compel the setting aside and payment, consistent with the rights and remedies set forth in Section 22.

Section 14. Flow of Funds. So long as any Parity Bonds are outstanding, the City covenants that all ULID Assessments (if any) shall be paid into the Bond Fund, and the Gross Revenue shall be deposited into the Natural Gas Utility Fund to be used for the following purposes only in the following order of priority:

- (1) To pay the Maintenance and Operation Expenses;

(2) To make when due the required payments into the Principal and Interest Account in respect of interest on the Parity Bonds;

(3) To make when due the required payments into the Principal and Interest Account in respect of principal of (and premium on, if any) the Parity Bonds, whether at maturity or pursuant to mandatory redemption prior to maturity;

(4) To make all payments required to be made into the Reserve Account;

(5) To make when due all payments required to be made under any reimbursement agreement with a Bond Insurer or provider of a Reserve Security;

(6) To make when due the required payments to be made into any revenue bond, note, warrant or other revenue obligation redemption fund, debt service account or reserve account created to pay and secure the payment of any revenue bonds, notes, warrants or other obligations of the City having a lien upon the Net Revenue junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

(7) For any of the following purposes without priority, to retire by redemption or to purchase in the open market any outstanding obligations of the Natural Gas Utility; to make necessary betterments and replacements of or repairs, additions or extensions to the Natural Gas Utility; to make deposits into the Rate Stabilization Account; or for any other lawful purpose.

Section 15. Bond Covenants.

(a) *Coverage Covenant; Rates and Charges.* The City covenants that, for so long as the Bond is outstanding, it will establish, maintain and collect each year such rates and charges for the Natural Gas Utility sufficient so that the Net Revenue of the Natural Gas Utility, together with any ULID Assessments, in each calendar year will be at least equal to the Coverage Requirement. To the extent allowable by law, those to which service of the Natural Gas Utility is available will be charged for that service at the prevailing rate in a timely manner.

(b) *Additional Bond Covenants.* The City may agree with the Bank to observe certain additional covenants for so long as the Bond is outstanding, as are usual and customary in such revenue bond transactions and as the Designated Representative determines are in the best interests of the City and its ratepayers and are set forth in the Purchase Offer and not inconsistent with this ordinance. In no event shall the covenants entered into with respect to the issuance and sale of the Bond be imputed to the owners of any Future Parity Bonds without being set forth in full in a Future Parity Bond Authorizing Ordinance or bond purchase agreement entered into in connection with the issuance and sale of such Future Parity Bonds.

Section 16. Covenants With Respect to Tax Exemption.

(a) *Preservation of Tax Exemption for Interest on Bonds.* The City covenants that it will take all actions necessary to prevent interest on the Bond from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bond or other funds of the City treated as proceeds of the Bond that will cause interest on the Bond to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the

Bond, take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Bond.

(b) *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 Bond from being included in gross income for federal tax purposes.

(c) *Designation of Bond as a "Qualified Tax-Exempt Obligation."* The Bond may be designated as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Code, if the following conditions are met: (1) the Bond does not constitute a "private activity bond" within the meaning of Section 141 of the Code; (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 Bond is issued will not exceed \$10,000,000; and (3) the amount of tax-exempt obligations, including the Bond, designated by the City as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Bond is issued does not exceed \$10,000,000.

Section 17. Provisions for Future Parity Bonds. The City reserves the right to issue Future Parity Bonds if the Parity Conditions set forth in Exhibit A are met and complied with at the time of the issuance of those Future Parity Bonds. Nothing contained in this ordinance shall: (a) prevent the City from issuing Future Parity Bonds to refund Parity Bonds then outstanding, money for the payment of which is not otherwise available; (b) prevent the City from issuing revenue bonds having a subordinate lien on Net Revenue; or (c) prevent the City from pledging the payment of assessments in any utility local improvement district into a bond redemption fund created to pay and secure the payment of the principal of and interest on such subordinate 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 subordinate lien bonds.

Section 18. Rate Stabilization Account. The Rate Stabilization Account is created within the Natural Gas Utility Fund and may be divided into such subaccounts as the Finance Director may deem appropriate. Deposits and withdrawals as described below may be made up to and including the date 90 days after the end of the fiscal year for which the deposit or withdrawal will be used to calculate Adjusted Net Revenue.

(a) *Deposits to the Rate Stabilization Account.* The City may at any time, as determined by the Finance Director and consistent with the flow of funds set forth in this ordinance, deposit therein amounts from Net Revenue and any other money of the Natural Gas Utility that is available to be used for that purpose, excluding ULID Assessments and excluding the principal proceeds of any Future Parity Bonds. No deposit of Net Revenue may be made into the Rate Stabilization Account to the extent that such deposit would prevent the City from meeting the Coverage Requirement in the relevant fiscal year.

(b) *Withdrawals from the Rate Stabilization Account.* The City may withdraw money from the Rate Stabilization Account at any time upon authorization of the City Council (which may be by motion, resolution or ordinance) for inclusion in the Adjusted Net Revenue for any fiscal year of the Natural Gas Utility, except that the total amount withdrawn from the Rate Stabilization Account in any fiscal year may not exceed the Annual Debt Service in that year. Earnings from investments in the

Rate Stabilization Account shall be deposited in that account and shall not be included as Adjusted Net Revenue unless and until withdrawn from that account.

(c) *Investment of Money in Rate Stabilization Account.* Earnings from investments in the Rate Stabilization Account shall be retained in that account and shall not be included as Net Revenue or Adjusted Net Revenue unless and until withdrawn from that account as provided herein. The City may at any time provide by ordinance that earnings are to be deposited periodically into the Natural Gas Utility Fund and are to be included as Net Revenue in the year of deposit.

Section 19. Separate Utility Systems. The City may at any time create, acquire, construct, finance, own and operate one or more systems for natural gas transmission or utility service, which systems are separate from and in addition to the Natural Gas Utility. The revenue of that Separate Utility System, and any utility local improvement district assessments payable solely with respect to improvements to a 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 the Separate Utility System. Neither the Gross Revenue nor the Net Revenue may be pledged to the payment of any obligations of a Separate Utility System except that the Net Revenue may be pledged on a basis subordinate to the lien of the Parity Bonds.

Section 20. Sale and Delivery of the Bond. The Designated Representative is authorized to sell the Bond by negotiated sale or private placement based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors. The Purchase Offer for the Bond shall set forth the Sale Terms. In accepting those 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. The Designated Representative is authorized to execute the Purchase Offer on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance. The City shall be responsible for costs of issuance, including its own legal and administrative costs and the fees of Bond Counsel. The Bond will be prepared at City expense and will be delivered to the Bank in accordance with the Purchaser Offer, together with the approving legal opinion of Bond Counsel regarding the Bond.

Section 21. Governing Law. This ordinance and the Bond shall be governed and interpreted according to the laws of the State. Nothing in this paragraph shall be constructed to limit or otherwise affect any rights or remedies of the Bank under federal law.

Section 22. Reports and Information. For so long as the Bond is outstanding, the City shall provide to the Registered Owner, within 270 days after the end of the fiscal year (i.e., September 30) a copy of the annual financial statements of the Natural Gas Utility, as submitted to the State Auditor's Office pursuant to RCW 43.09.230. If such statements are unaudited, the audit report shall be provided to the Registered Owner within 10 business days after the audit becomes available.

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 the Bond to the Bank thereof and for the proper application, use and investment of the proceeds of the Bond. 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. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 25. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

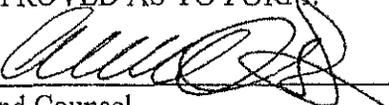
PASSED by the City Council of the City of Ellensburg, Washington, at an open public meeting thereof, this 7th day of November, 2016, and signed in authentication of its passage this _____ day of November, 2016.

Mayor

ATTEST:

Coreen Reno, City Clerk

APPROVED AS TO FORM:



Bond Counsel

EXHIBIT A

PARITY CONDITIONS

- (a) There may be no deficiency in the Bond Debt Service Account.
- (b) The Future Parity Bond Ordinance must provide for the payment of the principal of and interest on such Future Parity Bonds out of the Bond Debt Service Account.
- (c) The Future Parity Bond Ordinance must provide that all ULID Assessments shall be paid directly into the Bond Debt Service Account.
- (d) The Future Parity Bond Ordinance must determine whether such Future Parity Bonds are to be secured by the Reserve Account, and if so, must provide that the Reserve Requirement for such Future Parity Bonds will be satisfied by any combination of: (i) a deposit of bond proceeds on the issue date; (ii) the purchase of one or more Reserve Securities on the issue date; and (iii) the deposit of Net Revenue, ULID Assessments or other legally available money of the City in approximately equal annual installments so that the Reserve Requirement is funded no later than five years after such issue date.
- (e) The Future Parity Bond Ordinance must provide for the payment of mandatory redemption or sinking fund requirements into the Bond Debt Service Account 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 to their maturity date from money in the Principal and Interest Account.
- (f) There shall be on file from either the Finance Director or an Independent Utility Consultant, a certificate showing that in his or her professional opinion the Net Revenue of the Natural Gas Utility for any 12 consecutive calendar months out of the immediately preceding 24 calendar months shall be equal to the Coverage Requirement for each year thereafter to the final maturity of the proposed Future Parity Bonds as follows:
- (1) If such certificate is furnished by the Finance Director, it must be based on actual historical Net Revenue of the Natural Gas Utility and no adjustments to that revenue shall be allowed; or
 - (2) If such certificate is furnished by an Independent Utility Consultant, in estimating the Net Revenue available for debt service, it may take into account adjustments to Net Revenue to reflect any or all of the following: (i) changes in rates in effect and being charged or expressly committed by ordinance to be made in the future; (ii) income derived from customers of the Natural Gas Utility who have become customers during the 12 consecutive month period or thereafter adjusted to reflect one year's net revenue from those customers; (iii) income from any customers to be connected to the Natural Gas Utility who have paid the required connection charges; (iv) an estimate of the Net Revenue to be derived from customers anticipated to connect for whom new building permits have been issued; (v) income received or to be received which is derived from any person, firm, corporation or municipal corporation under any executed contract for any utility service, which revenue was not included in the historical Net Revenue; (vi) an estimate of the Net Revenue to be derived from customers with existing homes or buildings which will be required to connect to any additions to and improvements and extensions of the Natural Gas Utility constructed and to be paid for out of the

proceeds of the sale of the additional Future Parity Bonds or other additions to and improvements and extensions of the Natural Gas Utility then under construction and not fully connected to the facilities of the system when such additions, improvements and extensions are complete; and (vii) any increases or decreases in Net Revenue as a result of any actual or reasonably anticipated changes in Maintenance and Operation Expense subsequent to the 12-month period.

(3) For any series of Future Parity Bonds (or allocable portion thereof) that is to be issued for the sole purpose of refunding outstanding Parity Bonds, a certification shall not be required if (i) the amount required for the payment of the principal and interest in each year in respect of the refunding bonds is not increased more than \$5,000 over the amount for that same year required for the bonds to be refunded, and (ii) if the final maturities of such refunding bonds are not extended beyond the final maturities of the bonds to be refunded.

EXHIBIT B

DESCRIPTION OF THE BOND

- (a) Principal Amount. The Bond shall not exceed the principal amount of \$865,000.
- (b) Date or Dates. The Bond shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance.
- (c) Denominations, Name, etc. The Bond shall be issued as a single bond and shall be numbered R-1 or in any other the manner and with any additional designation as deemed necessary or appropriate by the Designated Representative.
- (d) Interest Rate(s). The Bond shall bear interest at the variable Interest Rate equal to 65.01% of the Index Rate, plus 1.20%. The Interest Rate shall be fixed on the Issue Date and shall be reset on December 1, 2021, December 1, 2026 and December 1, 2031 (each, an "Interest Rate Reset Date"). The "Index Rate" shall mean the interest rate swap for a 5-year term, as published in the printed edition of the Wall Street Journal, on the last day of the month preceding each Interest Rate Reset Date, or, if such rate is no longer published, an index rate selected by the Bank, and generally accepted in the industry as a substantially equivalent replacement index.
- (e) Payment Dates. Installments of principal and interest shall be payable beginning on June 1, 2017 and semi-annually thereafter on each June 1 and December 1 (or such other dates as are acceptable to the Designated Representative) through and including the Maturity Date.
- (f) Final Maturity. The Bond shall mature on December 1, 2036.
- (g) Redemption Rights. The Bond shall be prepayable in whole or in part at any time, upon 15 days' notice, without prepayment penalty.
- (h) Price. The purchase price for the Bond shall be the stated principal amount of the Bond.
- (i) Other Terms and Conditions. The Designated Representative may agree to additional terms, conditions or covenants in the Purchase Offer, including information reporting, requirements notice requirements and such other requirements as she may deem advisable and in the best interests of the City and not inconsistent with the terms of this ordinance.

CERTIFICATION

I, the undersigned, City Clerk of the City of Ellensburg, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 4747 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on November, 2016, as that ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date was November 10, 2016.

5. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: _____, 2016.

CITY OF ELLENSBURG, WASHINGTON

Coreen Reno, City Clerk

AGENDA REPORT

Date: November 7, 2016

To: City Council

Thru: John Akers, City Manager

From: Ryan Lyyski, Public Works Director

Re: Proposed Ordinances and Adoption (Second Reading):
Ordinance 4748 ECC Chapter 2.06 Sale of Real Property and
Ordinance 4749 ECC Chapter 2.07 Sale of Surplus Property

Summary: The Ellensburg City Code (ECC) as it relates to Sale of Real Property and Sale of Surplus Property are due for revisions. Before Council are proposed revisions to ECC Chapters 2.06 and 2.07 for consideration. Council held first reading of ordinances 4748 (Sale of Real Property) and 4749 (Sale of Surplus Property) at Council's October 17th, 2016 regular meeting.

Background: The Ellensburg City Code identifies the process by which various City departments may dispose of Real Property and Surplus Property. Real property refers to land owned by the City whereas Surplus Property can be land, equipment and items owned by the various departments. ECC 2.06 Sale of Real Property has not been revised since 1974 and ECC 2.07 Sale of Surplus Property has not been revised since 1991.

Analysis/Findings: Staff has been seeking methods to streamline the surplus process. City staff has been working with the City Attorney over this past summer, and have collectively developed the proposed ordinances for Council consideration. The proposed ordinances bring the process for disposal of surplus property current with other jurisdictions and provide flexibility for methods of disposal of routine surplus items.

The changes to Ch. 2.07 ECC will allow for surplus property valued less than \$10,000 to be conducted at the staff level. Per direction of Council at the October 17th meeting, ordinance 4749 has been amended for the City Manager to be approving authority instead of Finance Director for certification as surplus to the City's needs and to approve the method of disposition. Surplus property valued over \$10,000 will require City Council approval. The ordinances also provide more detailed guidance on utility owned properties/items, disposition of firearms confiscated or forfeited to the police department and intergovernmental transfers of property.

The changes to Ch. 2.06 ECC (real property disposition) provide a more detailed process for disposing of surplus real property while at the same time allowing for greater flexibility in the methods of disposal that may be used. City Council approval is required for disposition of any real property.

Fiscal Impact: There is no measurable direct fiscal impact related to this action.

Recommendation: Staff recommends Council consider the proposed revisions to ECC Chapters 2.06 and 2.07 as amended, and conduct second reading and adoption of ordinances 4748 and 4749.

ORDINANCE NO. 4748

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, AMENDING CHAPTER 2.06 "SALE OF REAL PROPERTY" OF THE ELLENSBURG CITY CODE.

WHEREAS, Chapter ECC 2.06 has not been revised in over 40 years and,

WHEREAS, Chapter ECC 2.06 is being revised to provide a more thorough, consistent identified process for dealing with "Sale of Real Property."

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Chapter 2.06 of the Ellensburg City Code, as last amended by Ordinance No. 3621, is hereby amended to read as follows:

SALE, DISPOSITION OR LEASE OF SURPLUS REAL PROPERTY

2.06.020 Policy and procedures for disposition of city surplus real property.

A. Policy. The city council declares that it is in the public interest for real property held by the city to be returned to the tax rolls if it is not needed for some present or future municipal use and if it can be sold for a reasonable return. It is therefore the policy of the city to dispose of all real property in which the city holds a fee interest, where such property is surplus to its current or future needs, and where such disposition would afford the city a reasonable return from the transaction. For purposes of this chapter, "reasonable return" means sale for tangible and intangible consideration equal to, or greater than, the appraised fair market value. For purposes of this chapter, "surplus property" means both real property for which the city has no current or future need, as well as real property, which, if disposed of, would be put to a higher or better use for the community at large, which property has been determined to be surplus by the city council.

B. Procedures. Real property declared surplus may be disposed of for a reasonable return or to benefit the public interest by sealed bid, auction, negotiated sale or special disposition process.

C. Special disposition process. In cases where the public interest in a maximum financial or economic return is outweighed by the public benefit, due to factors such as (by way of illustration and not limitation) the unique character or development potential of a given property, the city manager may recommend for city council approval the disposal of property by a special

disposition process which may include disposal for less than the appraised fair market value or for other cognizable forms of consideration in addition to or in lieu of monetary payment to the city. The special disposition process may include (without limitation) sale by any of the methods set forth in this section, options to purchase, lease purchase transactions, or other commonly used, commercially reasonable means of disposal. Approval for special disposition of property under this section shall include written findings of the city council setting out and supporting the basis for the city council's decision that the public benefit of disposal pursuant to this section outweighs the public interest in a maximum financial or economic return.

~~2.06.040 Authority for conveyance.~~

~~The authority for all conveyances of real estate made by the city of Ellensburg shall be a resolution passed by the city council of the city of Ellensburg at any regular meeting thereof. [Ord. 188 § 1, 1893.]~~

2.06.080 Contents of Surplus real property resolution.

A. Real property owned by the city may be declared surplus by the city council after the following procedures have been completed:

1. The city manager shall include the following information in the staff report to council for each parcel under consideration:

- a. Description of the subject parcel's size, general location, and legal description;
- b. Description of the circumstances under which the subject parcel was obtained;
- c. Description of what funds were used to initially acquire the subject parcel;
- d. Recommendation as to which fund the proceeds from its sale should be credited;
- e. History of municipal use, if any, or uses for which it might be held;

f. Value of the subject parcel and whether further appraisal before sale is recommended and the type of appraisal required per ECC 2.06.100(A)(2);

g. Whether the subject parcel is only usable by abutting owners or is marketable;

h. Whether special consideration ought to be given to some other public agency that has a use for the subject parcel;

i. Whether the subject parcel should be sold at auction, by sealed bid, or by negotiation;

j. Recommendation as to whether any special covenants or restrictions should be imposed in conjunction with sale of the subject parcel; and

k. For land acquired for public utility purposes, whether the land is no longer required to provide continued public utility service.

2. A public hearing shall be held to consider the surplus declaration for the subject parcel. Notice of said hearing shall be published in the city's official newspaper and mailed to all property owners within 500 feet of the subject parcel not less than 10 days or more than 25 days prior to the hearing.

B. Following the public hearing, the council shall determine whether the subject parcel shall be declared surplus. Any declaration of surplus property shall be made by resolution. The resolution shall also make the following determinations:

1. Whether the subject parcel should be sold by sealed bid, at auction, or through a negotiated sale;

2. Whether special covenants or restrictions should be imposed as a condition of the sale; and

3. The minimum acceptable price, in accordance with ECC 2.06.020(B) and 2.06.100.

~~Such resolution shall describe the property to be conveyed and shall name the person to whom the conveyance is to be made. [Ord. 188 § 2, 1893.]~~

2.06.100 Sale procedure.

The following procedures and requirements shall apply to the sale of surplus property:

A. Determination of value/minimum acceptable price.

1. If the city has a sufficient and acceptable appraisal of the subject property, no additional appraisal shall be required.
2. If an acceptable appraisal is not available, the city manager shall obtain a:
 - a. limited opinion of value for properties under \$25,000;
 - b. short form appraisal report for properties under \$50,000; or
 - c. full narrative appraisal report.

B. Sale by bid or auction. In the event the subject parcel is to be disposed of by sealed bid or by auction, the following notification procedures shall be followed:

1. A notice of the city's intent to dispose of the subject parcel shall be conspicuously posted on the property no less than two weeks prior to the date set for the close of bids or the date set for the auction.
2. Notice shall be published in the city's official newspaper at least once each week for three consecutive weeks preceding the deadline for the submittal of sealed bids or the public auction. All notices shall include a description of the subject parcel, the procedure by which the subject parcel is to be disposed of, any earnest money deposits which must be made and the minimum price that will be accepted.

