ORDINANCE NO. 2012-7

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, RELATING TO THE WATERWORKS UTILITY OF THE TOWN; PROVIDING FOR THE ISSUANCE OF THE TOWN'S WATERWORKS UTILITY REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $1,240,000 TO OBTAIN A PART OF THE FUNDS REQUIRED TO CARRY OUT A SYSTEM OR PLAN OF ADDITIONS TO AND BETTERMENTS AND EXTENSION OF THE WATERWORKS UTILITY AND PAY THE COSTS OF ISSUANCE AND SALE OF THE BONDS; FIXING OR SETTING PARAMETERS WITH RESPECT TO CERTAIN TERMS OF THE BONDS; APPOINTING THE [MAYOR AS THE TOWN'S DESIGNATED REPRESENTATIVE TO APPROVE THE FINAL TERMS OF THE SALE AND THE ISSUANCE OF THE BONDS AND TO TAKE CERTAIN OTHER ACTIONS WITH RESPECT TO CARRYING OUT THE ISSUANCE AND SALE OF THE BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE DELIVERY OF THE BONDS TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES DEPARTMENT OF AGRICULTURE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, WASHINGTON, as follows:

Section 1. Definitions. As used in this ordinance, the following words shall have the following meanings:

"2001 Bond" means the Town's Water and Sewer Revenue Bond, 2001, authorized by Ordinance No. 2001-03, passed by the Town Council on June 11, 2001.

"Annual Debt Service," for the applicable series of Parity Bonds for any 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.

"Assessment Bonds" means the original principal amount of any issue of Future Parity Bonds equal to the total remaining unpaid principal amount (at the time of passage of the ordinance providing for the issuance and sale of those bonds) of ULID Assessments on any final assessment roll or rolls of one or more ULIDs formed in connection with the improvements being financed by that issue of Future Parity Bonds (or bonds being refunded by those Future Parity Bonds). The original principal amount of such issue of bonds in excess of Assessment Bonds shall be referred to as "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 that total issue of bonds shall be treated as 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 Fund" means the Junior Lien Water and Sewer Revenue Bond Fund created by Ordinance No. 2001-03 for the payment of the principal of and interest on the Parity Bonds. Such fund shall hereafter be called the Waterworks Utility Revenue Bond Fund, or a similar designation.

"Bond Register" means the registration books of the Bond Registrar on which are recorded the name of the owner of the Bonds.

"Bond Registrar" means the Treasurer of the Town.

"Bonds" means the not to exceed $1,240,000 aggregate principal amount Waterworks Utility Revenue Bonds, 2012, issued pursuant to and for the purposes provided in this ordinance.

"Code" means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

"Construction Fund" means the Sewer Fund No. 411, Wastewater Treatment Plant Sewer Project Account.

"Coverage Requirement" means that for any given calendar year, (a) Net Revenue of the Waterworks Utility must be at least equal to 1.25 times Annual Debt Service on the then-outstanding Parity Bonds that are not Assessment Bonds, and (b) ULID Assessments, plus the amount of Net Revenue remaining after satisfying the Coverage Requirement on Bonds that are not Assessment Bonds, must be at least equal to Annual Debt Service on Parity Bonds that are Assessment Bonds.

"Designated Representative" means the officer or employee of the Town appointed in Section 4 of this ordinance to serve as the Town's designated representative in accordance with RCW 39.50.030 for the purpose of accepting, on behalf of the Town, an offer to purchase the Bonds on terms consistent with this ordinance and the parameters set forth herein.

"Final Terms" means the terms and conditions for the sale of the Bonds, including the amount, date, denominations, interest rates, payment dates, final maturity, redemption rights, and price.

"Future Parity Bonds" means any and all water and sewer revenue bonds of the Town issued after the date of the issuance of the Bonds, the payment of the principal of and interest on which constitutes a charge or lien on the Net Revenue and ULID Assessments equal in rank with the charge and lien upon such revenue and ULID Assessments required to be paid into the Bond Fund to pay and secure the payment of the principal of and interest on the Parity Bonds.

"Gross Revenue of the Waterworks Utility" or **"Gross Revenue"** means all of the earnings and revenues received by the Town 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 does not include: ULID Assessments, government grants, proceeds from the sale of Waterworks Utility property, Town taxes collected by or through the Waterworks Utility, principal proceeds of bonds 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.

"Installment Payment Date" means the date that is the first day of the sixth month after the Issue Date of the Bonds and the first day of every sixth month thereafter to and including the final maturity of the Bonds.

"Issue Date" means the date of initial delivery of the Bonds to the Purchaser.

"Letters of Conditions" means the letters from USDA to the Town dated February 1, 2010 and August 3, 2011, establishing the conditions under which the USDA would loan money to the Town to finance the Plan of Additions.

"Maintenance and Operation Expense" means all reasonable expenses incurred by the Town 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 water supply or service and for sewage collection, treatment or disposal service or other utility service in the event the Town combines such service in the Waterworks Utility and enters into a contract for such service, and including an allocable share of the Town's administration expenses where those represent a reasonable distribution and share of costs. Maintenance and Operation Expense does not include any depreciation or taxes levied or imposed by the Town or payments to the Town 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 on the then-outstanding Parity Bonds for any given calendar year.

"Net Revenue of the Waterworks Utility" or **"Net Revenue"** means the Gross Revenue less Maintenance and Operation Expense.

"Parity Bonds" means the 2001 Bond, the Bonds, and any Future Parity Bonds.

"Parity Conditions" means those conditions for the issuance of Future Parity Bonds set forth in Exhibit A and incorporated by this reference.

"Plan of Additions" means the system or plan of additions to and betterments and extensions of the Waterworks Utility specified, adopted and ordered to be carried out by Resolution 2011-R and Resolution 2011-DD.

"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.

"Project" means the decommissioning of the Town's sewer lagoon, all as deemed necessary and advisable by the Town Council and as set out in the Plan of Additions. The Project includes acquisition, construction and installation of all necessary equipment, apparatus, accessories, fixtures and appurtenances. Incidental costs incurred in connection with carrying out and accomplishing the Project, consistent with RCW 39.46.070, shall be included as costs of the Project.

"Purchaser" means the United States of America, acting through the United States Department of Agriculture, Rural Development.

"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 Parity Bonds.

"Reserve Requirement" means, for all Parity Bonds:

(1) For the 2001 Bond, an amount of cash and investments equal to $65,980;

(2) For the Bonds, an amount of cash and investments equal to the average annual installment payment amount for the Bonds, which amount may be accumulated by approximately equal monthly installments over a period of not more than ten years; and

(3) Upon the issuance of Future Parity Bonds, an amount equal to at least 5.5% of the proceeds of those bonds, but in no event shall the aggregate balance in the Reserve Account exceed the least of (i) Maximum Annual Debt Service on the Parity Bonds, (ii) 125% of Average Annual Debt Service on the Parity Bonds, or (iii) 10% of the proceeds of the Parity Bonds.

"State" means the State of Washington.

"Term Bond Maturity Year" means any calendar year in which Term Bonds are scheduled to mature.

"Term Bonds" means those bonds designated as such in the ordinance authorizing their issuance and sale.

"Town" means the Town of Eatonville, Washington.

"Treasurer" means the Clerk-Treasurer of the Town or the successor officer.

"ULID" means Utility Local Improvement District.

"ULID Assessments" means all assessments levied and collected in any ULID of the Town created for the acquisition or construction of additions to and extensions and betterments of the Waterworks 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.

"USDA" means the United States Department of Agriculture.

"Waterworks Utility" of the Town means the combined water system and system of sewerage of the Town, together with all additions thereto and betterments and extensions thereof at any time made, and shall include any storm and surface water system, solid waste or other utility systems hereafter combined with the Waterworks Utility.