C. Negotiated sale. If the subject parcel can only be put to its highest and best use when aggregated with an abutter's property because of its size, shape, topography, or other restriction, the subject parcel may be negotiated for sale to the abutter, provided:

1. The abutter is willing to purchase for the fair market value of the subject parcel as determined under subsection A of this section;
2. If more than one qualifying abutter expresses interest in purchasing the subject parcel, the city council may solicit sealed bids from all; and
3. A person shall not be deemed to be an abutter if a right-of-way separates his property from the subject parcel unless the purchase will allow a higher and better use of the abutter's property.

D. Earnest money/time to closing.

1. Disposition by sealed bid or auction. Where a subject parcel is sold by sealed bids or auction, any and all bids submitted must be accompanied by a bid deposit in the form of a cashier's check payable to the city of Ellensburg in the amount of five percent of the bid or \$5,000, whichever is greater. Such deposit accompanying the successful bid shall be deposited into an administrative trust account until closing on the purchase of the parcel and payment of the remaining amount of the purchase price shall be made within 30 days. In the event the purchaser is unable to pay the remaining amount within the required time, the earnest money deposit shall become nonrefundable as liquidated damages; provided, however, that the purchaser may deposit an additional \$5,000 extension fee, in which case the time to make full payment shall be extended for an additional 30 days. In the event full payment is not made by the conclusion of the additional period, all deposits shall be retained as liquidated damages for lost time and expense. The city council reserves the right to waive any irregularities in the bid process.

2. Disposition by negotiated sale. Where property is sold by negotiated sale, the purchaser shall deposit earnest money into escrow in the amount of \$5,000 or five percent of the sale price, whichever is greater, within three business days of execution of

a purchase and sale agreement for the purchase of the subject parcel. Earnest money forfeitures and sale extensions under subsection (D)(1) of this section shall apply.

E. Form of conveyance. All conveyances shall be made by quitclaim deed.

F. Closing costs. All closing costs, exclusive of deed preparation, shall be borne by the purchaser including, but not limited to, survey work, title insurance if desired, recording costs, and escrow fees if applicable.

~~2.06.120 Deed, form and contents.~~

~~All conveyances of real estate made by the city of Ellensburg shall be by deed in writing, shall recite the resolution authorizing the sale, shall be signed by the mayor and attested by the city clerk of the city, with the seal of the city affixed thereto, and acknowledged in the manner prescribed by the laws of the state of Washington for the acknowledgment of deeds. [Ord. 188 § 3, 1893.]~~

~~2.06.160 Public hearing—Considerations.~~

~~Before disposing of any city-owned property with an estimated value of more than \$5,000 and prior to adoption of any resolution authorizing any conveyance of city-owned property, the city council shall hold a public hearing on such proposed conveyance at a regular or special council meeting. At such public hearing, the council may consider all information which is presented and which is relevant to the proposed conveyance, which may include but not be limited to the following items:~~

- ~~A. The history of the city's ownership of the property;~~
- ~~B. The location, character and present use of the property;~~
- ~~C. Any hazardous or noxious conditions then existing on the property;~~
- ~~D. Expenses involved in maintaining the property;~~
- ~~E. The then current market value of the property;~~

~~F. Suitability of the property for future city use;~~

~~G. The purpose for which the property is intended by the person or agency seeking to acquire it from the city;~~

~~H. Any other information bearing on the advisability of such conveyance. [Ord. 3621 § 1, 1988; Ord. 3018 § 1, 1974.]~~

~~2.06.200 Public hearing—Notice—Resolution adoption.~~

~~Notice of the public hearing provided for in ECC 2.06.160 shall comply with the public notice requirements of RCW 39.33.020 and shall be published in a newspaper of general circulation in the city of Ellensburg once at least 10 days but not more than 25 days prior to such hearing.~~

~~No resolution authorizing any such conveyance shall be adopted until at least 21 days have elapsed following the completion of the public hearing provided for by ECC 2.06.160. [Ord. 3621 § 2, 1988; Ord. 3018 § 2, 1974.]~~

2.06.220 Trade of surplus real property.

Surplus real property may be traded under the following conditions:

A. If the city manager determines that the disposal of real property declared surplus under this section could realize greater benefit to the city through consideration other than cash, the city manager may invite prospective purchasers to tender consideration of cash and/or property. Upon receipt of a bid or offer tendering in-kind consideration, and prior to accepting such bid or offer, the city manager shall make a report to city council during a formal meeting setting forth the benefits of such a transaction.

B. Before accepting any bid or offer containing in-kind consideration, an adequate appraisal shall have been made by a qualified independent appraiser.

C. If the city council finds that the bid or offer containing the in-kind consideration has more value or benefit to the City than any other bid or offer submitted, the city manager may accept the bid or offer containing in-kind consideration.

2.06.240 Lease of surplus public property.

The city manager may authorize the lease or sublease of any property, including real property, under such terms and conditions as the city manager may deem desirable, fair and appropriate, either by use of negotiations or bidding in the best interests of the city. Leases of real property shall not be granted for a period, including options or extensions, of more than five years and/or over \$25,000 in value unless authorized by the city council.

2.06.260 Utility property; intergovernmental sale or lease over \$50,000.

A. Prior to the sale or lease of city public utility real property, the city council shall, by resolution, surplus and authorize the sale or lease of said property following a public hearing pursuant to the provisions of RCW 35.94.040; and

B. Prior to the sale or lease of surplus city property having an estimated value of more than fifty thousand dollars (\$50,000) to another governmental entity, the city Council shall hold a hearing following notice pursuant to the provisions of RCW 39.33.020.

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. 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/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council

on the ____ day of November, 2016.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



CITY ATTORNEY

Publish:

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4748 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4748 was published as required by law.

COREEN M. RENO

ORDINANCE NO. 4749

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO CHAPTER 2.07 "SALE OF SURPLUS PROPERTY" OF THE ELLENSBURG CITY CODE, REPEALING THE CURRENT CHAPTER 2.07 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER ENTITLED "CHAPTER 2.07 SALE OR DISPOSITION OF SURPLUS PERSONAL PROPERTY."

WHEREAS, Chapter ECC 2.07 has not been revised in 25 years and,

WHEREAS, Chapter ECC 2.07 is being revised to provide a more thorough, simplified and consistent process for dealing with "Sale of Surplus Property."

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Chapter 2.07 "Sale of Surplus Property" of the Ellensburg City Code, as last amended by Ordinance 4100, is hereby repealed in its entirety.

Section 2. A new chapter entitled Chapter 2.07 "Sale or Disposition of Surplus Personal Property" is hereby added to the Ellensburg City Code to read as follows:

Chapter 2.07

SALE OR DISPOSITION OF SURPLUS PERSONAL PROPERTY

- 2.07.020 Sale or disposition of surplus property owned by the city.
- 2.07.040 Sale of surplus personal property.
- 2.07.060 Methods of sale.
- 2.07.080 Sale or disposition of personal property or equipment originally acquired for public utility purposes.
- 2.07.100 Intergovernmental transfer of personal property over \$50,000 in value.
- 2.07.120 Sale of surplus personal property to city employees.

2.07.020 Sale or disposition of surplus property owned by the city.

Except as provided in ECC 2.07.040(B), the city manager may authorize department directors to declare as surplus any personal property owned by the city and which is in the custody of their

departments when they have certified in writing that the property is no longer of public use to the city, or that the sale or other disposition thereof would be in the best interests of the city.

2.07.040 Sale or disposition of surplus personal property.

A. Approval of the council is given for the sale or disposition of any personal property with an estimated value of \$10,000 or less which has been certified for disposition by the city manager, who shall designate the appropriate department director to proceed with such sale or disposition in accordance with informal procedures and in the city's best interests.

B. If surplus property has an estimated value greater than \$10,000, prior approval of the sale and/or method of disposition must be obtained from the city council.

C. Surplus property may be transferred between city departments upon approval by the city manager regardless of value. Notwithstanding the foregoing, transfer of property originally acquired for public utility purposes shall only be transferred to another city department as provided in ECC 2.07.080.

2.07.060 Methods of sale.

A. Notwithstanding any other section of this chapter, when surplus city property with an estimated value of over \$10,000 is to be sold, department directors with custody of surplus personal property, or his/her designee may, with prior approval of the city council, sell or dispose of the property in any legal, commercially reasonable manner in the best interests of the city, including but not limited to:

1. Public auction. The city may use a professional auction service or online auction site.

2. Sealed bids. Sealed bids may be solicited for the sale of surplus personal property. Surplus personal property disposed of in this manner shall be sold to the highest responsible bidder.

3. Negotiated sale. If the city has been unable to find a buyer for surplus personal property after having used a competitive public process, the city may negotiate to sell the personal property outright if a potential buyer is subsequently found.

4. Intergovernmental transfer to the state, any municipality or any political subdivision;

5. Selling for scrap. Surplus personal property may be sold as scrap if the city deems that the value of the raw material exceeds the value of the property as a whole.

6. No Value Item. Where the department director determines that specific supplies or equipment are surplus and of minimal or no value to the city due to spoilage, obsolescence or other cause, or where the cost of disposal of such supplies or equipment would exceed the recovery value, the department director shall dispose of the same in such a manner as he or she deems appropriate and in the best interest of the city.

7. Trade-In. Personal property declared as surplus may be offered as a trade-in for credit toward the acquisition of new personal property. All trade-in offers will be submitted for the review and approval of the city manager. If surplus personal property is to be applied to a purchase order, the trade-in value shall be itemized on the purchase order.

8. Transfer to non-profit agency. Surplus personal property may be sold, transferred, or donated to qualified non-profit agencies.

B. The city shall comply with any notice and hearing requirements imposed by law for the sale or disposal of any surplus property.

2.07.080 Sale or disposition of personal property or equipment originally acquired for public utility purposes.

Whenever the city shall determine, by council resolution, that any property or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service, then the council by resolution and after a public hearing may cause such property or equipment to be sold or leased. Such resolution shall state the fair market value and such other terms and conditions for such disposition as the council deems to be in the best public interest per RCW 35.94.040.

2.07.100 Intergovernmental transfer of personal property over \$50,000 in value.

Disposal of surplus personal property with an estimated value of more than \$50,000 through an intergovernmental transfer as authorized by RCW 39.33.010, now or as hereafter amended, requires city council approval following a public hearing held in the manner and with notice as prescribed by RCW 39.33.020, now or as hereafter amended.

2.07.120 Disposition of confiscated, forfeited and released firearms.

Legal firearms taken into the custody of the department which are not retained for law enforcement use and no longer needed for evidence shall be disposed of as follows:

A. All legal and antique firearms and firearms shall be disposed of by auction or trade to licensed dealers.

B. The Ellensburg Police Department may retain legal forfeited firearms for law enforcement use as determined by the chief of police.

2.07.140 Sale of surplus personal property to councilmembers or city employees.

Councilmembers and city employees involved in declaring an item of city personal property surplus may not purchase that item directly from the city, regardless of the value of the item. In order to prevent the appearance of a conflict of interest, no city employee or member of the employee's immediate family may directly acquire personal property from the City if the employee had any role in declaring an item surplus or establishing the value or price of the personal property. Councilmembers or city employees may purchase city surplus personal property when such property is offered to the general public at an auction conducted by a private party. Councilmembers or city employees will not receive preferential treatment in the disposal or sale of city surplus personal property.

Section 3. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 4. 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/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

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

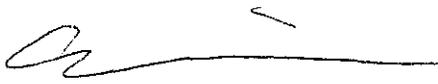
The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 7th day of November, 2016.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



CITY ATTORNEY

Publish:

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4749 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4749 was published as required by law.

COREEN M. RENO



AGENDA REPORT

To: City Council
THRU: John Akers, City Manager
FROM: Terry Weiner, City Attorney
SUBJECT: Ordinance 4750 - Carryout Bag Regulation Ordinance – Second Reading
DATE: November 7, 2016

SUMMARY: The Environmental Commission and City Council have been discussing the potential for regulating single-use carryout bags since 2015. At its October 3, 2016 meeting, City Council reviewed a draft ordinance that would impose a \$0.05 “pass-through” fee on single-use paper and plastic carryout bags. Following the discussion, Council requested staff make a few changes to the draft and bring it forward for first reading, which was conducted at the October 17, 2016 Council meeting.

BACKGROUND: Concerns regarding the impact of single-use bags has been the subject of discussion in several Environmental Commission and City Council meetings since 2015. City Council first reviewed the issue at the January 4, 2016 City Council meeting, as well as a City Council Study Session on March 7, 2016, with additional discussion at the regular Council meeting following the Study Session. Multiple versions of a bag control ordinance were reviewed by Council over the past several months. In September, Council requested that staff prepare an ordinance which charges a \$0.05 “pass-through” fee (i.e., the entire fee is kept by the retailer) for each plastic or paper bag provided to customers by retail establishments.

ANALYSIS AND FINDINGS: The attached ordinance is based on a format used by most of the Washington cities that have adopted a pass-through carryout bag fee. The only difference is that most cities ban plastic carryout bags and then require that stores charge \$.05 per paper bag.

The proposed ordinance would create a new chapter in the Ellensburg City Code, 5.64, “Carryout Bag Regulation,” which establishes a new \$0.05 pass-through fee for both paper and plastic carryout bags. The ordinance has an effective date of January 1, 2018 to allow time for the City to conduct an educational outreach campaign to businesses and citizens in advance of its implementation.

FISCAL IMPACT: The City will not collect any portion of the \$0.05 fee under the ordinance. The ordinance will require a robust public and business education component prior to its effective date. Outreach should include utility flyer inserts, direct mailing to businesses classified as retail establishments, newspaper advertising and social media campaigns. Aside from staff time associated with the efforts, the direct mailing and advertising campaigns is estimated to cost

at least \$1,500. Staff will return with a request for supplemental budget authority once we develop a more detailed outreach campaign budget in 2017.

RECOMMENDATION(S): Review and consider second reading and adoption of Ordinance 4750.

Attachment: Ordinance 4750

ORDINANCE NO. 4750

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO PLASTIC AND RECYCLABLE PAPER CARRYOUT BAGS AND REQUIRING RETAIL ESTABLISHMENTS TO COLLECT A PASS-THROUGH CHARGE FROM CUSTOMERS, AND ADDING A NEW CHAPTER TO THE ELLENSBURG CITY CODE ENTITLED "5.64 – CARRYOUT BAG REGULATION."

WHEREAS, the Washington State Legislature in RCW 70.95.010(8)(a) established waste reduction as the first priority for the collection, handling, and management of solid waste; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(4) found that it is "necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility"; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(6)(c) found that it is the responsibility of city and county governments "to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies"; and

WHEREAS, it is the City's desire to implement effective waste reduction strategies, conserve resources, reduce greenhouse gas emissions, waste, litter and marine litter and pollution, and to protect the public health and welfare; and

WHEREAS, there is a need for conserving energy and natural resources, controlling litter, and decreasing reliance on plastic and paper carryout bags provided by retail establishments; and

WHEREAS, even though paper carryout bags are made from renewable resources and are less of a litter and particularly marine litter problem than plastic carryout bags, they nevertheless require significant resources to manufacture, transport and recycle or dispose of; and

WHEREAS, to reduce the use of plastic and paper carryout bags in the City, it is necessary to regulate such use; and

WHEREAS, it is in the best interest of the health, safety and welfare of the people of the City of Ellensburg that regulation require a pass-through charge on the use of plastic and recyclable paper carryout bags in order to encourage greater use of reusable bags, to reduce the cost of solid waste disposal by the City, and to protect the environment;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. A new Chapter entitled “5.64 – Carryout Bag Regulation” is hereby added to the Ellensburg City Code to read as follows:

Sections

5.64.020 Purpose.

5.64.040 Definitions.

5.64.060 Carryout bag regulations.

5.64.080 Required signage for retail establishments.

5.64.100 Compliance and penalties.

5.64.020 Purpose.

The purpose of this chapter is to encourage the use of reusable bags at retail establishments so as to reduce litter in the city and the city’s waterways, and to also reduce the number of single-use bags in the city’s waste stream.

5.64.040 Definitions.

The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

“Carryout bag” means any bag that is provided by a retail establishment at the check stand, cash register, point of sale or other point of departure to a customer for use to transport or carry away purchases such as merchandise, goods or food from the retail establishment. Carryout bags do not include:

1. Bags used by consumers inside stores to package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards or small hardware items such as nails, bolts or screws, contain or wrap frozen foods, meat or fish regardless of whether they are prepackaged, contain or wrap flowers, potted plants or other items where dampness may be a problem, contain unwrapped prepared foods or bakery goods, contain prescription drugs; or
2. A bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recyclable paper bag or reusable bag, such as prepared

take-out foods or prepared liquids intended for consumption away from the retail establishment; or

3. Newspaper bags, door-hanger bags, tire bags, laundry-dry cleaning bags or bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste or yard waste.

“Paper carryout bag” means any carryout bag made from paper.

“Pass-through charge” means a charge to be collected by retailers from their customers when providing plastic or recyclable paper carryout bags, and retained by retailers to offset the cost of bags and other costs related to the pass-through charge.

“Plastic carryout bag” means any carryout bag made from plastic or any material marketed or labeled as “biodegradable” or “compostable” that is less than 2.25 mils thick.

“Recyclable paper bag” means a paper bag that has a manufacturer’s stated capacity of one-eighth barrel (882 cubic inches) and meets the following requirements:

1. Contains at least forty percent post-consumer recycled content;
2. Is one hundred percent recyclable; and
3. Displays the minimum percent of post-consumer content on the outside of the bag.

“Retail establishment” means any person, corporation, partnership, business venture, entertainment facility, government agency, street vendor or vendor at public events or festivals or organizations that sell or provide merchandise, goods or materials including, without limitation, clothing, food, beverages, household goods, or personal items of any kind directly to a customer. Examples include but are not limited to clothing stores, jewelry stores, grocery stores, pharmacies, home improvement stores, home decor stores, liquor stores, convenience stores, gas stations, restaurants, food vending trucks, farmers markets and temporary vendors of food and merchandise at street fairs and festivals. Food banks and other food assistance programs are not considered to be retail establishments for the purposes of this chapter.

“Reusable bag” means a bag that:

1. Is washable, whether by machine or hand; and
2. If made from plastic, is a minimum of 2.25 mils thick.

5.64.060 Carryout bag regulations.

A. No retail establishment in the city shall provide a paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger that is not a recyclable paper carryout bag.

B. Each retail establishment that provides a customer with a plastic carryout bag or a recyclable carryout bag shall collect a pass-through charge of not less than five cents for each plastic or recyclable paper carryout bag provided.

C. It shall be a violation of this section for any retail establishment to pay or otherwise reimburse a customer for any portion of the plastic or recyclable paper carryout bag pass-through charge; provided that retail establishments may not collect a pass-through charge from anyone with a voucher or electronic benefits card issued under the Women, Infants and Children (WIC) or Temporary Assistance to Needy Families (TANF) support programs, or the federal Supplemental Nutrition Assistance Program (SNAP, also known as Basic Food), or the Washington State Food Assistance Program (FAP).

D. All retail establishments shall indicate on the customer transaction receipt the number of plastic and recyclable paper carryout bags provided to customers and the total amount of the pass-through charge.

5.64.080 Required retail establishment signage.

Every retail establishment subject to the collection of the carryout bag fee in this chapter must post signage clearly indicating the per bag charge for carryout bags.

5.64.100 Compliance and penalties.

A. Upon a first violation of any part of this chapter, the code enforcement officer may issue a notice of violation to the offending person or business. The notice of violation shall contain the date of and alleged type of violation. The notice of violation shall be regarded as a warning and no other sanctions shall be implemented. Notice shall be served upon the premises to the highest ranking employee currently on duty at the time of delivery.

B. If after the issuance of a notice of violation the code enforcement officer becomes aware of subsequent noncompliance, he or she has the authority to issue a civil infraction. Any subsequent violation of this chapter shall be designated as a Class 1 civil infraction. Each day of any such violation is a separate civil infraction; a notice of infraction may be issued for each day of any such violation. Civil infractions shall be heard and determined according to Chapter 7.80 RCW as amended, and any applicable court rules.

C. It shall be a violation of this chapter for any retail establishment to penalize, discipline, or discriminate against any employee for performing any duty necessary to comply with this chapter.

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. 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/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Effective Date. This ordinance shall take effect and be in force on January 1, 2018.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the __ day of November, 2016.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



CITY ATTORNEY

Publish:

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4750 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4750 was published as required by law.