Section 2. Recitals and Findings.

1. The Town now owns, maintains and operates the Waterworks Utility and, pursuant to Resolution 2011-R and Resolution 2011-DD, adopted the Plan of Additions, which includes the Project.

2. Pursuant to Ordinance No. 2001-03, the Town issued its sewer revenue bond to the United States of America, acting through the United States Department of Agriculture and provided for the issuance of additional revenue bonds on a parity of lien if the Parity Conditions are met.

3. RCW 39.46.040(2) provides that an ordinance authorizing the issuance of bonds may authorize an officer or employee of the Town to serve as the Town's designated representative and to accept, on behalf of the Town, an offer to purchase those bonds so long as the acceptance of such offer is consistent with terms established by an ordinance that establishes the following terms for the bonds (or parameters with respect thereto): the amount, date, denominations and designations, interest rates, payment dates, final maturity, redemption rights, price, minimum savings for refunding bonds (if applicable), and any other terms and conditions deemed appropriate by the Town Council.

4. The United States of America, acting through the United States Department of Agriculture, has offered to purchase the Bonds as registered bonds under the terms and conditions set forth in this ordinance.

5. The Town Council has determined it to be in the best interests of the Town to accept that offer and to issue its Waterworks Utility Revenue Bonds to pay the cost of the Project, and pay the costs of issuance and sale of the Bonds.

Section 3. Purpose and Authorization of the Bonds. For the purpose of providing the funds required to pay for the Project and pay the costs of issuance of the Bonds, the Town shall issue the Bonds in the aggregate principal amount of not to exceed $1,240,000.

Section 4. Appointment of Designated Representative; Description of Bonds. The Mayor is appointed as the Town's Designated Representative and is authorized to approve the Final Terms of the Bonds, within the parameters set forth below:

(a) Amount. The Bonds shall not exceed the aggregate principal amount of $1,240,000.

(b) Dates. The Bonds shall be dated the Issue Date, which date may not be later than June 1, 2013.

(c) Denominations and Designations. The Bonds shall be issued as two bonds, numbered separately in the manner and shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative and shall be in the amounts set forth in the Letters of Conditions.

(d) Interest Rates. The Bonds shall bear interest at fixed rates per annum from their date or from the most recent date to which interest has been paid or duly provided for, whichever is later. The rate of interest is expected to be approximately 2.75% per annum, and may not exceed 3.25%, compounded on the basis deemed appropriate by the Designated Representative.

(e) Payment Dates. Principal and interest must be paid in installments of principal and interest payable on semiannual Installment Dates, commencing 6 months after the Issue Date.

(f) Final Maturity. The term of the bonds shall be 40 years after the Issue Date.

(g) Redemption Rights. The Town may prepay the entire unpaid principal of the Bonds or such lesser portion as the Town may determine of the unpaid principal amount thereof, as set forth in Section 7.

(h) Price. The purchase price for the Bonds shall be the stated principal amount of the Bonds.

(i) General Authorization. The Designated Representative is authorized to take such additional action as may be necessary or convenient for issuing the Bonds pursuant to the terms of this ordinance, including without limitation engaging a licensed professional engineer experienced in the design, construction and operation of municipal utilities, or an independent certified public accountant to provide the certificate required under the conditions of Ordinance 2001-03, if such certificate is determined to be necessary.

Section 5. Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and shall be recorded on the Bond Register. The Bond Register shall contain the name and mailing address of the Registered Owner of each Bond and the principal amount and number of each of the Bonds held by each Registered Owner.

The Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the owner or transferee and shall be noted in the Bond Register. The Bond Register shall not be obligated to exchange or transfer the Bonds during the 15 days preceding any Installment Payment Date.