COREEN M. RENO



AGENDA REPORT

DATE: November 7, 2016
TO: City Council
THRU: John Akers, City Manager
FROM: Jerica Pascoe, Finance Director
Ryan Lyyski, Public Works Director
RE: Water & Sewer Revenue Refunding Bond, 2016 Ordinance – First Reading

SUMMARY: Attached, is the proposed ordinance as prepared by the City's bond counsel, K&L Gates LLP, authorizing the issuance and sale of a not-to-exceed \$7,500,000 Water and Sewer Revenue Refunding Bond.

BACKGROUND: Pursuant to Ordinance Nos. 4562 and 4632, which authorized the issuance of Revenue Bonds in 2010 and 2013 and reserved the right to issue future parity bonds, the City currently has 2010 Revenue Bonds with original principal of \$9,710,000 with \$8,135,000 outstanding and 2013 Revenue Bonds with original principal of \$2,100,000 with \$1,425,995 outstanding.

ANALYSIS/FINDINGS: After reviewing interest rates, the conditions, and the current market rates of a new bond issue along with issuance costs, it has been determined that the City will realize a substantial net savings by issuing new revenue bonds to refund \$6,290,000 of the City's 2010 revenue bonds. The remaining 2010 bonds are not eligible to be refunded for debt service savings.

FISCAL IMPACT: The Bonds are being issued to refund Parity Bonds (including costs of issuance). The ordinance states that the annual debt service on the 2016 bonds cannot be increased by more than \$5,000 over the current annual debt service, and the various annual maturity dates of the bond will not be extended by more than one year than the parity bonds being refunded. Based on a preliminary debt service schedule for the new bonds, the City does not expect the debt service to increase in any year and the final maturity will not extend beyond its current maturity. Using current indicative rates, savings are 6.6% (net present value saving of \$414,000) to refund \$6,290,000 of the City's 2010 Water/Sewer revenue bonds.

RECOMMENDATION: Staff recommends City Council give first reading to the proposed Ordinance authorizing the issuance of a water and sewer revenue refunding bond.

Attachment: Proposed Water and Sewer Revenue Refunding Bond Ordinance No.

CITY OF ELLENSBURG, WASHINGTON
WATER AND SEWER REVENUE REFUNDING BOND

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, AUTHORIZING THE ISSUANCE OF A WATER AND SEWER REVENUE REFUNDING BOND OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$7,500,000 TO PROVIDE FUNDS NECESSARY TO REFUND OUTSTANDING WATER AND SEWER REVENUE BONDS OF THE CITY; DELEGATING AUTHORITY TO APPROVE THE FINAL TERMS OF THE BOND; AND RESERVING THE RIGHT TO ISSUE REVENUE BONDS IN THE FUTURE ON A PARITY WITH THE BOND HEREIN AUTHORIZED UPON COMPLIANCE WITH CERTAIN CONDITIONS.

PASSED ON NOVEMBER 21, 2016

Prepared by:

K&L GATES LLP
Seattle, Washington

CITY OF ELLENSBURG, WASHINGTON

ORDINANCE NO. _____

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, AUTHORIZING THE ISSUANCE OF A WATER AND SEWER REVENUE REFUNDING BOND OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$7,500,000 TO PROVIDE FUNDS NECESSARY TO REFUND OUTSTANDING WATER AND SEWER REVENUE BONDS OF THE CITY; DELEGATING AUTHORITY TO APPROVE THE FINAL TERMS OF THE BOND; AND RESERVING THE RIGHT TO ISSUE REVENUE BONDS IN THE FUTURE ON A PARITY WITH THE BOND HEREIN AUTHORIZED UPON COMPLIANCE WITH CERTAIN CONDITIONS.

WHEREAS, the City of Ellensburg, Washington, a municipal corporation of the State of Washington (the "City"), owns and operates a water utility, sewerage utility and storm and flood control utility (collectively, the "Waterworks Utility"); and

WHEREAS, the City has outstanding its water and sewer revenue bonds having a parity lien on Net Revenues of the Waterworks Utility as follows:

Series Designation	Ordinance Number	Date of Issue	Original Principal Amount	Currently Outstanding (11/01/2016)	Final Maturity Date
2010	4562	05/11/2010	\$ 9,710,000	\$ 8,135,000.00	12/01/2029
2013	4632	01/16/2013	2,100,000	1,425,995.38	12/01/2022

(collectively, the "Outstanding Parity Bonds"); and

WHEREAS, the City's Water and Sewer Revenue Improvement and Refunding Bonds, 2010, issued in the original principal amount of \$9,710,000, remain outstanding as follows:

Maturity Years (December 1)	Principal Amounts	Interest Rates
2016	\$ 435,000	4.00%
2017	450,000	4.00
2018	470,000	4.50
2019	490,000	4.50
2020	510,000	4.50
2021 ⁽¹⁾	50,000	4.00
2021 ⁽¹⁾	485,000	4.50
2022	560,000	4.50
2023	585,000	4.50
2024	610,000	4.50
2025	640,000	4.50
2026	665,000	4.50
2028 ⁽²⁾	1,425,000	4.50
2029	760,000	4.00

⁽¹⁾ Bifurcated Maturity

⁽²⁾ Term Bond

(the "2010 Bonds"); and

WHEREAS, the 2010 Bonds maturing on and after December 1, 2020 are subject to redemption at the option of the City on any date on and after June 1, 2020 at a price of 100% of the principal amount thereof plus accrued interest to the date of redemption; and

WHEREAS, after due consideration it appears to the City Council (the "Council") that debt service savings may be obtained by refunding the callable portion of the 2010 Bonds through the issuance of a water and sewer revenue refunding bond of the City in the aggregate principal amount of not to exceed \$7,500,000 (the "Bond"); and

WHEREAS, Ordinance Nos. 4562 and 4632 (the "Outstanding Parity Bond Ordinances") authorize the City to issue revenue bonds in the future having a parity lien on Net Revenues of the Waterworks Utility upon compliance with the terms and conditions set forth in the

Outstanding Parity Bond Ordinances, and said conditions will be met with respect to the bond authorized herein; and

WHEREAS, this Council has determined to delegate authority to the Mayor and/or the City Finance Director (each a "City Representative") to approve an offer for purchase of the Bond authorized herein, and the final principal amount, interest rate, redemption provisions, payment dates, maturity dates and other terms;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, ordains as follows:

Section 1. Definitions. As used in this ordinance, the following words shall have the following meanings, unless a different meaning clearly appears from the context:

Acquired Obligations mean the Government Obligations, if any, now or hereafter acquired by the City pursuant to Section 10 of this ordinance to effect the refunding of the Refunded Bonds.

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.

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.

Approved Offer means the commitment letter or proposal submitted for the Bond to the City to purchase the Bond pursuant to the Term Sheet as approved by the City Representative pursuant to Section 9 of this ordinance and may include a separate agreement, at the option of and approved by the City Representative.

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.

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 required under federal arbitrage regulations.

Bond means the City of Ellensburg, Washington, Water and Sewer Revenue Refunding Bond, ____ [year of issuance] in the principal amount of not to exceed \$7,500,000, issued pursuant to this ordinance.

Bond Counsel means a firm of lawyers nationally recognized and accepted as bond counsel and so employed by the City for any purpose under this ordinance applicable to the use of that term.

Bond Fund means special funds of the City, established from time to time to pay debt service on Parity Bonds, including but not limited to the Water Fund No. 481.

Bond Register means the registration books showing the name, address and tax identification number of each Registered Owner of the Bond, maintained pursuant to Section 149(a) of the Code.

Bond Registrar means the Treasurer who will register and authenticate the Bond, maintain the Bond Register, effect transfer of ownership of the Bond and pay principal of and interest on the Bond. At any time following the issuance of the Bond, however, the Treasurer may determine to appoint a different Bond Registrar, including, but not limited to the fiscal agent of the State of Washington. The term **Bond Registrar** also shall include any successor Bond Registrar appointed by the Treasurer as permitted by law.

Bond Year means each one-year period that ends on the date selected by the City. The first and last Bond Years may be short periods. If no day is selected by the City before the earlier of the final maturity date of the Bond or the date that is five years after the date of issuance of the Bond, Bond Years end on each anniversary of the date of issue and on the final maturity date of the Bond.

Call Date means June 1, 2020.

City means the City of Ellensburg, Washington, a municipal corporation duly organized and existing under the laws of the State of Washington.

City Representative means the Mayor or the Finance Director or such other official or employee of the City designated in writing by either of the foregoing.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Costs of Issuance Agreement means the agreement of that name, to be entered into by the City and the Escrow Agent, providing for the payment of certain costs of issuance with respect to the issuance of the Bond, substantially in the form attached hereto as Exhibit C.

Coverage Requirement means, in any calendar year, (1) an amount of Net Revenue at least equal to 1.20 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. Notwithstanding the foregoing, for so long as the 2013 Bond is outstanding, the Coverage Requirement shall be 1.25.

Council means the duly constituted City Council as the general legislative authority of the City.

Date of Issue means the date of issuance and delivery of the Bond to the Purchaser.

Escrow Agent means U.S. Bank National Association, Seattle, Washington.

Escrow Agreement means the Escrow Deposit Agreement between the City and the Escrow Agent authorized to be executed pursuant to Section 10 of this ordinance substantially in the form attached hereto as Exhibit B.

Government Obligations mean those obligations now or hereafter defined as such in chapter 39.53 RCW.

Finance Director means the City Finance Director or the successor officer.

Future Parity Bonds means any and all revenue bonds of the City issued after the date of issuance of the Bond, 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.

Government Obligations means those obligations described under the definition of government obligations in RCW 39.53.010(4), as it now reads or hereafter may be amended, and which are otherwise lawful investments for the City at the time of such investment.

Gross Revenue of the Waterworks Utility or *Gross Revenue* means all of the earnings and revenues received by the City from the maintenance and operation of the Waterworks Utility 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. Gross Revenue excludes ULID Assessments, government grants (including Tax Credit Subsidy Payments), proceeds from the sale of Waterworks Utility property, City taxes collected by or through the Waterworks Utility, 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 obligations (until commingled with other earnings and revenues of the Waterworks Utility) or held in a special account for the purpose of paying a rebate to the United States Government under the Code.

Maintenance and Operation Expense means all reasonable expenses incurred by the City in causing the Waterworks Utility 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 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 or capital replacements to the Waterworks Utility.

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.

Maximum Interest Rate means, with respect to any Variable Interest Rate Bond, a numerical rate of interest, set forth in the ordinance authorizing the Future Parity Bonds, that is the maximum rate of interest those Future Parity Bonds may bear at any time.

Net Proceeds when used with reference to the Bond, means the principal amount of the Bond, plus accrued interest and original issue premium, if any, and less original issue discount and proceeds, if any, deposited in the Reserve Account.

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.

Outstanding Parity Bond Ordinances mean Ordinance No. 4562, authorizing the issuance of the 2010 Bonds, and Ordinance No. 4632, authorizing the issuance of the 2013 Bond.

Outstanding Parity Bonds mean the 2010 Bonds and the 2013 Bond.

Parity Bonds means the Outstanding Parity Bonds, the Bond and any Future Parity Bonds.

Parity Conditions means those conditions for the issuance of Future Parity Bonds, which were originally set forth in Section 18 and Exhibit A of Ordinance No. 4562, and in Section 15 and Exhibit A of Ordinance No. 4632, as such conditions are now set forth in Section 15 and Exhibit A of this ordinance.

Permitted Investments means any investment that is a legal investment for cities in the State of Washington.

Placement Agent means Piper Jaffray & Co., or such other agent as may be designated by the City.

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.

Private Person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

Private Person Use means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes

attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

Purchaser means the initial purchasing entity or bank purchaser of the Bond and shall include the Purchaser's assignee/transferee as the registered owner shown on the books of the Bond Registrar.

Rate Stabilization Fund means the fund or account of that name within the Waterworks Utility Funds, created pursuant to Section 20 of Ordinance No. 4562, Section 17 of Ordinance No. 4632 and Section 17 of this ordinance.

Rating Agency means any nationally recognized rating agency then maintaining a rating for the Parity Bonds at the request of the City.

Refunded Bonds mean the 2010 Bonds maturing on and after December 1, 2020.

Registered Owner means the person named as the registered owner of the Bond in the Bond Register.

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 Parity Bonds.

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 Parity Bonds then outstanding with respect to which such insurance is obtained.

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

Savings Target means a dollar amount of debt service savings at least equal to three percent (3.0%) of the principal of the Refunded Bonds.

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 of Ordinance No. 4562 and Section 16 of this ordinance.

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.

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.

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

Term Bonds means those Parity Bonds designated as such in the ordinance authorizing their issuance and sale.

Term Sheet means the original term sheet circulated to prospective purchasers by the Placement Agent.

Treasurer means the Finance Director of the City, or any successor to the functions of the Treasurer.

2010 Bond Ordinance means Ordinance No. 4562, passed on April 26, 2010, authorizing the issuance of the 2010 Bonds.

2010 Bonds mean the “City of Ellensburg, Washington, Water and Sewer Revenue Improvement and Refunding Bonds, 2010,” issued under date of May 11, 2010, pursuant to the 2010 Bond Ordinance and which remain outstanding in the principal amount of \$8,135,000.

2013 Bond Ordinance means Ordinance No. 4632, passed on January 14, 2013, authorizing the issuance of the 2013 Bond.

2013 Bond means the “City of Ellensburg, Washington, Water and Sewer Revenue Bond, 2013,” issued under date of January 16, 2013, pursuant to the 2013 Bond Ordinance and which remains outstanding in the principal amount of \$1,425,995.38.

ULID means Utility Local Improvement District.

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 Water Works Utility 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.

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.

Waterworks Utility (formerly known as the Sewerage System prior to the combination of the water system of the City therewith) means the City’s combined waterworks utility, sanitary sewage collection and disposal system 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 and shall include the Projects. The Waterworks Utility shall not include a Separate Utility System created pursuant to Section 19 of Ordinance No. 4562 and Section 16 of this ordinance.

Waterworks Utility Funds means, collectively, the Water Funds (Nos. 481 and 485), the Sewer Funds (Nos. 491 and 495), and the Stormwater Funds (Nos. 431 and 435), previously created in the office of the Finance Director.

Rules of Interpretation. In this ordinance, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this ordinance;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect;

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and

(f) Words importing the singular number include the plural number and vice versa.

Section 2. Plan of Finance. For the purpose of refunding the Refunded Bonds and to pay costs of issuance, the City hereby authorizes the issuance of its water and sewer revenue refunding bond in the principal amount of not to exceed \$7,500,000.

Section 3. Compliance with Parity Conditions. The City Council hereby finds and determines, as required by the Outstanding Parity Bond Ordinances, that:

(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 Bond from the Bond Fund and for the payment of the Reserve Requirement into the Reserve Account within the time prescribed;

(b) The Bond is being issued to refund Parity Bonds (including costs of issuance). As a result of issuance of the Bond, (i) the Annual Debt Service on the Bond is not increased by more than \$5,000 over the Annual Debt Service for that year of the bonds being refunded, and (ii) the various annual maturities Bond will not extend more than one year longer than the Parity Bonds being refunded; and

(c) The City is in compliance with the other Parity Conditions set forth in Section 18 and Exhibit A of the 2010 Bond Ordinance and as set forth in Section 18 and Exhibit A of the 2013 Bond Ordinance.

The conditions contained in the Outstanding Parity Bond Ordinances having been complied with or assured, the payments required herein to be made out of the Waterworks Utility Funds into the Bond Fund and the Reserve Account to pay and secure the payment of the

principal of and interest on the Bond shall constitute a lien and charge upon the money in the Waterworks Utility Funds equal in rank with the lien and charge thereon for the payments required to be made for the Outstanding Parity Bonds. The Bond will not be issued until the certificates described in this section have been executed and delivered.

Section 4. Description of Bond. The Bond shall be designated “City of Ellensburg, Washington, Water and Sewer Revenue Refunding Bond, ____ [year of issuance],” shall be fully registered as to both principal and interest, shall be issued as a single fully registered bond, and shall be numbered R-1, or may be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; and shall be dated and bear interest at the per annum rates, payable on the dates and maturing in the principal amounts as set forth in the Approved Offer, pursuant to Section 9 of this ordinance.

The Bond shall be an obligation only of the Bond Fund and shall be payable and secured as provided herein. The Bond is not a general obligation of the City. The Bond shall not constitute an indebtedness of the City within the meaning of the constitutional provisions and limitations of the State of Washington.

Section 5. Registration and Payments. The City hereby appoints the Treasurer to act as the Bond Registrar. The duties of the Bond Registrar hereunder shall be limited to authenticating the Bond and to remitting money to the Purchaser on the payment dates as provided therein. The Bond shall not be transferable, except in whole to a financial institution. The Treasurer may determine at any time that he/she no longer wishes to act as Bond Registrar and thereupon appoint a successor Bond Registrar, which may or may not be the fiscal agent of the State of Washington. The Bond Registrar is authorized, on behalf of the City, to authenticate

and deliver the Bond to the Purchaser, and to carry out all of the Bond Registrar's powers and duties under this ordinance.

Principal of and interest on the Bond shall be payable in lawful money of the United States of America. Installments of principal of and interest on the Bond shall be paid by check, wire, or electronic transfer on the date due to the Purchaser; *provided, however*, the final installment of principal on the Bond shall be payable only upon presentation and surrender of the Bond by the Purchaser to the Bond Registrar.

Section 6. Redemption. The Bond may be subject to redemption as set forth in the Approved Offer; provided, however, that the Bond shall be subject to optional redemption not later than 10.5 years from the Date of Issue.

Section 7. Form of Bond. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

\$ _____

STATE OF WASHINGTON
CITY OF ELLENSBURG

WATER AND SEWER REVENUE REFUNDING BOND, ____ [YEAR OF ISSUANCE]

INTEREST RATE: _____%

MATURITY DATE: December 1, ____

REGISTERED OWNER: _____

TAX IDENTIFICATION #: _____

PRINCIPAL AMOUNT: _____ and No/100 Dollars

THE CITY OF ELLENSBURG, WASHINGTON, a municipal corporation of the State of Washington (hereinafter referred to as the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount specified above, together with interest thereon, at the Interest Rate specified above. Principal of and interest on this Bond shall be payable on the payment dates

and in the amounts shown on the attached amortization schedule, and shall mature on December 1, 20__.

Interest shall be calculated on the basis of a year of 30/360 day basis.

Both principal of and interest on this bond are payable in lawful money of the United States of America. Installments of the principal of and interest on this bond shall be paid by check or draft of the City mailed on the date such principal and interest is due or by electronic funds transfer made on the date such interest is due to the Registered Owner or nominee at the address appearing on the Bond Register. The Treasurer of the City is acting as the initial registrar, authenticating agent and paying agent for this bond (the "Bond Registrar"). Upon final payment of all installments of principal and interest thereon, this bond shall be submitted to the Bond Registrar for cancellation and surrender.

This bond is issued pursuant to Ordinance No. ____, passed by the City Council on November 21, 2016 (the "Bond Ordinance") for the purpose of refunding certain outstanding water and sewer revenue bonds and paying costs of issuing this bond. Capitalized terms appearing on this bond and not otherwise defined herein shall have the meanings given such terms in the Bond Ordinance.

This bond may be prepaid as provided in the Bond Ordinance and the Approved Offer.

This bond is not transferable, except in whole to a financial institution.

This bond is not a "private activity bond" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). The City has designated this bond as a "qualified tax-exempt obligation" under Section 265(b) of the Code for investment by financial institutions.

This bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and ordinances of the City, including the Bond Ordinance. This bond shall be payable from revenues of the Waterworks Utility and does not constitute a general obligation of the City.

Both principal of and interest on this bond are payable solely out of the special funds of the City including but not limited to Water Fund No. 481 (the "Bond Fund"). The City does hereby pledge and bind itself to set aside and pay into the Bond Fund the amount required by the Bond Ordinance to be paid therein on the date due from the sources and in the priority specified in the Bond Ordinance.

The City has further bound itself to maintain the Waterworks Utility in good condition and repair, to operate the same in an efficient manner and at a reasonable cost, to establish, maintain and collect rates and charges for all services and facilities provided by the Waterworks Utility, for as long as this bond remains outstanding that will make available for the payment of the principal of and the interest on this bond as the same shall become due an amount equal to at least the amount required annually hereafter for the payment of all of such principal and interest

after normal costs of maintenance and operation of the Waterworks Utility have been paid, but before depreciation.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Ellensburg, Washington, signed with the facsimile or manual signature of the Mayor, to be attested by the facsimile or manual signature of the City Clerk, and the corporate seal of the City to be impressed, imprinted or otherwise reproduced hereon, all as of this ____ day of _____, 20__.

[SEAL]

CITY OF ELLENSBURG, WASHINGTON

By _____ /s/ _____
Mayor

ATTEST:

_____/s/_____
City Clerk

The Bond Registrar's Certificate of Authentication on the Bond shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____, 20__

This Bond is described in the within-mentioned Ordinance and is the City of Ellensburg, Washington, Water and Sewer Revenue Refunding Bond, ____ [year of issuance], dated _____, 20__.

TREASURER of the City of Ellensburg, as
Bond Registrar

By _____

AMORTIZATION SCHEDULE

<u>Payment</u> <u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u> <u>Payment</u>
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Section 8. Execution and Authentication of the Bond. The Bond shall be signed on behalf of the City by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk and authenticated by the Bond Registrar, and the seal of the City shall be impressed, imprinted or otherwise reproduced thereon.

Only such Bond as shall bear thereon a Certificate of Authentication in the form recited above, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bond shall cease to be an officer or officers of the City before the Bond shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Bond may also be signed and attested on behalf of the City by such persons as at the actual date of execution of the Bond shall be the proper officers of the City although at the original date of the Bond any such person shall not have been such officer of the City.

Section 9. Sale of Bond. The Council has determined that it would be in the best interest of the City to delegate to the City Representative, with the assistance of the Placement Agent, the authority to negotiate terms for the purchase of the Bond and to approve the Term Sheet and its circulation, approve the Approved Offer, approve the final interest rate or rates, maturity date or dates, aggregate principal amount, principal amounts of each maturity, if applicable, prepayment provisions and other terms and conditions of the Bond, with such terms as are approved by the City Representative pursuant to this section and consistent with this ordinance. The City Representative, with the assistance of the Placement Agent, is hereby authorized to negotiate terms for the purchase of the Bond and to approve the Term Sheet and its circulation, approve the Approved Offer, approve the final interest rate or rates, maturity date or dates, aggregate principal amount, principal amounts of each maturity, if applicable, prepayment provisions and other terms and conditions of the Bond, so long as (i) the aggregate principal amount of the Bond does not exceed \$7,500,000; (ii) the true interest cost for the Bond does not exceed 3.50%; (iii) the Savings Target is met and (iv) provided that the Bond shall be subject to optional redemption no later than 10.5 years from date of issuance.

In approving the Approved Offer, determining the interest rate or rates, maturity date or dates, aggregate principal amount, principal amounts of each maturity, if applicable, prepayment provisions and other terms and conditions of the Bond, the City Representative, in consultation with City staff and the Placement Agent, shall take into account those factors that, in his/her judgment, will result in the most favorable result to the City taking into consideration all proposed terms. The City specifically reserves the right to make the decision based on all factors.

The City Representative shall select the purchasing entity or bank to purchase the Bond through a process of soliciting proposals for purchase with a Term Sheet. Upon the selection of a Purchaser, the City Representative shall negotiate the terms of sale for the Bond, including the terms described in this section, in an Approved Offer.

Subject to the terms and conditions set forth in this Section 9, the City Representative is hereby authorized to execute the final form of an Approved Offer; which may include email communications, upon his/her approval of the final interest rate or rates, maturity date or dates, aggregate principal amount, principal amounts of each maturity, if applicable, prepayment provisions and other terms and conditions of the Bond set forth therein. Following the sale of the Bond, the City Representative shall provide a report to the Council, describing the final terms of the Bond approved pursuant to the authority delegated in this section.

The authority granted to the City Representative by this section shall remain in effect until March 31, 2017. If the sale for the Bond has not been completed by March 31, 2017, the authorization for the issuance of the Bond shall be rescinded, and the Bond shall not be issued nor its sale approved unless the Bond shall have been re-authorized by ordinance of the City. The ordinance reauthorizing the issuance and sale of the Bond may be in the form of a new ordinance repealing this ordinance in whole or in part or may be in the form of an amendatory ordinance establishing terms and conditions for the authority delegated under this section.

Upon the adoption of this ordinance, the proper officials of the City including the City Representative, are authorized and directed to undertake all other actions necessary for the prompt sale, execution and delivery of the Bond and further to execute all closing certificates and documents required to effect the closing and delivery of the Bond in accordance with the terms of the Approved Offer. In furtherance of the foregoing, the City Representative is authorized to

approve and enter into agreements for the payment of costs of issuance, including the fees and expenses specified in the Approved Offer, fees and expenses of the Purchaser and other retained services, the Bond Counsel fee, the Placement Agent fee, and other expenses customarily incurred in connection with issuance and sale of bonds.

Section 10. Application of Bond Proceeds; Refunding Plan.

(a) *Reserve Account.* The portion of the Bond, if any, designated by the City Representative shall be deposited into the Reserve Account which shall be, together with the balance therein, sufficient to meet the Reserve Requirement. In the alternative, the portion of Bond proceeds, if any, designated by the City Representative may be used to pay all or a portion of the cost of purchasing Reserve Insurance, if any, to satisfy the Reserve Requirement.

(b) *Refunding Plan.* The net proceeds of sale of the Bond, together with other funds, if any, provided by the City shall be remitted to the Escrow Agent and shall be used immediately upon receipt thereof to defease the Refunded Bonds and to pay related costs of issuance. Money received by the Escrow Agent from Bond proceeds and other money provided by the City shall be used immediately by the Escrow Agent upon receipt thereof in accordance with the terms of the Escrow Agreement to defease the Refunded Bonds as authorized by the 2010 Bond Ordinance and pay costs of issuance of the Bond. The City shall defease the Refunded Bonds and discharge such obligations to purchase certain Government Obligations (which obligations so purchased, are herein called "Acquired Obligations"), bearing such interest and maturing as to principal and interest in such amounts and at such times which, together with any necessary beginning cash balance, will provide for the payment of:

(1) Interest on the Refunded Bonds as such become due on and prior to the Call Date; and

(2) The redemption price (100% of par) of the Refunded Bonds on the Call Date.

(c) *Escrow Agent/Escrow Agreement.* U.S. Bank National Association, Seattle, Washington, is hereby authorized to act as the escrow agent (the “Escrow Agent”) for the Refunded Bonds. The City Representative is hereby authorized to designate an accounting firm to act as escrow verification agent. A beginning cash balance, if any, and Acquired Obligations shall be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. The proceeds of the Bond after acquisition of the Acquired Obligations and provision for the necessary beginning cash balance shall be utilized to pay expenses of the acquisition and safekeeping of the Acquired Obligations and expenses of the issuance of the Bond.

In order to carry out the purposes of this section, the City Representative is authorized and directed to execute and deliver to the Escrow Agent, an Escrow Deposit Agreement and a Cost of Issuance Agreement attached hereto as Exhibit B and Exhibit C, respectively.

(d) *Implementation of Refunding Plan.* The City hereby irrevocably calls the Refunded Bonds for redemption on the Call Date in accordance with the provisions of the 2010 Bond Ordinance. Said defeasance and call for redemption of the Refunded Bonds shall be irrevocable after the final establishment of the escrow account and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent is hereby authorized and directed to provide for the giving of notices of the redemption of the Refunded Bonds in accordance with the applicable provisions of the 2010 Bond Ordinance. The City Representative is authorized and requested to provide whatever

assistance is necessary to accomplish such redemption and the giving of notices therefor. The costs of publication of such notices shall be an expense of the City.

The Escrow Agent is hereby authorized and directed to pay to the paying agent for the Refunded Bonds, sums sufficient to pay, when due, the payments specified in of subsection (b) above. All such sums shall be paid from the money and Acquired Obligations deposited with said Escrow Agent pursuant to this section, and the income therefrom and proceeds thereof.

The City will take such actions as are found necessary to ensure that all necessary and proper fees, compensation and expenses of the Escrow Agent shall be paid when due.

Section 11. Bond Fund; Payments into Bond Fund.

(a) *Bond Fund.* The Bond Fund has been created in the office of the Finance Director and is divided into two accounts: the Principal and Interest Account and the 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 interest payment with respect to the outstanding Parity Bonds; and

(2) Into the Principal and Interest Account on or before each principal payment date, an amount sufficient, together with other money on deposit therein, to make the next ensuing principal payment on the outstanding Parity Bonds; and

(3) Into the Reserve Account for the Parity Bonds, on the date of issue of the Bond, an amount that will satisfy the Reserve Requirement for the Parity Bonds. This may include deposits of (i) on the date of issue, and thereafter annually in regular installments, an

amount which (together with other money and Alternate Securities on deposit therein) will equal the Reserve Requirement for the outstanding Parity Bonds, which additional amount shall be accumulated by no later than five years from the date of issue; or (ii) one or more Alternate Securities the amount payable under which, together with any amount deposited under subparagraph (i) above, are equal to the Reserve Requirement for the outstanding Parity Bonds.

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 for the payment or securing 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 outstanding Parity Bonds except for withdrawals authorized in this section. The Reserve Account may be divided into subaccounts for each issue of Parity Bonds. 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.

If there is a deficiency in the Principal and Interest Account to meet maturing installments of either principal or payments of interest then due and payable, as the case may be, 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, such deficiency shall be made up ratably from each subaccount, based on the proportion of the total Reserve Requirement to paid into each subaccount, except as required under an Alternate Security. 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.

The money in the Reserve Account otherwise shall be held intact and may be applied against the last outstanding Parity Bonds, except that if the Reserve Account (and its subaccounts, if any) are fully funded, any money in excess of the Reserve Requirement may be withdrawn and deposited, first, in any subaccount (if any) having a deficiency in its Reserve Requirement, and second, at the option of the Finance Director, either (i) into the Principal and Interest Account, and spent for the purpose of retiring Parity Bonds; or (ii) in the Waterworks Utility Funds, and spent for any other lawful Waterworks Utility 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 12. Pledge of Revenue and Lien Position. The Net Revenue and ULID Assessments are pledged to the payment of the Parity Bonds. This pledge is on a parity with the lien and charge upon such Net Revenue and ULID Assessments with respect to the Parity Bonds and constitutes a lien and charge that is prior and superior to any other charges whatsoever.

Section 13. 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 issue of bonds.

(b) *Maintenance and Operation.* The City will at all times maintain, preserve and keep the properties of the Waterworks Utility 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 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 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 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 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 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.* The City will not sell or otherwise dispose of the Waterworks Utility 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, 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, 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 from the portion of the Waterworks Utility sold or disposed of for the preceding year bears to the total Gross Revenue of the Waterworks Utility 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 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 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 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, or no longer necessary, material to or useful to the operation of the Waterworks Utility, without making any deposit into the Bond Fund. Furthermore, the City may transfer the Waterworks Utility to another municipal corporation so long as ULID Assessments and Net Revenue of the portion of the Waterworks Utility so transferred are used for payment of debt service on the Parity Bonds prior to any other purpose.

(e) *Liens Upon the Waterworks Utility.* 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 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 showing in reasonable detail the financial condition of the Waterworks Utility 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. 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 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 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 14. Flow of Funds. For so long as the Parity Bonds are outstanding, the Gross Revenue of the Waterworks Utility shall be deposited in the Waterworks Utility 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 into any mandatory redemption or sinking fund account created to provide for the payment of the principal of Term Bonds;
- (d) 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;
- (e) 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 payor 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 revenue of the Waterworks Utility

subordinate to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

(f) To make necessary additions, betterments and improvements and repairs to or extensions and replacements of the Waterworks Utility, to retire by redemption or purchase in the open market any outstanding revenue obligations or other obligations of the Waterworks Utility, or for any other lawful City purpose.

The City may transfer any money from any funds or accounts of the Waterworks Utility 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. 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 16. 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. 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 17. Rate Stabilization Fund. The City Finance Director is authorized to establish a Waterworks Utility Rate Stabilization Fund within the Waterworks Utility 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 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 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 18. Defeasance. In the event that money and/or noncallable Government Obligations that are direct or indirect obligations of the United States or obligations unconditionally guaranteed by the United States maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to redeem and retire part or all of the Bond in accordance with its terms, are set aside in a special account of the City to effect such redemption and retirement, and such moneys and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund of the City for the payment of the principal of and interest on the Bond so provided for, and the Bond or portion thereof shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the moneys so set aside and pledged, and except the right to receive the moneys so set aside and pledged, the Bond or such portion thereof shall be deemed not to be outstanding hereunder.

Section 19. Tax Covenants; Special Designation.

(a) *Arbitrage Covenant.* The City hereby covenants that it will not make any use of the proceeds of sale of the Bond or any other funds of the City which may be deemed to be proceeds of such Bond pursuant to Section 148 of the Code and applicable regulations thereunder which will cause the Bond to be an “arbitrage bond” within the meaning of said section and regulations. The City will comply with the requirements of Section 148 of the Code

(or any successor provision thereof applicable to the Bond) and the applicable regulations thereunder throughout the term of the Bond.

(b) *Private Person Use Limitation for Bond.* The City covenants that for as long as the Bond is outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of the Bond to be allocated to any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bond in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than five percent of the Net Proceeds of the Bond are allocable to any Private Person Use; and

(4) More than five percent of the principal or interest payments on the Bond in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the projects described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local

governmental use of the Projects refinanced with Bond proceeds, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bond used for the state or local governmental use portion of the project to which the Private Person Use of such portion of such project relates. The City further covenants that it will comply with any limitations on the use of the Projects by other than state and local governmental users that are necessary, in the opinion of its Bond Counsel, to preserve the tax exemption of the interest on the Bond. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bond.

(c) *Designation.* The City hereby designates the Bond as a “qualified tax-exempt obligation” for investment by financial institutions under Section 265(b)(3) of the Code. The City does not anticipate that it will issue more than \$10,000,000 in qualified tax-exempt obligations during the year of issuance of the Bond (excluding obligations permitted by the Code to be excluded for purposes of the City’s qualification as a qualified small issuer).

Section 20. Amendatory Ordinances.

(a) 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.

(b) 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, 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).

(c) (1) Except for any amendatory ordinance entered into pursuant to paragraph (b) of this section, subject to the terms and provisions contained in this paragraph (c) 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, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this ordinance. However, unless approved in writing by the registered owners of all Parity Bonds, nothing contained in this section shall permit, or be construed as permitting:

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

(ii) A preference of priority of any Parity Bonds or any other bond or bonds, or

(iii) A reduction in the aggregate principal amount of any Parity Bond.

(2) If at any time the City shall pass any amendatory ordinance for any of the purposes of this subsection (c), the Bond Registrar shall cause notice of the proposed amendatory ordinance to be given by first class United States mail to all registered owners of Parity Bonds,

and to each Rating Agency. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the Bond Registrar for inspection by all registered owners of Parity Bonds.

(3) Within two years after the date of the mailing of such notice, the City may pass such amendatory ordinance in substantially the form described in such notice, but only if there shall have first been delivered to the Bond Registrar (i) the required consents, in writing, of the registered owners of Parity Bonds, and (ii) 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 Parity Bonds.

(4) If registered owners of not less than the percentage of Parity Bonds required by this paragraph (c) shall have consented to and approved the execution and delivery thereof as herein provided, no owner of the Parity Bonds shall have any right to object to the passage of such amendatory ordinance, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the passage thereof, or to enjoin or restrain the City or the Bond Registrar from passing the same or from taking any action pursuant to the provisions thereof.

(d) Upon the execution and delivery of any amendatory ordinance pursuant to the provisions of this section, this ordinance shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City, the Bond Registrar and all registered owners of Parity Bonds, shall thereafter be

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

Section 21. Event of Bond Being Lost, Stolen or Destroyed. In case the Bond shall be lost, stolen or destroyed, the City may execute and the Bond Registrar may deliver a new bond of like date and tenor to the holder thereof upon the owner paying the expenses and charges of the City in connection therewith and upon his or her filing with the Bond Registrar evidence satisfactory to the Bond Registrar that the Bond was actually lost, stolen or destroyed, and upon furnishing the Bond Registrar with indemnity satisfactory to the Bond Registrar.

Section 22. No Undertaking to Provide Ongoing Disclosure. The Bond is not subject to Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, and the City makes no undertaking regarding ongoing disclosure with respect to the Bond.

As long as the Bond is outstanding, the City will provide to the Purchaser the information specified in the Approved Offer as approved by the City Representative.

Section 23. 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 24. 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/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 25. 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 21st day of November, 2016, and signed in authentication of its passage this 21st day of November, 2016.

CITY OF ELLENSBURG, WASHINGTON

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Bond Counsel

EXHIBIT A

Parity Conditions

The City may issue Future Parity Bonds on a parity with the 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 as set forth in Section 13 of Ordinance No. 4562 and Section 11 of Ordinance No. 4632.
- (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 Section 20 of Ordinance No. 4562, Section 17 of Ordinance No. 4632 and Section 17 of this ordinance 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

ESCROW DEPOSIT AGREEMENT

**CITY OF ELLENSBURG, WASHINGTON
WATER AND SEWER REVENUE REFUNDING BOND,
_____[YEAR OF ISSUANCE]**

THIS ESCROW AGREEMENT, dated as of _____, 20__ (herein, together with any amendments or supplements hereto, called the "Agreement") is entered into by and between the CITY OF ELLENSBURG, Washington (herein called the "City") and U.S. BANK NATIONAL ASSOCIATION, as Escrow Agent (herein, together with any successor in such capacity, called the "Escrow Agent"). The notice addresses of the City and the Escrow Agent are shown on Exhibit A attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, the City has issued and there presently remain outstanding the obligations described in Exhibit B (the "Refunded Bonds"); and

WHEREAS, pursuant to Ordinance No. ____ adopted on November 21, 2016 (the "Bond Ordinance"), the City has determined to issue its Water and Sewer Revenue Refunding Bond, ____[year of issuance] 2016 (the "Bond") for the purpose of providing funds to pay the costs of refunding the Refunded Bonds; and

WHEREAS, the Escrow Agent has reviewed this Agreement and the Bond Ordinance, and is willing to serve as Escrow Agent; and

WHEREAS, _____, of _____, _____, have prepared a verification report which is dated _____, 20__ (the "Verification Report") relating to the source and use of funds available to accomplish the refunding of the Refunded Bonds, the investment of such funds and the adequacy of such funds and investments to provide for the payment of the debt service due on the Refunded Bonds; and

WHEREAS, pursuant to the Bond Ordinance, the Refunded Bonds have been designated for redemption prior to their scheduled maturity dates and, after provision is made for such redemption, the Refunded Bonds will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Exhibit C; and

WHEREAS, when Escrowed Securities have been deposited with the Escrow Agent for the payment of all principal and interest of the Refunded Bonds when due, then the Refunded Bonds shall no longer be regarded as outstanding except for the purpose of receiving payment from the funds provided for such purpose; and

WHEREAS, the Bond has been duly authorized to be issued, sold, and delivered for the purpose of obtaining the funds required to provide for the payment of the principal of, interest on

and redemption premium (if any) on the Refunded Bonds when due as shown on Exhibit C; and

WHEREAS, the City desires that, concurrently with the delivery of the Bond to the purchasers, the proceeds of the Bond, together with certain other available funds of the City, shall be applied to purchase certain direct obligations of the United States of America hereinafter defined as (the "Escrowed Securities") for deposit to the credit of the Refunding Account and to establish a beginning cash balance (if needed) in the Refunding Account; and

WHEREAS, simultaneously herewith, the City is entering into a Cost of Issuance Agreement with the Escrow Agent to provide for the payment of costs of issuance relating to the Bond;

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which hereby are acknowledged, and to secure the full and timely payment of principal of and the interest on the Refunded Bonds, the City and the Escrow Agent mutually undertake, promise and agree for themselves and their respective representatives and successors, as follows:

Article 1. Definitions

Section 1.1. Definitions.

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

Escrowed Securities means the noncallable Government Obligations described in Exhibit D, or cash or other noncallable obligations substituted therefor pursuant to Section 4.2 of this Agreement.

Government Obligations means direct, noncallable (a) United States Treasury Obligations, (b) United States Treasury Obligations - State and Local Government Series, (c) non-prepayable obligations which are unconditionally guaranteed as to full and timely payment of principal and interest by the United States of America or (d) REFCORP debt obligations unconditionally guaranteed by the United States.

Paying Agent means the fiscal agent of the State of Washington, as the paying agent for the Refunded Bonds.

Refunding Account means the fund created by this Agreement to be established, held and administered by the Escrow Agent pursuant to the provisions of this Agreement.

Section 1.2. Other Definitions.

The terms "Agreement," "City," "Escrow Agent," "Bond Ordinance," "Refunded Bonds," and "Verification Report," when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

Section 1.3. Interpretations.

The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the refunding of the Refunded Bonds in accordance with applicable law.

Article 2. Deposit of Funds and Escrowed Securities

Section 2.1. Deposits in the Refunding Account.

Concurrently with the sale and delivery of the Bond the City shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Refunding Account, the funds sufficient to purchase the Escrowed Securities described in Exhibit D, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the City in writing.