Section 6. Payment of the Bonds. Installments of principal of and interest on the Bonds shall be payable in lawful money of the United States of America and shall be paid by a check or draft of the Bond Registrar mailed on the Installment Payment Date to the registered owner at the address appearing on the Bond Register 15 days prior to the Installment Payment Date or by electronic transfer on the Installment Payment Date. The last installment of principal and interest on the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owner at the office of the Bond Registrar in Eatonville, Washington.

Section 7. Optional Prepayment and Notice. The Town may prepay the entire unpaid principal of the Bonds or such lesser portion as the Mayor may determine. Upon prepayment of a portion of the principal of the Bonds, the amount of the semiannual installments of principal and interest on the Bonds shall remain unchanged but shall be recalculated to reflect the reduction in the principal amount remaining unpaid and the resulting increase in the portion of each installment payment credited to the principal of the Bonds. The final Installment Payment Date shall be adjusted to reflect the prepayment and increased amount applied to principal from each semiannual installment payment on the Bonds. Notice of any such optional prepayment shall be given in accordance with the Letter of Conditions.

Section 8. Failure to Pay Installments. If any installment of principal and interest is not paid when due, the Town shall be obligated to pay interest on that installment at the rate provided in the Bonds from and after their payment date until that installment, both principal and interest, is paid in full.

Section 9. Payments into Bond Fund. The Bond Fund has been previously created and established by the office of the Town Treasurer and divided into a Principal and Interest Account and a Reserve Account. So long as any Parity Bonds are outstanding, the Town Treasurer shall set aside and pay into the Principal and Interest Account all ULID Assessments and, out of the Net Revenue, at least five days prior to each Installment Payment Date, certain fixed amounts without regard to any fixed proportion, namely amounts, together with ULID Assessments and other money on deposit therein, sufficient to pay the installment of principal and interest due on that Installment Payment Date.

The Town shall deposit into the Reserve Account no more than ten approximately equal annual payments from Net Revenue and ULID Assessments available after making the required deposits into the Principal and Interest Account totaling the required deposit for the Reserve Requirement allocated to the Bond. The Town may contribute amounts into the Reserve Account so that it accumulates more rapidly, at the option of the Mayor.

The Reserve Account shall be maintained at the Reserve Requirement, except for withdrawals therefrom as authorized herein, at all times so long as any portion of Parity Bonds are unpaid. When the total amount in the Bond Fund equals the total amount of principal and interest for all outstanding Parity Bonds to the last maturity thereof, no further payment need be made into the Bond Fund. The amount deposited into the Reserve Account on account of the Bonds may be reduced at any time prior to the redemption of the Bonds to an amount not less than an allocable share of the Reserve Requirement for all Parity Bonds then outstanding.

If there is a deficiency in the Principal and Interest Account to meet maturing installments of either principal or interest, as the case may be, that deficiency shall be made up from the Reserve Account by the withdrawal of cash for that purpose. Any deficiency created in the Reserve Account by reason of any such withdrawal shall then be made up from the Net Revenue and/or ULID Assessments payable into the Bond Fund first available after making necessary provision for the required payments into the Principal and Interest Account. The money and investments in the Reserve Account otherwise shall be held intact and may be applied against the last outstanding Parity Bonds. If the Reserve Account is fully funded, money in excess of the Reserve Requirement shall be withdrawn and deposited, at the option of the Town Treasurer, either in the Principal and Interest Account and spent for the purpose of retiring bonds payable from the Bond Fund or in the Waterworks Utility operating fund and spent for other lawful Waterworks Utility purposes.

The Town 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 outstanding Parity Bonds.

All money in the Bond Fund may be kept in cash or invested in legal investments maturing not later than the date when the funds are required for the payment of principal of or interest on the 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. Earnings from investments in the Reserve Account shall be deposited in that account.

The Town 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 Parity Bonds.

If the Town 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 Town and compel such setting aside and payment.