Article 3. Creation and Operation of Refunding Account

Section 3.1. Refunding Account.

The Escrow Agent has created on its books a special trust fund and irrevocable escrow to be known as the Refunding Account (the "Refunding Account"). The Escrow Agent agrees that upon receipt it will deposit to the credit of the Refunding Account the funds and the Escrowed Securities described in Exhibit D. Such deposit, all proceeds therefrom, and all cash balances on deposit therein (a) shall be the property of the Refunding Account, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Bonds, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.2. When the final transfers have been made for the payment of such principal of and interest on the Refunded Bonds, any balance then remaining in the Refunding Account shall be transferred to the City, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

Section 3.2. Payment of Principal and Interest.

The Escrow Agent is hereby irrevocably instructed to transfer to the Paying Agent from the cash balances on deposit in the Refunding Account, the amounts required to pay the principal of the Refunded Bonds at their respective redemption dates and interest thereon to such redemption dates in the amounts and at the times shown in Exhibit C.

Section 3.3. Sufficiency of Refunding Account.

The City represents that, based upon the information provided in the Verification Report, the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from in the Refunding Account will be at all times sufficient to provide money for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Bonds as such interest comes due and the principal of the Refunded Bonds as the Refunded Bonds are paid on an optional redemption date prior to maturity, all as more fully set forth in Exhibit E. If, for any reason, at any time, the cash balances on deposit or scheduled to be on deposit in the Refunding Account shall be insufficient to transfer the amounts required by the Paying Agent to make the payments set forth in Section 3.2., the City shall timely deposit in the Refunding Account, from any funds that are lawfully available therefor, additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given promptly as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Refunding Account or the City's failure to make additional deposits.

Section 3.4. Trust Fund.

The Escrow Agent shall hold at all times the Refunding Account, the Escrowed Securities and all other assets of the Refunding Account, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Refunding Account to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Refunding Account only as set forth herein. The Escrowed Securities and other assets of the Refunding Account shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Bonds; and a special account shall at all times be maintained on the books of the Escrow Agent. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as a Agent and Escrow Agent under the terms of this Agreement.

Article 4. Limitation on Investments

Section 4.1. Investments.

Except for the initial investment in the Escrowed Securities, and except as provided in Section 4.2, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer, or otherwise dispose of the Escrowed Securities.

Section 4.2. Substitution of Securities.

At the written request of the City, and upon compliance with the conditions hereinafter stated, the Escrow Agent shall utilize cash balances in the Refunding Account, or sell, transfer, otherwise dispose of or request the redemption of the Escrowed Securities and apply the proceeds therefrom to purchase Refunded Bonds or Government Obligations which do not

permit the redemption thereof at the option of the obligor. Any such transaction may be effected by the Escrow Agent only if (a) the Escrow Agent shall have received a written opinion from a firm of certified public accountants that such transaction will not cause the amount of money and securities in the Refunding Account to be reduced below an amount sufficient to provide for the full and timely payment of principal of and interest on all of the remaining Refunded Bonds as they become due, taking into account any optional redemption thereof exercised by the City in connection with such transaction; and (b) the Escrow Agent shall have received the unqualified written legal opinion of its bond counsel or tax counsel to the effect that such transaction will not cause the Bond or Refunded Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

Article 5. Application of Cash Balances

Section 5.1. In General.

Except as provided in Section 2.1, 3.2 and 4.2 hereof, no withdrawals, transfers or reinvestment shall be made of cash balances in the Refunding Account. Cash balances shall be held by the Escrow Agent in United States currency and shall not be reinvested by the Escrow Agent, except as directed or authorized herein.

Article 6. Redemption of Refunded Bonds

Section 6.1. Call for Redemption.

The City hereby irrevocably calls the Refunded Bonds for redemption on their earliest redemption dates, as shown in the Verification Report and on Appendix A attached hereto.

Section 6.2. Notice of Redemption/Notice of Defeasance.

The Escrow Agent agrees to give a notice of defeasance and a notice of the redemption of the Refunded Bonds to the Paying Agent for dissemination in accordance with the terms of Ordinance No. 4562 of the City Council and in substantially the forms attached as and as described in Appendices A and B to the Paying Agent for distribution as described therein. The notice of defeasance shall be given immediately following the execution of this Agreement, and the notice of redemption shall be given in accordance with the ordinance or resolution authorizing the Refunded Bonds. The Escrow Agent hereby certifies that provision satisfactory and acceptable to the Escrow Agent has been made for the giving of notice of redemption of the Refunded Bonds.

Article 7. Records and Reports

Section 7.1. Records.

The Escrow Agent will keep books of record and account in which complete and accurate entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Refunding Account and all proceeds thereof, and such books shall be available for inspection during business hours and after reasonable notice.

Section 7.2. Reports.

While this Agreement remains in effect, the Escrow Agent annually shall prepare and send to the City a written report summarizing all transactions relating to the Refunding Account during the preceding year, including, without limitation, credits to the Refunding Account as a result of interest payments on or maturities of the Escrowed Securities and transfers from the Refunding Account for payments on the Refunded Bonds or otherwise, together with a detailed statement of all Escrowed Securities and the cash balance on deposit in the Refunding Account as of the end of such period.

Article 8. Concerning the Paying Agent and Escrow Agent

Section 8.1. Representations.

The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

Section 8.2. Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Bonds shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Refunding Account. Notwithstanding any provision contained herein to the contrary, the Escrow Agent shall have no liability whatsoever for the insufficiency of funds from time to time in the Refunding Account or any failure of the obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the City promptly of any such occurrence.

The recitals herein and in the proceedings authorizing the Bond shall be taken as the statements of the City and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent.

It is the intention of the parties that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its negligence or want of good faith.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the City with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Refunding Account, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the City or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the City at any time.

Section 8.3. Successor Escrow Agents.

If at any time the Escrow Agent or its legal successor or successors should become unable, through operation of law or otherwise, to act as Escrow Agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the City, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the City within 60 days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Bonds then outstanding by an instrument or instruments in writing filed with the City, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Bond may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or any state, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$100,000,000 and subject to the supervision or examination by federal or state authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the City and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the

terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The obligations assumed by the Escrow Agent pursuant to this Agreement may be transferred by the Escrow Agent to a successor Escrow Agent if (a) the requirements of this Section 8.2 are satisfied; (b) the successor Escrow Agent has assumed all the obligations of the Escrow Agent under this Agreement; and (c) all of the Escrowed Securities and money held by the Escrow Agent pursuant to this Agreement have been duly transferred to such successor Escrow Agent.

Article 9. Miscellaneous

Section 9.1. Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten days prior notice thereof.

Section 9.2. Termination of Responsibilities.

Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the City, the owners of the Refunded Bonds or to any other person or persons in connection with this Agreement.

Section 9.3. Binding Agreement.

This Agreement shall be binding upon the City and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Bonds, the City, the Escrow Agent and their respective successors and legal representatives.

Section 9.4. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 9.5. Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Washington.

Section 9.6. Time of the Essence.

Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

Section 9.7. Notice to S&P.

In the event that this Agreement or any provision thereof is severed, amended or revoked, the City shall provide written notice of such severance, amendment or revocation S&P Global Ratings, 55 Water Street, New York, New York 10041, Attention: Public Finance Rating Desk/Refunded Bonds.

Section 9.8. Amendments.

This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the holders of the Refunded Bonds. No such amendment shall be made without first receiving written confirmation from the rating agencies, (if any) which have rated the Refunded Bonds that such administrative changes will not result in a withdrawal or reduction of its rating then assigned to the Refunded Bonds. If this Agreement is amended, prior written notice and copies of the proposed changes shall be given to the rating agencies which have rated the Refunded Bonds.

EXECUTED as of the date first written above.

CITY OF ELLENSBURG, WASHINGTON

City Representative

U.S. BANK NATIONAL ASSOCIATION

Authorized Signer

- Exhibit A - Addresses of the City and the Escrow Agent
- Exhibit B - Descriptions of the Refunded Bonds
- Exhibit C - Schedule of Debt Service on Refunded Bonds
- Exhibit D - Description of Beginning Cash Deposit and Escrowed Securities
- Exhibit E - Refunding Account Cash Flow
- Appendix A - Notice of Redemption for the 2010 Bonds
- Appendix B - Notice of Defeasance for the 2010 Bonds

EXHIBIT A
Addresses of the City and the Escrow Agent

City: City of Ellensburg
501 North Anderson Street
Ellensburg, WA 98926
Attention: Finance Director

Escrow Agent: U.S. Bank National Association
Global Corporate Trust Services
PD-WA-T7CT
1420 Fifth Avenue, 7th Floor
Seattle, WA 98101
Attention: Vice President

EXHIBIT B
Description of the Refunded Bonds
(the "Refunded Bonds")

City of Ellensburg, Washington
Water and Sewer Revenue Improvement and Refunding Bonds, 2010

Maturity Years (December 1)	Principal Amounts	Interest Rates
2020	\$ 510,000	4.50%
2021 ⁽¹⁾	50,000	4.00
2021 ⁽¹⁾	485,000	4.50
2022	560,000	4.50
2023	585,000	4.50
2024	610,000	4.50
2025	640,000	4.50
2026	665,000	4.50
2028 ⁽²⁾	1,425,000	4.50
2029	760,000	4.00

⁽¹⁾ Bifurcated Maturity

⁽²⁾ Term Bond

EXHIBIT C
Schedule of Debt Service on Refunded Bonds

Date	Interest	Principal/ Redemption Price	Total
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EXHIBIT D
Escrow Deposit

I. Cash \$_____

II. Other Obligations

<u>Description</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Total Cost</u>
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EXHIBIT E
Refunding Account Cash Flow

<u>Date</u>	<u>Escrow Requirement</u>	<u>Net Escrow Receipts</u>	<u>Excess Receipts</u>	<u>Cash Balance</u>
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APPENDIX A

**Notice of Redemption*
City of Ellensburg, Washington
Water and Sewer Revenue Improvement and Refunding Bonds, 2010**

NOTICE IS HEREBY GIVEN that the City of Ellensburg, Washington has called for redemption on June 1, 2020, its then outstanding Water and Sewer Revenue Improvement and Refunding Bonds, 2010 (the "Bonds").

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to June 1, 2020. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

U.S. Bank National Association
Global Corporate Trust Services
111 Fillmore Ave E.
St. Paul, MN 55107

Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on June 1, 2020.

The following Bonds are being redeemed:

Maturity Dates (December 1)	Principal Amounts	Interest Rates	CUSIP No.
2020	\$ 510,000	4.50%	288314BU0
2021 ⁽¹⁾	50,000	4.00	288314BV8
2021 ⁽¹⁾	485,000	4.50	288314CE5
2022	560,000	4.50	288314BW6
2023	585,000	4.50	288314BX4
2024	610,000	4.50	288314BY2
2025	640,000	4.50	288314BZ9
2026	665,000	4.50	288314CA3
2028 ⁽²⁾	1,425,000	4.50	288314CC9
2029	760,000	4.00	288314CD7

(1) Bifurcated Maturity

(2) Term Bond

* This notice shall be given not more than 60 nor less than 30 days prior to June 1, 2020 by first class mail to each registered owner of the Refunded Bonds. In addition notice shall be mailed to The Depository Trust Company, Piper Jaffray & Co. (formerly Seattle-Northwest Securities Corporation), S&P Global Ratings, and submitted electronically to the Municipal Securities Rulemaking Board.

By Order of City of Ellensburg, Washington

U.S. Bank National Association, as Paying Agent

Dated: _____.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act") unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

APPENDIX B

Notice of Defeasance* City of Ellensburg, Washington Water and Sewer Revenue Improvement and Refunding Bonds, 2010

NOTICE IS HEREBY GIVEN to the owners of that portion of the above-captioned bonds with respect to which, pursuant to an Escrow Agreement dated _____, 20___, by and between City of Ellensburg, Washington (the "City") and U.S. Bank National Association (the "Escrow Agent"), the City has deposited into an escrow account, held by the Escrow Agent, cash and non-callable direct obligations of the United States of America, the principal of and interest on which, when due, will provide money sufficient to pay each year, to and including the respective maturity or redemption dates of such bonds so provided for, the principal thereof and interest thereon (the "Defeased Bonds"). Such Defeased Bonds are therefore deemed to be no longer outstanding pursuant to the provisions of Ordinance No. 4562 of the City, authorizing the issuance of the Defeased Bonds, but will be paid by application of the assets of such escrow account.

The Defeased Bonds are described as follows:

Water and Sewer Revenue Improvement and Refunding Bonds, 2010 (Dated May 11, 2010)

Maturity Dates (December 1)	Principal Amounts	Interest Rates	CUSIP No.	Call Date (100%)
2020	\$ 510,000	4.50%	288314BU0	June 1, 2020
2021 ⁽¹⁾	50,000	4.00	288314BV8	June 1, 2020
2021 ⁽¹⁾	485,000	4.50	288314CE5	June 1, 2020
2022	560,000	4.50	288314BW6	June 1, 2020
2023	585,000	4.50	288314BX4	June 1, 2020
2024	610,000	4.50	288314BY2	June 1, 2020
2025	640,000	4.50	288314BZ9	June 1, 2020
2026	665,000	4.50	288314CA3	June 1, 2020
2028 ⁽²⁾	1,425,000	4.50	288314CC9	June 1, 2020
2029	760,000	4.00	288314CD7	June 1, 2020

(1) Bifurcated Maturity

(2) Term Bond

* This notice shall be given immediately by first class mail to each registered owner of the Defeased Bonds. In addition notice shall be mailed to The Depository Trust Company; U.S. Bank National Association, as Fiscal Agent; Piper Jaffray & Co. (formerly Seattle-Northwest Securities Corporation); S&P Global Ratings, and sent electronically to the Municipal Securities Rulemaking Board.

Information for Individual Registered Owner

The addressee of this notice is the registered owner of Bond Certificate No. _____ of the
Defeased Bonds described above, which certificate is in the principal amount of \$_____.

_____, 20__

U.S. Bank National Association, as Escrow Agent

EXHIBIT C

COSTS OF ISSUANCE AGREEMENT

**CITY OF ELLENSBURG, WASHINGTON
WATER AND SEWER REVENUE REFUNDING BOND, ____ [YEAR OF ISSUANCE]**

THIS COSTS OF ISSUANCE AGREEMENT, dated as of _____, 20__ (herein, together with any amendments or supplements hereto, called the "Agreement"), is entered into by and between the CITY OF ELLENSBURG, WASHINGTON, (herein called the "City") and U.S. BANK NATIONAL ASSOCIATION, as Escrow Agent (herein, together with any successor in such capacity, called the "Escrow Agent").

WITNESSETH:

WHEREAS, pursuant to Ordinance No. ____ adopted on November 21, 2016 (the "Bond Ordinance"), the City has determined to issue its Water and Sewer Revenue Refunding Bond, ____ [year of issuance] 2016 (the "Bond") for the purpose of providing funds to pay the costs of refunding certain outstanding bonds of the City; and

WHEREAS, simultaneously herewith, the City is entering into an Escrow Deposit Agreement, dated _____, 20__ under which the Escrow Agent will hold invested proceeds of the Bond in order to pay and redeem the refunded bonds under the terms set forth therein; and

WHEREAS, certain proceeds of the Bond will be delivered to the Escrow Agent on the date of issuance of the Bond that are required to be disbursed to pay costs of issuance of the Bond; and

WHEREAS, the Escrow Agent has agreed, without additional compensation to disburse the Bond proceeds received to pay costs of issuance under the terms of this Agreement;

Section 1. Deposit in the Costs of Issuance Fund.

The Escrow Agent has created on its books a special trust fund and escrow fund to be known as the Costs of Issuance Fund. The Escrow Agent agrees that upon receipt it will deposit to the credit of the Costs of Issuance Fund Account the sum of \$_____ to pay those costs of issuance set forth on Exhibit A. Such deposit, all proceeds therefrom, and all cash balances on deposit therein shall be the property of the Costs of Issuance Fund to pay those costs of issuance set forth on Exhibit A upon receipt of invoices. If any of the \$_____ deposit allocated for costs of issuance for the Bond remains unspent on _____, 2017, the Escrow Agent shall transfer such unspent amount to the City, and this Agreement shall be deemed fully performed and terminated.

Section 2. Investments.

The Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder.

Section 3. Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the costs of issuance identified herein shall be limited to the proceeds of the Bond delivered to the Escrow Agent.

Section 4. Compensation.

The City shall pay to the Escrow Agent fees for performing the services hereunder and under the Escrow Agreement for the expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement and the Escrow Agreement pursuant to the terms of the Fee Schedule attached as Exhibit B. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against funds held under the Escrow Agreement for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses as Escrow Agent or in any other capacity.

Section 5. Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A to the Escrow Agreement.

Section 6. Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the state of Washington.

EXECUTED as of the date first written above.

CITY OF ELLENSBURG, WASHINGTON

Director of Finance

U.S. BANK NATIONAL ASSOCIATION

Authorized Signer

- Exhibit A - Costs of Issuance Schedule
- Exhibit B - Fee Schedule

EXHIBIT A

Costs of Issuance

Escrow Agent Fee (U.S. Bank National
Association) \$
Bond Counsel Fee (K&L Gates LLP)
Placement Agent Fee (Piper Jaffray & Co.)
Verification Agent Fee (_____)..... _____
Total:..... \$_____

EXHIBIT B

Fee Schedule

[ATTACH SCHEDULE]

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. ____ of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 21st day of November, 2016.

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 21st day of November, 2016.

City Clerk



AGENDA REPORT

To: City Council

THRU: John Akers, City Manager 

FROM: Terry Weiner, City Attorney 

SUBJECT: First reading of ordinance for repeal of Chapter 1.75 ECC, Access to Public Records and replacement with new Chapter 1.75 ECC, Public Records

DATE: November 7, 2016

SUMMARY: The City's duties and responsibilities under the Washington Public Records Act (PRA) are established in Chapter 1.75 ECC, Access to Public Records. This chapter has not been significantly updated since 1999 and is in need of replacement, partly to comply with the accreditation requirements for the Ellensburg Police Department (EPD). The attached proposed ordinance will repeal and replace the existing code chapter.

BACKGROUND: The PRA was adopted by state initiative in 1972. The PRA requires public agencies such as the City of Ellensburg to make available for inspection and copying non-exempt "public records" in accordance with published rules. Such rules are intended to provide full public access to public records, full assistance to requestors and timely action in responding to public disclosure requests. The City adopted Chapter 1.75 ECC – Access to Public Records – in 1999 to establish the general procedures by which the City makes its public records available. A review of the City code prompted by EPD's recent accreditation process with the Washington State Association of Chiefs of Police prompted the need to revise the code.

The City has an excellent system in place for complying with public disclosure requests ("PDR's"); however, the PRA has also undergone significant changes since its adoption. Many of the changes were additions to the list of statutory exemptions. The courts have also issued many decisions regarding the interpretation of those exemptions and a variety of other issues related to the PRA.

ANALYSIS AND FINDINGS: The proposed ordinance will provide for even greater transparency than currently exists in City code by establishing a more detailed process for responding to PDR's than exists in the current code. Adoption of the ordinance is also intended to ensure that the procedure of complying with public records requests does not result in excessive interference with other essential City functions. Finally, the ordinance addresses new issues in responding to PDR's such as installment responses for requests involving voluminous documents, as well as the production of electronic records.

In conjunction with presentation of the proposed ordinance, the City has modified its Public Records Request form and also made the form available on the City's website to download,

print and submit. Alternatively, a requestor can also simply submit the request through the City's website.

FISCAL IMPACT: None.

RECOMMENDATION(S): Review and consider first reading for the proposed ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON RELATING TO PUBLIC RECORDS AND REGULATING COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 42.56 RCW, THE PUBLIC RECORDS ACT (“THE ACT”), REPEALING CHAPTER 1.75 ENTITLED “ACCESS TO PUBLIC RECORDS” AND ADOPTING A NEW CHAPTER 1.75 ENTITLED “PUBLIC RECORDS.”

WHEREAS, under Chapter 42.56 RCW, the Public Records Act (“PRA”), government agencies such as the City of Ellensburg (“City”) are “to provide full access to public records” and “the fullest assistance to inquirers and the most timely possible action on requests for information” (RCW 42.56.100); and

WHEREAS, the City adopted its own public records rules for compliance with the PRA through adoption of Ordinance 4201 in 1999, codified in Chapter 1.75 of the Ellensburg City Code, and which has not been significantly amended since its adoption; and

WHEREAS, RCW 42.56.100 also provides that a municipality shall allocate its resources in such a way so as to prevent public disclosure demands from causing excessive interference with other essential City functions; and

WHEREAS, to prevent excessive interference with the other essential functions of the City, it is necessary to determine a reasonable level of effort to devote to responding to requests for public records commensurate with the available resources and staffing; and

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Chapter 1.75 of the Ellensburg City Code entitled “Access to Public Records”, as last amended by Ordinance 4566, is hereby repealed in its entirety.

Section 2. A new Ellensburg City Code Chapter 1.75 entitled “Public Records” is hereby added to the Ellensburg City Code to read as follows:

CHAPTER 1.75 PUBLIC RECORDS

- 1.75.020 Purpose.
- 1.75.040 Public Records Officer.
- 1.75.060 Definitions – Adoption by reference.
- 1.75.080 Additional Definitions.
- 1.75.100 Maintenance of records.
- 1.75.120 Index of public records not maintained.
- 1.75.140 Form and manner of request for records.
- 1.75.160 Initial response to request.
- 1.75.180 Prioritizing responses – additional response time.
- 1.75.200 Copying, delivery or inspection – fees – installments.
- 1.75.220 Electronic records; conversion of paper records.

1.75.020 Purpose.

The purpose of this chapter is to provide for the administration of the requirements for requesting public records and responding to requests for public records as provided in the Washington Public Records Act, Chapter 42.56 RCW. Failure of the city to fully comply with any provision of this chapter shall not result in any liability imposed upon the city other than as provided in the Public Records Act.

1.75.040 Public records officer.

The public records officer shall be designated by the city council and shall serve as the public records officer for all city records, except those maintained by the Ellensburg Police Department. The records supervisor for the Ellensburg Police Department shall serve as the public records officer for all records maintained by the Ellensburg Police Department. Contact information for the public records officer and records supervisor for the Ellensburg Police Department will be made available to the public in a manner reasonably calculated to provide notice to members of the public as to where they may direct requests, such as posting contact information at City Hall, the Ellensburg Police Department, or on the city's website.

1.75.060 Definitions.

A. Adoption by reference. The definitions set forth in Chapter 42.56 RCW, as presently adopted and as may be subsequently amended, are hereby adopted by reference, together with all amendments and additions provided in this chapter. A copy of each statute referenced is available on the city's website and also filed in the office of the city clerk and is available for use and examination by the public.

B. Additional definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meaning:

“City” includes city officers, employees or agents.

“Department” means a major functional division of the city's government; the following are city departments: community development, energy services, finance, human resources, library/Hal Holmes Center, parks and recreation, police, and public works.

“Department head” means either the director of each department or, for purposes of this chapter only, the city attorney, as to the records of the mayor and city council, city manager and city attorney. The term includes persons who may be designated by the department head to perform functions contemplated by this chapter.

“Public Records Act” shall mean Chapter 42.56 RCW as currently enacted or hereafter amended.

1.75.080 Maintenance of records.

A. All substantive and procedural rules of general applicability, including but not limited to ordinances and resolutions of the city council, minutes of the regular meetings of the city council, and all public contracts, deeds, easements and leases shall be indexed and maintained by the city clerk.

B. All police records shall be maintained in the Ellensburg Police Department. Access to police records shall be in accordance with the policy established by the Police Department, pursuant to laws including but not limited to Chapter 42.56 RCW, Chapter 10.97 RCW (Criminal Records Privacy Act), and Chapter 13.50 RCW (Keeping and Release of Records by Juvenile Justice or Care Agencies).

C. All other records of the city relating to the specific function or responsibility of a particular department shall be maintained for the use of the department and the general public in the office of the particular department. Such records shall include, but not be limited to: planning policies and goals, and interim and final planning decisions; factual staff reports and studies; factual consultant's reports and studies; scientific reports and studies; and any other factual information derived from tests, studies, reports or surveys, whether conducted by city employees or others.

1.75.100 Index of public records not maintained.

A. In General. The Public Records Act requires all cities and public agencies to maintain and make available a current index of certain public records. However, the Public Records Act also provides that if maintaining such an index would be unduly burdensome, or would interfere with agency operation, a city need not maintain such an index.

B. Findings. The city finds that maintaining an index as provided in RCW 42.56.070(3) for use by the public would be unduly burdensome and would interfere with agency operations given the high volume, various locations, and types of public records received, generated and otherwise acquired by the city. However, the city will maintain its records in a reasonably organized manner and take reasonable actions to protect records from damage and disorganization.

1.75.120 Form and manner of request for records.

A. While there is no specific required format for a public records request, for purposes of ensuring accuracy and efficiency in filling records requests, the city prefers that requests for

public records be made in writing and delivered in person, by mail or email, or through the city's online public records request form on the city's internet website.

B. The city will provide a public records request form that may be used by those requesting public records. The public records request may be submitted on the form provided by the city or in another written format. The following information will assist the city in efficiently processing and filling the records request:

1. The date of the request;
2. The name of the requester;
3. The full address of the requester;
4. The full email address of the requester;
5. The telephone number of the requester;
6. A complete description of the requested record;
7. The title and date of the requested record, if known;
8. The location of the requested record, if known; and
9. Whether the requester intends to review the records or to obtain a copy of the records.

C. Requests for public records made orally must be made during normal business hours. Oral requests will be confirmed by the city with the requestor to ensure an accurate response will be provided.

1.75.140 Initial response to request.

A. The city shall make an initial response to the request for public records within five business days of receipt of the request. Business days do not include Saturdays, Sundays, or city-observed holidays. In the event a request for public records is received after 5:00 p.m., the request shall be deemed to have been received on the next business day. Depending upon the nature of the request, the city may initially respond by:

1. Providing a copy of the record subject to any applicable exemptions, or providing the record for review if so requested;
2. Acknowledging the city's receipt of the request accompanied by a reasonable estimate of the time necessary to respond to the request;
3. Denying the request; or
4. Acknowledging the city's receipt of the request accompanied by a request for clarification of all or part of the request. If no response to the city's request for clarification is received within 30 days, the request will be considered closed.

B. If the requester does not provide the city with any contact information, the city will prepare a response that is consistent with this chapter. If a five-day letter is necessary, the city shall have it ready for the requester to collect at City Hall on the fifth business day, unless the requester provides sufficient contact information to the city. If a five-day letter or responsive records prepared within five days of the request are not picked up by the requester within 30 days of the date of the original request, the request and all other pending or future installments (if any) shall be considered closed.

1.75.160. Prioritizing responses -- additional response time.

A. Responding to public records requests is not always a sequential process. Public records requests will initially be responded to in within five business days in the chronological order received. Thereafter, the city will prioritize work on responses by a variety of factors, including but not limited to, the order received, volume and complexity of pending requests, breadth of the request, and employee workloads already devoted to responding to prior records requests and also performing essential city functions.

B. The city may periodically need additional time to respond to a request for records. For example, additional time may be necessary due to the volume of requests received by the city,

the complex nature of requests, the breadth of a request and need to search in order to locate and assemble responsive records, notify third persons or agencies affected by the request, determine whether any records or portions of records are exempt from disclosure, or determine whether denial should be made to the disclosure of all or a part of the requested records. In the event additional time is needed, the city will take reasonable steps to advise the requester of the additional time necessary and the reasons for the required extension.

1.75.180 Copying, delivery or inspection – fees – installments.

A. Charges for copying.

1. No fee is charged for the location or inspection of public records.

2. Fees for copies of records shall be as follows:

a. Photocopying per page (8 ½ inches by 17 inches maximum): \$0.15 per page;

b. Compact disc: \$1.00 per disc;

c. Postage: actual cost.

3. Payment of fees is required prior to release of records unless other arrangements have been made. Fees may also include charges incurred for having non-standard size or specialty documents (e.g., maps) copied; the requestor will be notified in advance of such costs.

4. As provided in RCW 42.56.120, the city may also require a deposit of up to 10% of the estimated cost of copying records prior to copying any records for a requestor.

B. When records are to be provided in installments:

1. The city may require the payment of the costs of copying an installment as they accrue for each installment before providing that installment.

2. If, within 30 days of the notice of availability of the responsive records, the requestor fails to inspect the set of records, pay the copying charge or claim one or more of the installments, the public records officer may stop processing the remainder of the request and close it.

1.75.200 Electronic records; conversion of paper records.

A. The process for requesting electronic public records is the same as the process for requesting paper public records. When a requestor requests records in an electronic format, if technically feasible, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the city and is generally commercially available, or will otherwise provide the records in a format that is reasonably translatable from the format in which the agency keeps the record.

B. A requestor may request that non-electronic (paper) records be provided in electronic format (PDF or similar format). If the city chooses to have an outside vendor scan and convert the records due to the volume of responsive records, the costs of conversion must be paid by the requestor prior to release of the records.

Section 3. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 4. 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/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

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

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the _____ day of November 2016.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



CITY ATTORNEY

Publish:

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

COREEN M. RENO



AGENDA REPORT

DATE: November 7, 2016
TO: City Council
THRU: John Akers, City Manager 
FROM: Jerica Pascoe, Finance Director 
RE: 3rd Quarter 2016 Financial Status and Investment Reports

SUMMARY: Attached are the 2016 Third Quarter Financial Status and Investment Reports for the period ending September 30, 2016. These reports present General Fund status, Governmental fund type tax revenues, debt activities, investment activities, and city-wide revenues and expenditures.

BACKGROUND: The City's Financial Management Policy provides that Council will receive updated information relating to the City's Investment/Financial Reports on a quarterly basis.

The 2016 Third Quarter Financial Status and Investment Reports were presented to the Finance Committee at the October 19th, 2016 meeting.

Governmental fund financial statements are reported using the current financial resources measurement focus and modified accrual basis of accounting. Therefore, a majority of revenue received in January is pushed back into December of the previous year. Whereas expenditures for 3rd quarter generally represent closer to 8.5 months, revenues represent closer to 8 months. This methodology has been applied when calculating the year-end projections. In cases where revenue is collected quarterly, you will see two quarters of revenue instead of three.

ANALYSIS/FINDINGS: Key items – 2016 Third Quarter:

- Based on review of each individual revenue and YTD collections, General Fund revenues are projected to come in above budget at year-end. (Table 1, Page 1)
- Based on each department, YTD spending and planned spending, General Fund expenditure projections are projected to come in below budget at year-end. (Table 1, Page 1)
- Year-End tax revenue is projected to be around 6% above budget. (Table 2, Page 2)
 - Sales tax revenue is projected to be around 14.23% over the current budget

- o assuming the current trend continues through 2016. (Table 2, Page 2)
 - o Property Tax and B&O Tax are projected to be below budget. (Table 2, Page 2)
 - o February through September 2016 sales tax receipts were 7.57% higher than February through September 2015 receipts. (Table 3, Page 3)
 - Majority of this increase was in retail trade.
 - Construction sales tax saw a decrease compared to this time last year.
- Utility tax revenues were .92% lower than 3rd quarter YTD in 2015. (Table 4, Page 4)
- Gas and Telephone utility tax have continued to decrease since 2009. (Tables 5 and 6, Page 5)
 - o Gas utility tax support to the General Fund has decreased over \$200,000 a year since 2009. (Tables 5 and 6, Page 5)
 - o Telephone utility tax support to the General Fund has decreased over \$150,000 a year since 2009 (Tables 5 and 6, Page 5)
- Not all retail sales tax is allocated to support the General Fund.
 - o The portion of retail sales tax allocated to the General Fund combined with the decrease in Gas and Telephone Utility taxes shows a drop and then fairly flat revenue stream for General Fund support. (Table 7, Page 6)
 - o All Retail Sales tax combined with the decrease in Gas and Telephone utility tax revenue shows a flat line with a gradual increase in revenue since 2009. (Table 8, Page 6)
- General Fund expenditures are projected to exceed revenues again in 2016, thus using fund balance. (Table 9, Page 7)
- General Fund is projected to come in better than budgeted, but is still projected to use over \$350,000 of fund balance. (Table 10, Page 8)
- No change in debt activities for 3rd quarter 2016. (Table 11, Page 9)
- The total excess revenue over expenditures for all funds through 3rd quarter was \$921,037. (Table 12, Page 10)
- The City had \$34,877,176 in excess cash invested. (Investment report page 1)
 - o \$28,082,593 of the invested cash was with Washington Local Government Investment Pool (LGIP), which is liquid. (Investment report page 2)

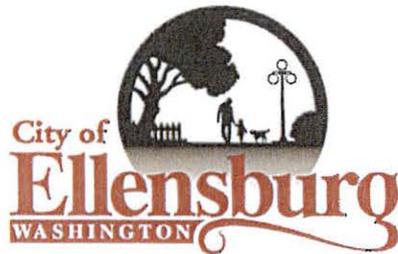
FISCAL IMPACT: None at this time.

RECOMMENDATION(S):

- 1.) Accept Third Quarter Financial Status and Investment Reports as presented.

Attachment: 2016 Third Quarter Financial Status Report
2016 Third Quarter Investment Report

City of Ellensburg Washington

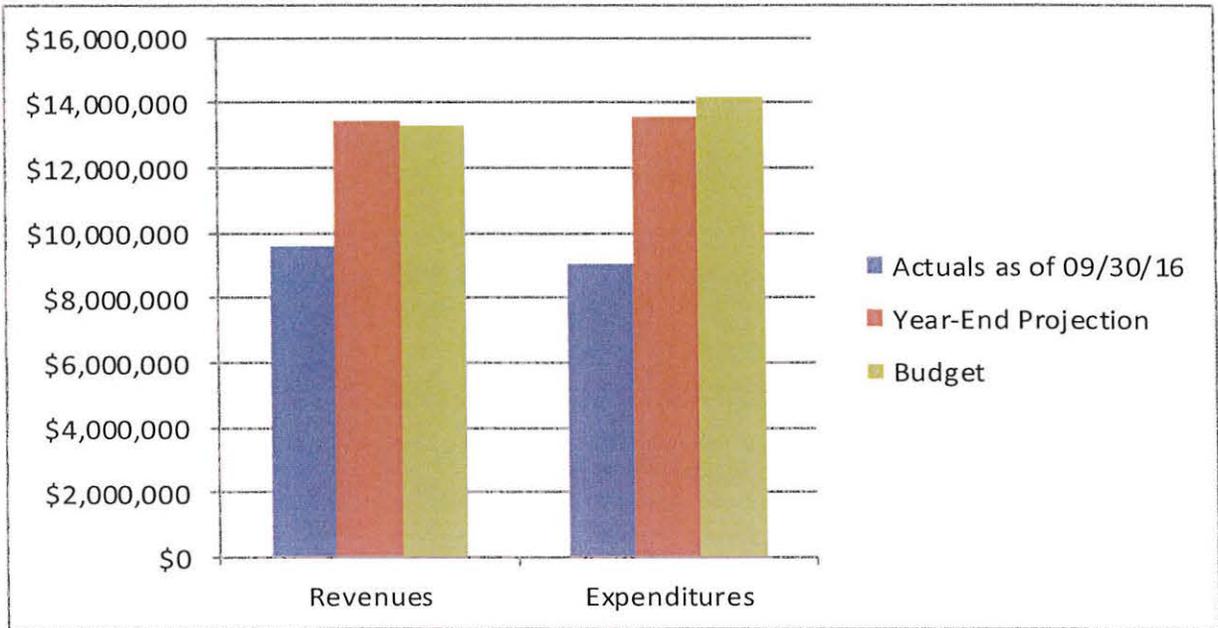


Quarterly Financial Status Report For the Quarter Ending September 30, 2016

General Fund

The General Fund departments’ major funding sources include Property Tax, Transfers from Sales Tax Fund #140, Utility Taxes, Licenses & Permit Fees, and Charges for Services. Sales Tax is the largest tax revenue source for the City at 45%, followed by Utility Tax at 28%, and Property Tax at 26% of the City funds. Tax revenue is 18.95% of the total City revenues.

Table 1



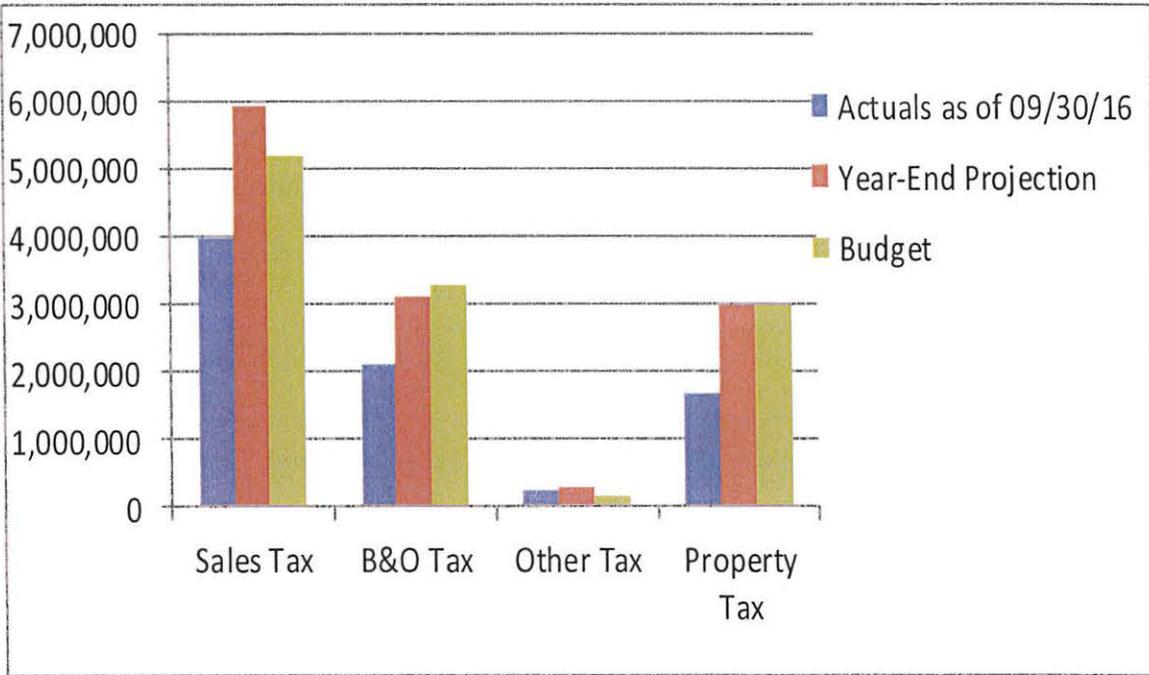
NOTE: The above graph illustrates the difference between year-to-date actuals through September, year-to-date projections, and revised budget.

Budgeted expenditures reflect all adjustments that have been taken to Council for approval prior to September 30th. Expenditures were analyzed by department and are projected to come in under budget. Revenues were analyzed individually and are projected to come in slightly higher than budgeted.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered available when they are collectible within the current period or soon enough thereafter to pay liabilities of a current period. Generally, expenditures are recorded when a liability is incurred, as under accrual accounting. Therefore, a majority of revenue received in January is pushed back into December of the previous year. Whereas, expenditures for 3rd quarter generally represent 8.5 months, revenues represent closer to 8 months. In cases where revenue is collected quarterly, no revenue will be recorded until April. This theory has been applied when calculating the year-end projections.

Governmental Funds Tax Revenue

Table 2



	Actuals as of 09/30/16	Year-End Projection	Budget	
Sales Tax	3,964,466	5,933,273	5,194,346	14.23%
B&O Tax	2,119,638	3,105,800	3,277,204	-5.23%
Other Tax	238,482	320,365	172,000	86.26%
Property Tax	1,692,498	2,983,305	3,000,856	-0.58%
	8,015,083	12,342,743	11,644,406	6.00%

* Sales tax includes local criminal justice, retail sales, and hotel/motel tax

** B&O Tax Includes Utility, Gambling etc.

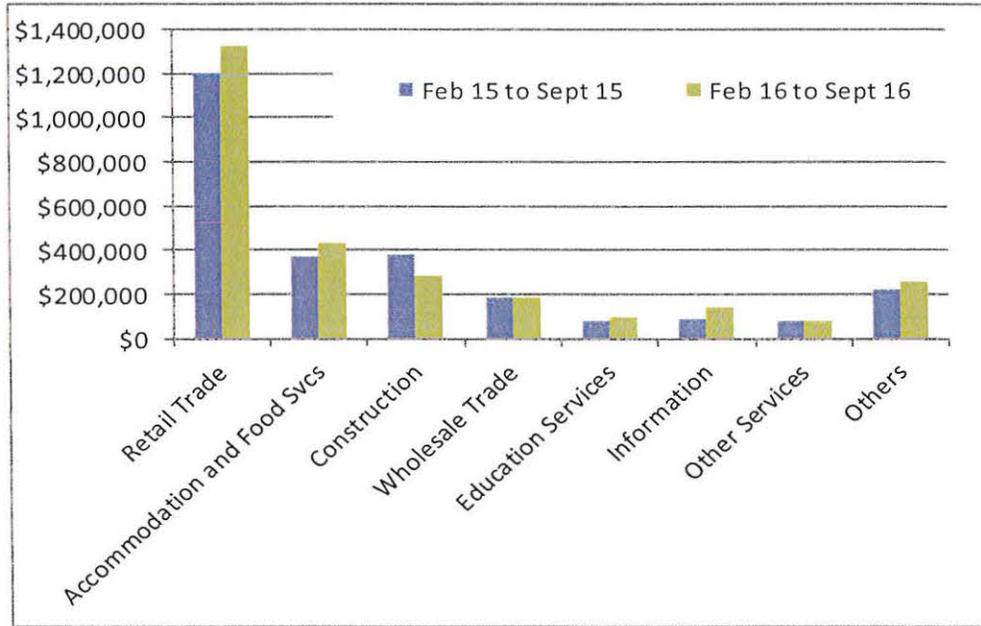
*** Other Tax includes Leasehold and other Excise Taxes

Tax Revenues

Sales tax revenue is currently projected to exceed the 2016 budget by about \$738,927. A jump in excise tax from the sale of two apartments, as well as a 7.57% increase in sales tax over last year has more than offset the taxes that are projected to come in under budget. At this time utility and property taxes are showing signs of coming in under budget. Combined governmental tax revenue is projected to come in \$698,337 above budget.