Section 10. Finding as to Sufficiency of Revenue, Pledge of Revenue and Lien Position. The Town Council declares that in fixing the amounts to be paid into the Bond Fund it has

considered and had due regard for Maintenance and Operation Expense and the debt service requirements of the outstanding Parity Bonds and has not set aside into the Bond Fund a greater amount or proportion of the Gross Revenue than in its judgment will be available over and above the Maintenance and Operation Expense.

The Net Revenue and ULID Assessments are pledged to the payments required by this ordinance, and the Bonds constitute a charge and lien on the Net Revenue and ULID Assessments prior and superior to all other charges and liens whatsoever. The charge and lien on the Net Revenue and ULID Assessments for the Bonds shall be on a parity with the charge and lien for the 2001 Bond and any Future Parity Bonds.

Section 11. Deposit of Bond Proceeds. Proceeds of the sale of the Bonds will be used to pay the costs of the Project and the costs of issuance and sale of the Bonds. Until needed to pay the costs of the Project and paying the costs of issuance and sale of the Bonds, the Town may invest money on deposit in the Construction Fund temporarily in any legal investment, and the investment earnings may be retained in the Construction Fund and be spent for the Project. At the completion of the Project, funds remaining and not needed for the Project shall be deposited into the Principal and Interest Account and shall be used to prepay a portion of the Bonds, in accordance with Section 7.

Section 12. Covenants. For so long as the Bonds are outstanding, the Town covenants and agrees with the owner of the Bonds as follows:

(a) ULID Assessments. All ULID Assessments shall be paid into the Bond Fund and may be used to build up the required reserves in the Reserve Account and to pay the principal of and interest on Parity Bonds, 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 Town 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 Town 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 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 Town 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 Town may now or hereafter become obligated to pay from the Gross Revenue by law or contract; and

(2) The Net Revenue and ULID Assessments in each calendar year will be at least equal to the Coverage Requirement.

To the extent allowable by law, those to whom service of the Waterworks Utility is available will be charged for that service at the prevailing rate within 30 days of the availability of that service, except in the case of aid to the poor or infirm, as described below.

(d) Sale or Disposition of the Waterworks Utility. The Town will not sell or otherwise dispose of the Waterworks Utility in its entirety unless, simultaneously with such sale or other disposition, provision is made for the redemption of all then-outstanding Parity Bonds in accordance with the applicable Parity Bond authorizing ordinance.

The Town will not sell, lease, mortgage or in any manner encumber or otherwise dispose of any part of the Waterworks Utility 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 aggregate outstanding principal amount of Parity Bonds less the amount of cash and investments in the Bond Fund, as the Gross Revenue from the portion of the Waterworks Utility sold or disposed of for the preceding 12-month period bears to the total Gross Revenue for that period; or

(2) An amount which will be in the same proportion to the aggregate outstanding principal amount of Parity Bonds then outstanding (net of deposits in the Bond Fund), as the Net Revenue from the portion of the Waterworks Utility sold or disposed of for the preceding 12-month period bears to the total Net Revenue for such period; or

(3) An amount which will be in the same proportion to the aggregate outstanding principal amount of Parity Bonds then outstanding (net of deposits in the Bond Fund) 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.

Notwithstanding any other provision of this subsection, (1) the Town 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, and (2) the Town 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. In no event shall proceeds of any sale of Waterworks Utility property be treated as Gross Revenue for purposes of this ordinance.

(e) Liens Upon the Waterworks Utility. It 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 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 any part thereof, prior to or superior to the lien of the Parity Bonds, or which might 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. It will prepare annual financial and operating statements within 270 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 Town.

(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 Town, 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) Fire and Extended Coverage Insurance. It at all times will carry fire and extended coverage and such other forms of insurance with responsible insurers and with policies payable to the Town on such of the buildings, equipment, works, plants, facilities and properties of the Waterworks Utility as are ordinarily carried by municipal or privately owned utilities engaged in the

operation of like systems, or will implement and maintain a self insurance or an insurance pool program with reserves adequate, in the reasonable judgment of the Town, to protect the Waterworks Utility and the owners of the Parity Bonds against loss.