Table 3

CITY OF ELLENSBURG
Year-to-Date Sales Tax Activity - Accrual Basis
February-September 2015 Compared to February-September 2016



	Receipt Dates <u>Feb 15 to Sept 15</u>	Receipt Dates <u>Feb 16 to Sept 16</u>	Increase/ <u>(Decrease)</u>	% Inc <u>(Dec)</u>
Retail Trade	\$1,201,006	\$1,329,633	\$128,627	10.71%
Accommodation and Food Svc:	376,187	431,560	55,373	14.72%
Construction	379,035	285,286	(93,749)	-24.73%
Wholesale Trade	184,572	188,569	3,997	2.17%
Education Services	77,881	96,012	18,131	23.28%
Information	88,573	138,993	50,420	56.92%
Other Services	78,404	83,431	5,027	6.41%
Others	226,557	256,541	29,984	13.23%
Total	<u>\$2,612,215</u>	<u>\$2,810,025</u>	<u>\$197,810</u>	<u>7.57%</u>

Source: Dept of Revenue Sales Tax Reports -- earned Dec 2015 thru Jul 16

Revenue was recorded on an accrual basis for this report.

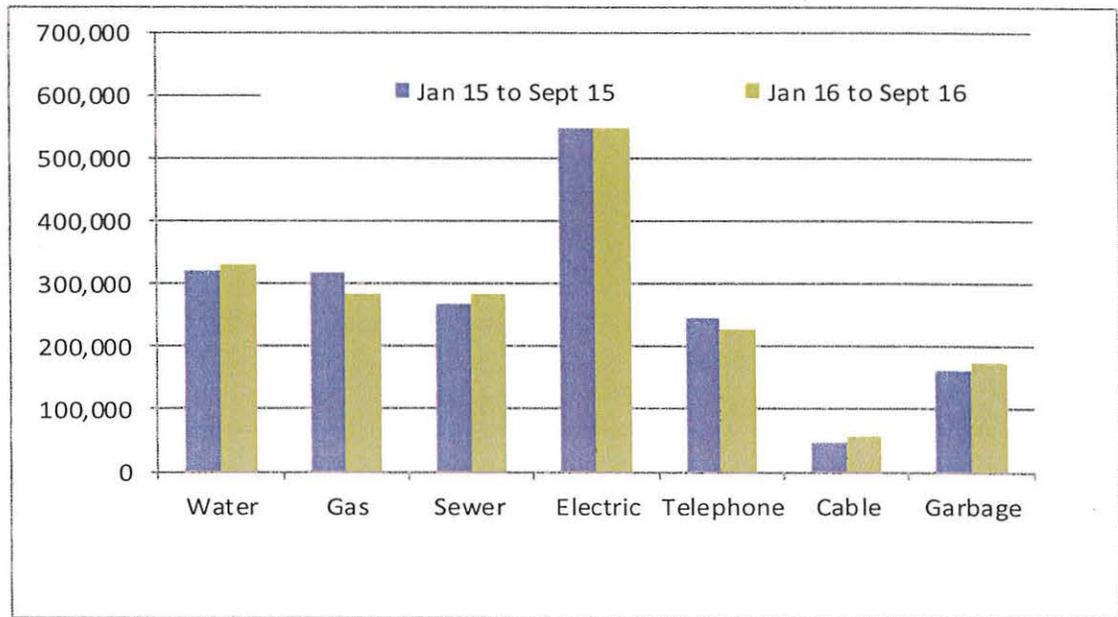
Retail Sales tax is distributed monthly reflecting 20 different categories. The above graph reflects the top seven categories with 13 categories being identified within the "Others" category. All categories of sales tax saw an increase except for the "Construction" category, with "Retail Trade" showing the highest dollar increase and "Information" showing the highest percentage increase. Sales tax revenue has a 7.57% overall increase over the same period last year.

Utility Tax

The City generates utility tax revenues from the sale of the City’s gas, electric, water, and sewer utilities as well as utility taxes on cable television, telephone, and garbage collection. The cable revenue includes both the General Fund and the Special Revenue funds.

Table 4

CITY OF ELLENSBURG
Year-to-Date Utility Tax Activity - Cash Basis
January-September 2015 Compared to January-September 2016



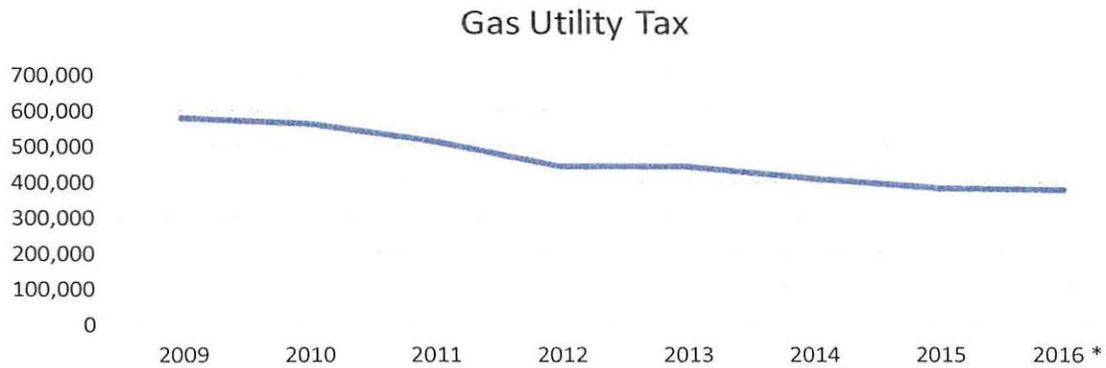
	<u>Receipts Dates</u> <u>Jan 15 to Sept 15</u>	<u>Receipt Dates</u> <u>Jan 16 to Sept 16</u>	<u>Increase/</u> <u>(Decrease)</u>	<u>% Inc</u> <u>(Dec)</u>
Water	322,239	328,860	6,621	2.05%
Gas	316,152	282,773	(33,379)	-10.56%
Sewer	269,019	282,400	13,381	4.97%
Electric	627,256	620,542	(6,714)	-1.07%
Telephone	245,769	226,999	(18,770)	-7.64%
Cable	46,400	55,263	8,864	19.10%
Garbage	163,470	175,148	11,678	7.14%
Total	<u>\$1,990,305</u>	<u>\$1,971,986</u>	<u>-\$18,320</u>	<u>-0.92%</u>

Revenue was recorded on a cash basis for this report.

Utility tax revenue generated by the gas utility continues to drop as a result of the rate decrease that was passed on to customers. Telephone taxes will continue to decrease as land lines become less common. Residents using cell phone numbers from out of the area are not paying this local telephone tax. The overall effect on the general fund for gas utility tax drop is down over \$200,000 per year from 2009.

Table 5

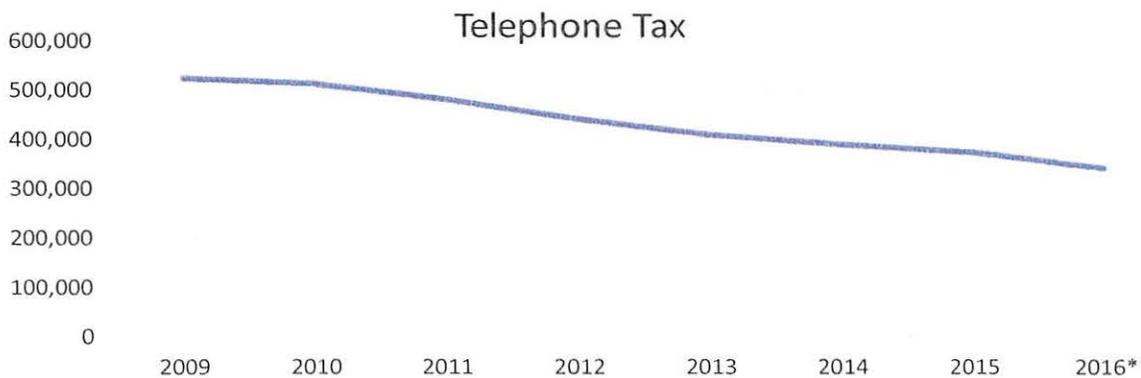
	2009	2010	2011	2012	2013	2014	2015	2016 *
Gas Utility Tax	579,237	563,763	515,107	444,274	443,571	409,953	378,921	377,031



* 2016 is a year-end projection based on balance as of 9/30/16

Table 6

	2009	2010	2011	2012	2013	2014	2015	2016*
Telephone Tax	522,474	509,334	478,109	440,185	407,437	388,799	370,152	340,475



* 2016 is a year-end projection based on balance as of 9/30/16

	2009	2010	2011	2012	2013	2014	2015	2016*
Telephone Tax	522,474	509,334	478,109	440,185	407,437	388,799	370,152	340,475
Gas Tax	579,237	563,763	515,107	444,274	443,571	409,953	378,921	377,031
	1,101,711	1,073,097	993,216	884,459	851,008	798,752	749,073	717,506

Retail Sales Allocated to General Fund	1,702,945	1,591,770	1,000,000	1,018,533	1,571,400	1,615,350	1,787,000	1,855,280
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Retail Sales Tax	3,137,752	2,979,989	3,189,873	3,263,291	3,337,276	3,659,804	3,958,205	4,201,612
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Table 7

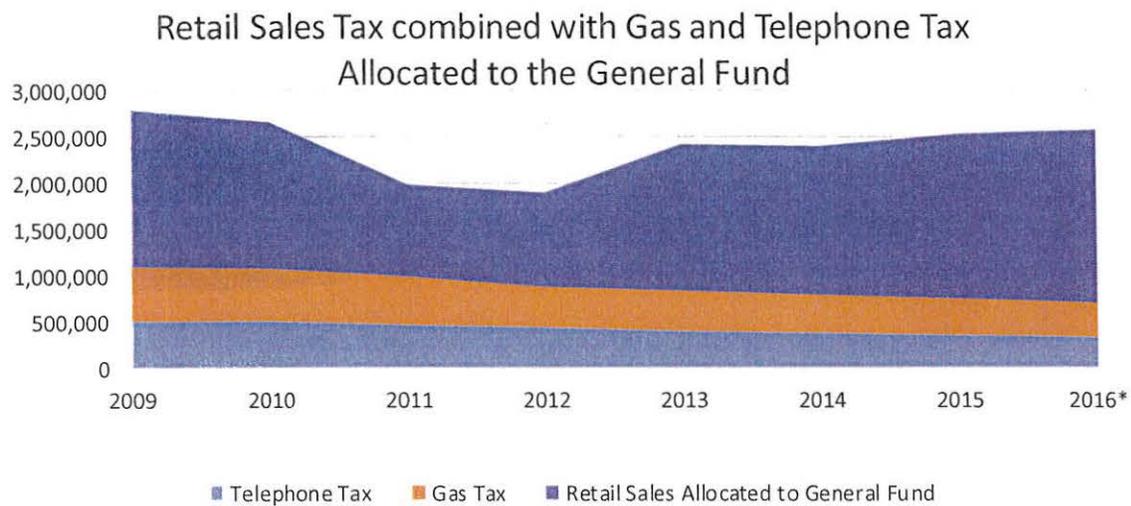


Table 8

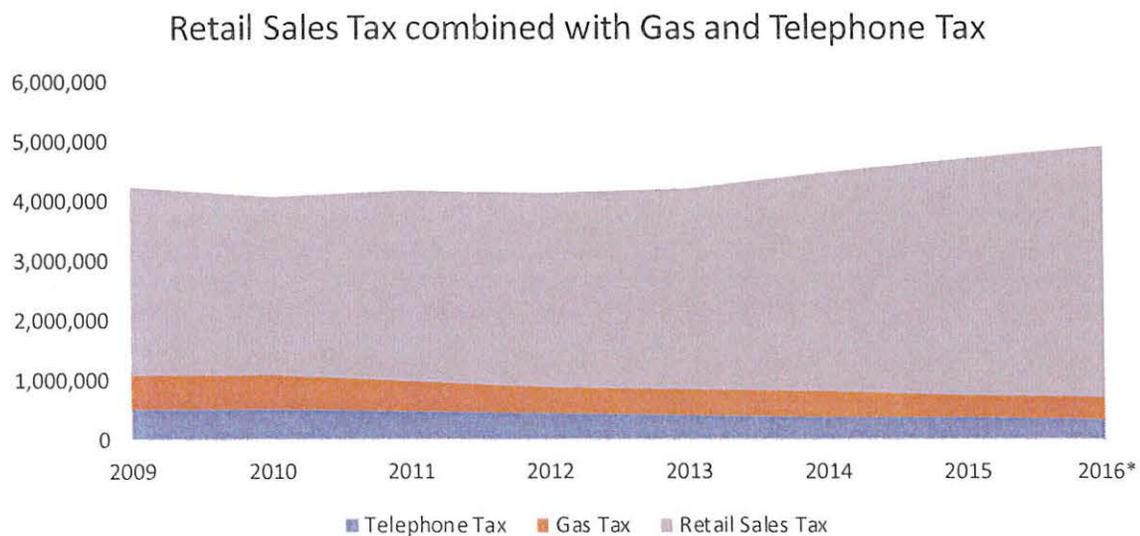
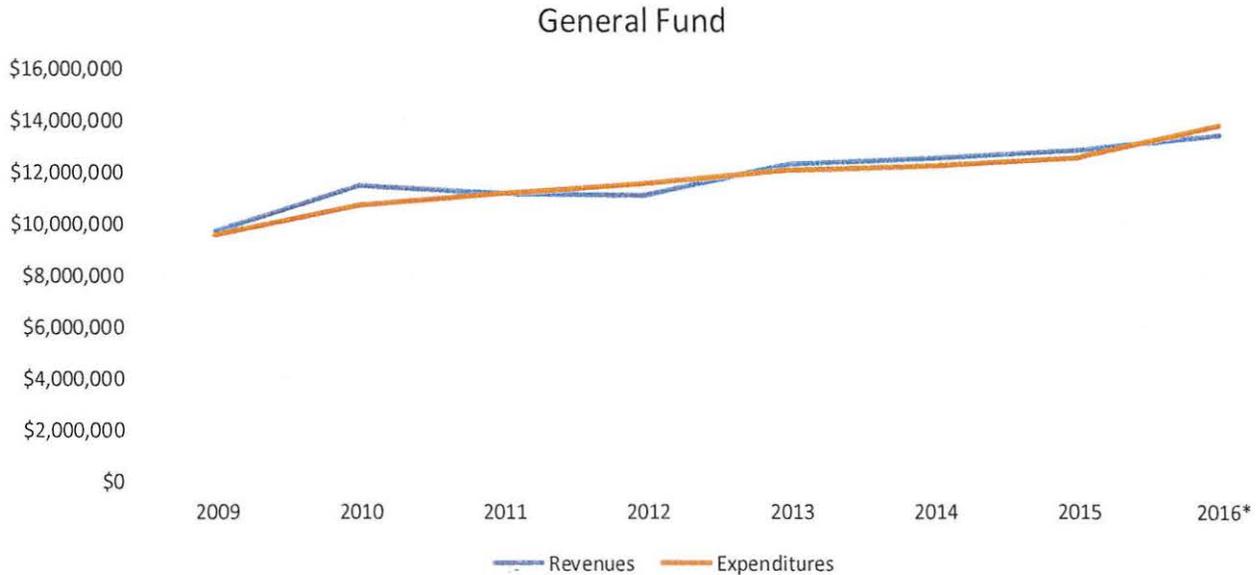


Table 9

	2009	2010	2011	2012	2013	2014	2015	2016*
Revenues	\$9,687,207	\$11,434,198	\$11,147,234	\$11,078,869	\$12,306,857	\$12,474,044	\$12,824,550	\$13,439,008
Expenditures	9,564,898	10,682,544	11,131,995	11,494,686	12,055,314	12,210,236	12,514,851	13,795,166
	\$122,309	\$751,653	\$15,239	-\$415,817	\$251,543	\$263,808	\$309,699	-\$356,158

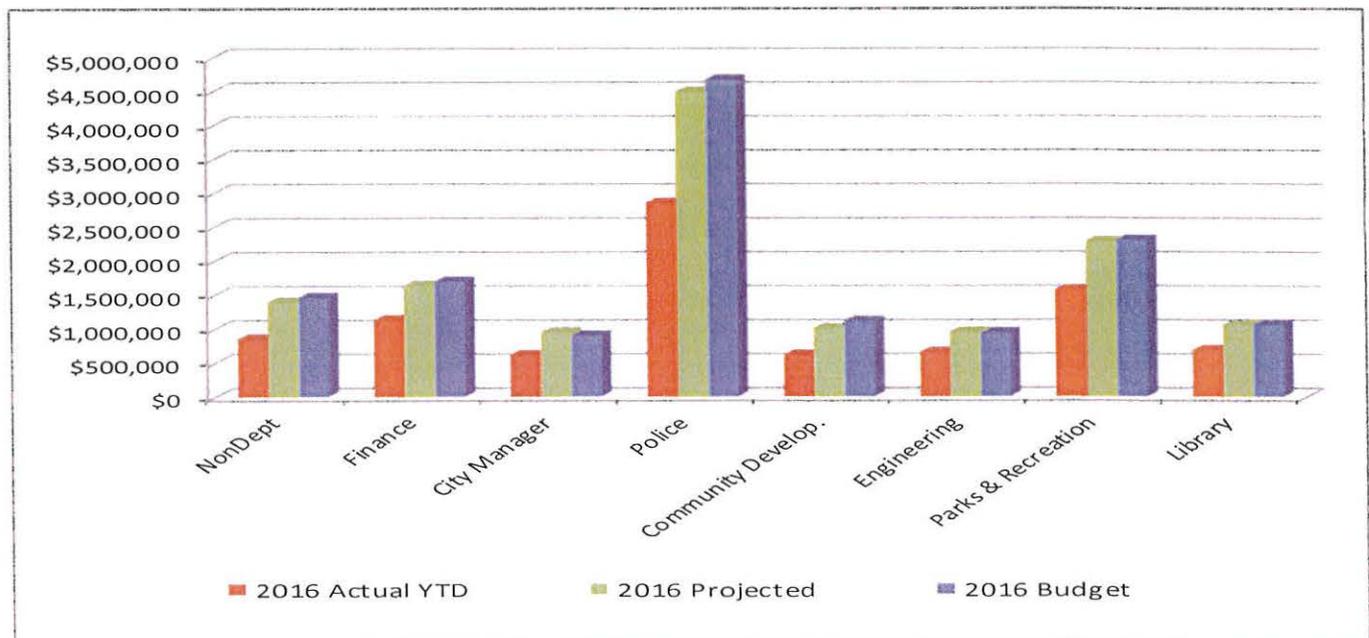


The General Fund’s revenues and expenditures have continued to run very close together as planned. However, in 2016 the expenditures are projected to exceed revenues, thus using fund balance. Expenditures have continued to show a slow, steady increase as expected. Revenues have risen, dropped, and then risen again. Revenues are expected to rise at a slower pace than expenditures. We will continue to remain cautious, monitor this trend, and make suggestions for adjustments as needed. Revenues for the General Fund does not include all retail sales tax. The portion of retail sales tax allocated to support the general fund has not kept up with the increase in sales tax. Retail Sales tax supports other governmental funds as well (streets, debt, criminal justice, transportation, capital etc.)

Table 10

**General Fund
Revenues and Expenditures - Budget and Actual
For the Period Ending September 30, 2016**

	2016 Budget	2016 Projected	2016 Actual YTD	Budget less Projected
Revenues				
Taxes	\$6,386,684	\$6,134,806	\$3,927,215	\$251,878
Licenses & Permits	376,250	\$789,316	760,280	-\$413,066
Intergovernmental	290,983	\$420,807	289,546	-\$129,824
Charges For Fees	3,852,099	\$3,680,738	2,741,894	\$171,361
Fines & Forfeits	287,800	\$250,308	208,932	\$37,492
Misc.	207,224	\$307,753	248,012	-\$100,529
Transfers	1,888,280	\$1,855,280	1,388,770	\$33,000
Total	\$13,289,320	\$13,439,008	\$9,564,649	-\$149,688
Expenditures by Dept				
NonDept	\$1,465,091	\$1,398,200	\$860,431	\$66,891
Finance	1,699,871	\$1,638,186	1,134,129	\$61,685
City Manager	908,127	\$953,972	623,751	-\$45,845
Police	4,674,029	\$4,489,756	2,857,148	\$184,273
Community Develop.	1,120,442	\$1,013,768	623,857	\$106,674
Engineering	944,118	\$954,305	660,673	-\$10,187
Parks & Recreation	2,311,471	\$2,284,780	1,581,771	\$26,691
Library	1,072,318	\$1,062,198	694,514	\$10,120
Total	\$14,195,467	\$13,795,166	\$9,036,274	\$400,301
Excess of Revenues over Expenditures	-\$906,147	-\$356,158	\$528,375	-\$549,989
Beginning Balance	2,451,347	3,050,045	1,215,388	-\$598,698
Other Receipts	0	3,458	3,458	-\$3,458
Ending Fund Balance	\$1,545,200	\$2,697,345	\$1,747,221	\$1,152,145



*Budgeted Fund balance does not include the interfund loans (long-term debt)

** General Fund does not include retail sales tax

OTHER ITEMS

Debt Activities

Table 11

	Issued Date	Maturity Date	Original Amount	Balance as of 09/30/16	2016 Debt Payment
General Obligation					
Library Bonds *	2003/2014	2022	1,905,000	1,060,000	156,800
Maintenance Bonds	2010	2030	2,935,000	2,285,000	215,350
			4,840,000	3,345,000	372,150
Interfund Loan					
City Hall Construction**	2012	2021	2,599,657	2,099,657	97,484
Telecom Utility ***	2014	2017	283,943	283,943	96,556
			2,883,600	2,383,600	194,040
Revenue Bonds					
Water/Sewer Refunding	1999/2010	2029	2,290,000	985,000	271,950
Water/Sewer	2010	2029	7,420,000	7,150,000	520,650
Electric- Refunding****	2005/2014	2025	3,650,000	3,360,000	395,900
Electric	2014	2033	4,540,000	4,530,000	207,825
Water	2013	2022	2,416,431	1,425,995	241,643
			20,316,431	17,450,995	1,637,968

* Library Bonds were refunded in 2014 with a new bond which has a lower interest rate.

** Interfund Loan from Light Fund @ 1.0% per annum

*** Interfund Loan from Shop Fund @ 1.0% per annum

**** Electric Bonds were refunded in 2014 with a new bond which has a lower interest rate.

Citywide Report

The table on the next page- Revenues and Expenditures-Actual shows that the City brought in \$921,037 more than it spent as of the end of September 2016. Due to modified accrual basis reporting, the Criminal Justice, Sales Tax, and CATV funds show eight months of revenue and nine months of expenditures creating the excess in expenditures over revenues. CATV Capital Fund is designed to spend down until the fund is depleted. Street, Parks Acquisition, Sidewalk, Electric and Water funds show an excess of expenditures over revenue, reflecting the current year expense of capital projects. The Gas Fund reports an excess of expenditures over revenues due to the decision to decrease gas rates, passing on a previous decrease in fuel costs to customers. Telecommunications and IT funds are budgeted to spend a portion of fund balance in 2016. Fire Relief and Pension Fund will see a transfer from the General Fund for property tax allocation in November.

Investment Report

See attachment which shows the breakdown of our investment portfolio. The goal of our investment is safety, liquidity, and yield. To have safety and liquidity most of our investments are in the State Pool.

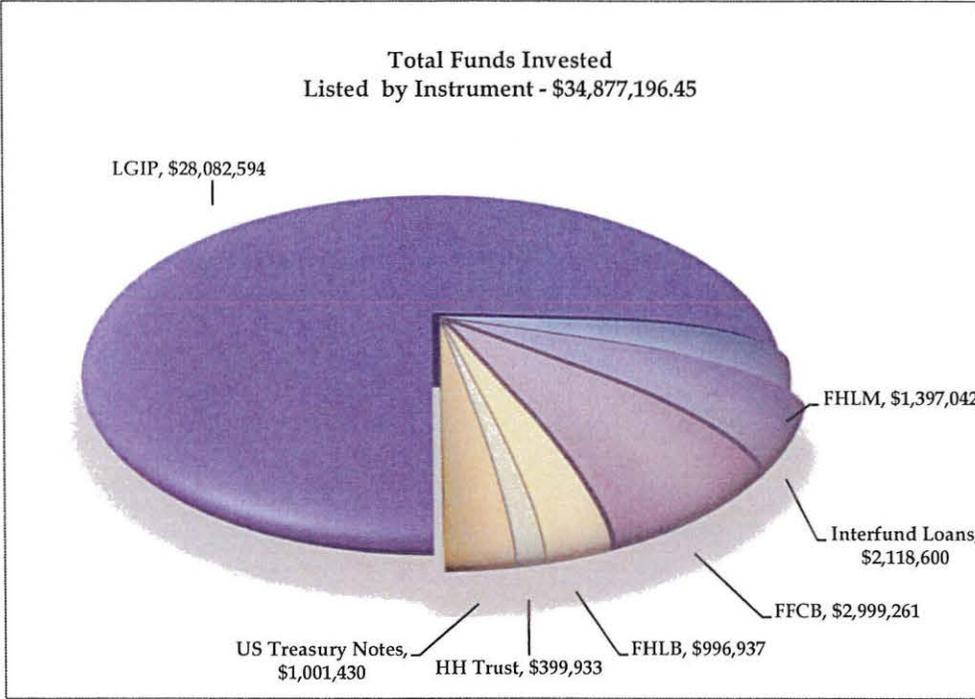
Table 12

All City Funds			
Revenues and Expenditures- Actual			
For the Quarter Ending September 30, 2016			
	Revenue	Expenditures	Excess of Revenue Over Expenditures
General Fund	\$9,568,107	\$9,036,274	\$531,833
Special Revenue Funds			
Street	1,244,547	1,263,538	(18,991)
Arterial	868,536	716,017	152,519
Traffic Impact	196,607	420	196,187
Ellensburg Public Transit	97,901	44,319	53,582
Criminal Justice	578,939	518,469	60,470
Drug Fund	2,689	4,561	(1,872)
Sales Tax	2,815,490	2,890,323	(74,833)
CATV	53,725	51,353	2,372
CATV Capital	273	9,605	(9,332)
Police Vehicle	52,564	46,049	6,515
Parks Acquisition	163,940	205,137	(41,197)
Arts Acquisition	51,074	10,000	41,074
Lodging Tax	327,232	229,567	97,665
CHIP	0	0	0
Special Project Fund	0	0	0
Debt Funds			
Maintenance Bond	161,740	50,625	111,115
Library Bond	98,551	16,350	82,201
LID Guarantee Fund	325	0	325
Capital Funds			
Maintenance B. Capital	142	0	142
Capital Projects	99	0	99
Sidewalk	227,328	419,463	(192,135)
Enterprise Funds			
Stormwater	699,838	673,294	26,544
Telecommunications	75,836	86,302	(10,466)
Gas	3,843,110	4,382,749	(539,639)
Electric	10,101,791	11,350,742	(1,248,951)
Water	3,654,387	3,076,889	577,498
Sewer	2,892,720	2,454,507	438,213
Internal Service Funds			
Shop	1,857,103	1,394,863	462,240
Health Insurance	1,539,355	1,464,729	74,626
Risk Management	692,781	521,426	171,355
IT	847,614	889,586	(41,972)
Library Trust	1,616	539	1,077
Hal Holmes	0	0	0
Fire Relief	92,294	79,521	12,773
Total	\$42,808,254	\$41,887,217	\$921,037

CITY OF ELLENSBURG - Investment Report As of 09/30/2016

The City will diversify its investments by security type and institution. The following schedule provides the maximum holdings in any one type of investment with any one type of issuer.

Funds invested \$ 34,877,196.45

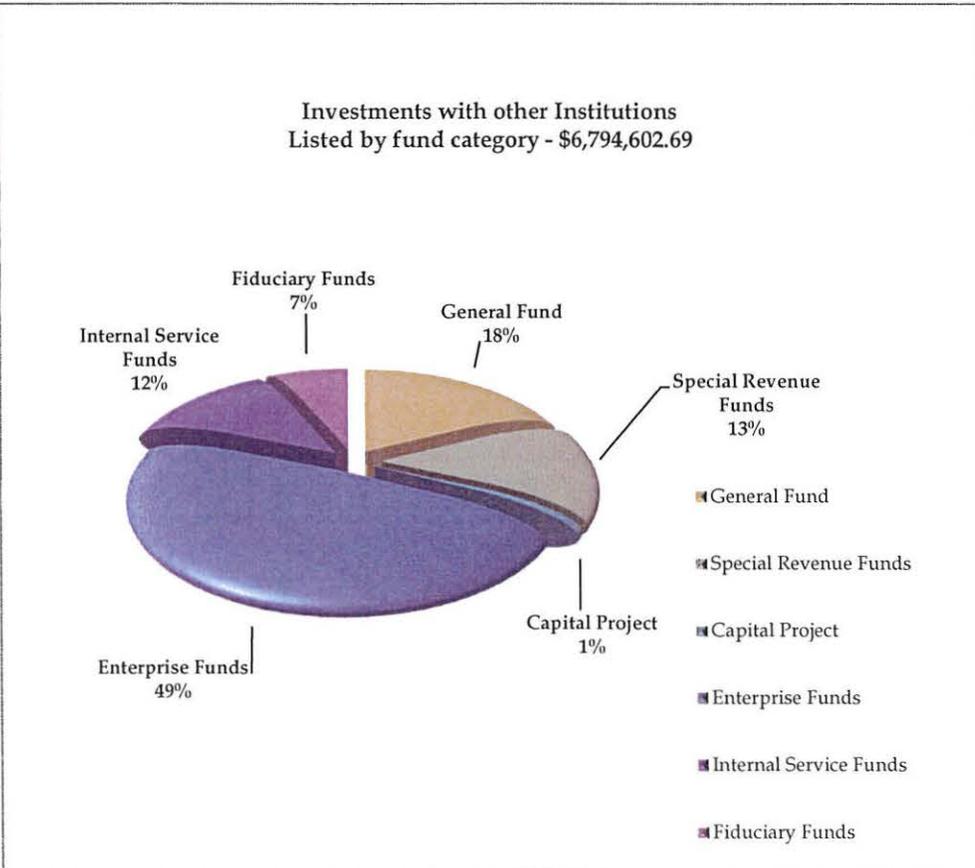


Bench Marks

0.59% 1-year Treasury Constant Maturity
0.75% 2-year Treasury Note

1.13% External Investments
0.5249% State Investment Pool
1.00% Interfund Loans

\$11,922.94 interest earned in September



CITY OF ELLENSBURG - Investment Report As of 09/30/2016

Investments with other Institutions

Type of Authorized Security	Maximum Holdings and Issuer Limitations	maximum \$ amount that can be invested	% limitation per issuer	portfolio invest	Current Investment Holding Amount	Name of Issuer & Maturity Date	Amount Invested w/Issuer	% of Issuer Holding	Yield	Expected Annual Earnings
U.S. Treasury Bills, Notes, Bonds or Certificates	100% of Portfolio	\$34,877,196	no limitation	18%	\$6,394,670	FHLMC 170217 30 YR FIXED Purchased 3/1/1987 Maturity Date: 3/1/2017 Par: \$175,001 Rate: 8%	11.60	0%	8.00%	\$ 0.93
						#7 US Treasury Note Purchased 5/15/14 premium-\$4,290 Matures 5/15/17 par: \$1,000,000	1,001,430.00	3%	0.88%	\$ 8,750.00
						#9 FHLM 1.08 7/28/17 Purchased 7/28/14 Maturity Date: 11/1/16 par: \$400,000	400,104.16	1%	0.62%	\$ 2,500.00
						#11 FFCB 1.08/15/17 CORP Purchased 8/19/14 Maturity Date: 8/15/17 par: \$500,000	500,018.52	1%	0.99%	\$ 5,000.00
						#13 FHLMC 1.15 8/27/18 Purchased 2/27/15 Maturity Date: 8/27/18 par: \$1,000,000	996,926.00	3%	1.15%	\$ 11,500.00
						#14 FFCB 1.24 11/13/18 Purchased 2/27/15 Maturity Date: 11/13/18 par: \$1,000,000	999,242.22	3%	1.24%	\$ 12,400.00
						#16 FHLB 1.05 10/26/18 Purchased 12/31/15 Maturity Date: 10/26/18 par: \$500,000	496,942.92	1%	1.34%	\$ 5,250.00
						#18 FHLB .0625 11/23/16 Purchased 12/31/15 Maturity Date: 11/23/16 par: \$500,000	499,994.36	1%	0.70%	\$ 3,125.00
						#19 FFCB 1.37 05/19/20 Purchased 5/19/16 Maturity Date: 5/19/20 par: \$1,000,000	1,000,000	3%	1.37%	\$ 13,700.00
						#20 FFCB 1.30 11/25/19 Purchased 5/25/16 Maturity Date: 11/25/19 par: \$500,000	500,000	1%	1.30%	6,500.00
Other Authorized Investments	10% of Portfolio	\$3,487,720	no limitation	1%	\$399,933	* Hal Holmes	399,932.91	1%	1.87%	7,831.72
Subtotal Funds						\$ 6,794,602.69	6,794,602.69	18%		\$ 76,557.65
						External Investments		1.13% AAY		

Investment in State of Washington Investment Pool

State of Washington Investment Pool	100% of Portfolio	\$34,877,196	no limitation	81%	28,082,593.76	State of Washington Local Government Investment Pool	28,082,593.76	81%	0.525%	\$ 147,405.53
						State Investment Pool		0.52% AAY		

Investment in City of Ellensburg - Interfund Loans

2012 Interfund Loan from Light fund to City General - City Hall Debt		1,834,657.00				City Hall Debt - Begin Date 12/1/2012 - \$2,599,657.00 - Maturity Date: 12/1/2021	1,834,657.00	5%	1%	\$ 18,346.57
2014 Interfund Loan from Shop fund to Telecommunications		283,943.00					283,943.00	1%	1%	\$ 2,839.43
Subtotal Funds						\$ 2,118,600.00	\$ 2,118,600.00			\$ 21,186.00
						Interfund Loans		1.00% AAY		
								0.66% Total AAY		

AAY = Average Annual Yield

FHLMC - Federal Home Loan Mtg Corp

FHLB - Federal Home Loan Bank

FFCB - Federal Farm Credit Bank

CITY OF ELLENSBURG - Investment Report As of 09/30/2016

Sorted by Maturity

security	description	maturity	par	rate	months left to maturity	Investment #
3134G3S50	FHLMC	11/1/2016	400,000	0.63	2	9
3130A3370	FHLB	11/23/2016	500,000	0.7	3	18
313401XK2	FHLMC	3/1/2017	175,001	8	6	442
912828WH9	US TREAS NOTES	5/15/2017	1,000,000	0.88	8	7
3133EDSU7	FFCB	8/15/2017	500,000	1	11	11
3134G6DD2	FHLMC	8/27/2018	1,000,000	1.15	24	13
3130A6NP8	FHLB	10/26/2018	500,000	1.34	26	16
3133EA7H5	FFCB	11/13/2018	1,000,000	1.24	26	14
3133EGBKO	FFCB	11/25/2019	500,000	1.3	39	20
3133EGBL8	FFCB	5/19/2020	1,000,000	1.37	45	19
			6,575,001			

Sorted by Call

security	description	maturity	par	rate	months left to call	Description
3133EA7H5	FFCB	11/13/2018	1000000	1.24	0	continuously callable
3130A6NP8	FHLB	10/26/2018	500000	1.34	2	continuously callable beginning
3134G3S50	FHLMC	11/1/2016	400000	0.63	2	noncallable
3130A3370	FHLB	11/23/2016	500000	0.7	3	SEMI-ANNUAL callable 11/23/16
3133EGBKO	FFCB	11/25/2019	500000	1.3	3	continuously callable beginning
313401XK2	FHLMC	3/1/2017	175001	8	6	noncallable
912828WH9	US TREAS NOTES	5/15/2017	1000000	0.88	8	noncallable
3133EGBL8	FFCB	5/19/2020	1000000	1.37	9	callable
3133EDSU7	FFCB	8/15/2017	500000	1	11	noncallable
3134G6DD2	FHLMC	8/27/2018	1000000	1.15	24	passed callable date

Investment by fund category

General Fund	1,220,440.83
Special Revenue Funds	916,288.08
Capital Project	49,999.99
Enterprise Funds	3,304,665.48
Internal Service Funds	853,275.40
Fiduciary Funds	449,932.91
Total	\$6,794,603

Investment by Instrument

US Treasury Notes	1,001,430.00
State of WA Bonds	-
LGIP	28,082,593.76
FHLM	1,397,041.76
Interfund Loans	2,118,600.00
FFCB	2,999,260.74
FHLB	996,937.28
HH Trust	399,932.91
Total	\$36,995,796



MANAGER'S REPORT

DATE: November 7, 2016
TO: Ellensburg City Council
FROM: John Akers, City Manager

A handwritten signature in blue ink, appearing to be "JA", is written over the name "John Akers, City Manager".

1. Request to Set Joint Meeting with Ellensburg Business Development Authority Board.

Staff has consulted with the EBDA and is requesting Council set a Special Meeting for Monday, November 21, 2016 at 6:00 p.m. for a joint meeting with the EBDA for the presentation and discussion regarding the economic development strategic plan.

2. Wholesale Natural Gas Purchase.

Due to the nature of the natural gas commodities business, prices are volatile and change rapidly. In recognition of this, Chapter 9.80 of the ECC authorizes the Energy Services Director to make natural gas purchases, and requires Council notification of purchases made under this authority. The Energy Services Director after determining that an opportunity existed to purchase necessary gas supplies, solicited quotes from its supplier and made one purchase commitment. The purchase was for 30,000 decatherms during November 2016 with a cost per decatherm of \$2.93 for a purchase price of \$87,900.

3. Request to Set Public Hearing – Rezone Request from Son Vida, LLC.

Staff is requesting Council set a closed record public hearing for November 21, 2016 to consider a rezone request (P16-025) from Son Vida, LLC, Steve Willard, owner/manager. The proposal is to rezone three parcels totaling approximately 15 acres from Residential Suburban (R-S) to Residential High Density (R-H). The property is located on East Helena Avenue, east of North Alder Street. A SEPA Determination of Non-Significance (DNS) for the lots was issued on September 21, 2016. A public hearing was held before Hearing Examiner Andy Kottkamp on October 20, 2016, after which Mr. Kottkamp forwarded staff a recommendation on October 27, 2016 that City Council approve the rezone, with no conditions.

3. Discuss Agenda for the Joint Meeting with CWU Executive Board.

The joint meeting with the CWU Executive board is scheduled for Wednesday, December 7, 2016 at 3:00 p.m. in Barge 412. The CWU agenda items include:

- Update on construction/capital projects
- Community policing

Staff is requesting Council input on items or issues to add to the agenda for discussion at the joint meeting.

5. Request to Set Public Hearing – Comprehensive Plan Amendments.

City Council previously held a public hearing on October 6, 2016 to review five proposed amendments to the Comprehensive Plan. After hearing public testimony on each of the five amendments, Council approved docket items 16-01, 16-02, 16-03, and 16-04 as presented. Council approved a motion to deny docket item 16-05. Staff is requesting that Council set a public hearing for November 21, 2016 to consider the ordinance confirming the Comprehensive Plan amendments.

5. Preliminary Budget Discussion.

The preliminary budget for 2017/2018 has been prepared and is scheduled for general City Council discussion at your regular meeting on November 21. The proposed budget preserves existing programs, maintains our required reserves, and provides some modest enhancements based upon departmental requests. A summary report on the budget will be provided for your review along with a summary of budget changes and unfunded requests.