(j) Public Liability and Property Damage Insurance. It at all times will keep or arrange to keep in full force and effect such policies of public liability and property damage insurance with responsible insurers and with policies payable to or on behalf of the Town and any additional insureds against such claims for damages as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, or will implement and maintain a self insurance or an insurance pool program with reserves adequate, in the reasonable judgment of the Town Council, to protect the Waterworks Utility and the owners of the Parity Bonds against loss.

Section 13. Flow of Funds. All ULID Assessments shall be paid into the Bond Fund as provided by Section 10. The Gross Revenue shall be used for the following purposes only and shall be applied in the following order of priority:

(a) To pay the Maintenance and Operation Expense;

(b) To pay the principal of and interest on all Parity Bonds as they come due or as the principal is required to be paid and to make all payments required to be made into any mandatory redemption or sinking fund account created to provide for the payment of the principal of Term Bonds;

(c) To make all payments required to be made into the Reserve Account for the Parity Bonds;

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

(e) To retire by redemption or purchase in the open market any outstanding revenue bonds or other revenue obligations of the Waterworks Utility, to make necessary additions, betterments, improvements and repairs to or extensions and replacements of the Waterworks Utility, or for any other lawful Waterworks Utility purposes.

The Town 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 14. Provisions for Future Parity Bonds. If the Parity Conditions are met and complied with pursuant to this ordinance, then nothing contained herein shall prevent the Town from issuing Future Parity Bonds. For so long as the Purchaser is the registered owner of the Bonds, a copy of the certificate required in Exhibit A shall be provided to the Purchaser prior to the issuance of such Future Parity Bonds.

The Town further covenants with the owners of the Parity Bonds that for so long as any Parity Bonds remain outstanding, it will not create any special fund or funds for the payment of the principal of or interest on any other water and sewer revenue bonds, warrants or obligations, or authorize or issue any other revenue bonds, warrants or obligations which will rank on a parity with or have any priority over the payments to be made out of the Net Revenue into the Bond Fund, except that it reserves the right to issue Future Parity Bonds if the Parity Conditions are met, for any purpose permitted by State law.

Nothing contained herein shall prevent the Town from issuing Future Parity Bonds to refund the maturing Bonds or Future Parity Bonds then outstanding, money for the payment of which is not otherwise available.

Nothing contained herein shall prevent the Town from issuing revenue bonds that are a charge upon the Net Revenue subordinate to the payments required to be made in respect of 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 junior lien bonds as long as such utility local improvement district assessments are levied for improvements constructed from the proceeds of those junior lien bonds.

Section 15. Refunding or Defeasance of the Bonds. The Town may issue refunding bonds pursuant to the laws of the State or use money available from any other lawful source to pay when due the principal of and interest on the Bonds, or any portion thereof included in a refunding or defeasance plan, and to redeem and retire, refund or defease all or a portion of the outstanding Bonds (hereinafter called the "defeased bonds") and to pay the costs of the refunding or defeasance. If money and/or "government obligations" (as defined in chapter 39.53 RCW, as now or hereafter amended) maturing at a time or times and bearing interest in amounts (together with money, if necessary) sufficient to redeem and retire, refund or defease the defeased bonds in accordance with their terms are set aside in a special trust fund or escrow account irrevocably pledged to that redemption, retirement or defeasance of the defeased bonds (hereinafter called the "trust account"), then all right and interest of the owner of the defeased bonds in the covenants of this ordinance and in the Gross Revenue, ULID Assessments, funds and accounts obligated to the payment of the defeased bonds shall cease and become void. The owner of the defeased bonds shall have the right to receive payment of the principal of and interest on the defeased bonds from the trust account. The Town shall include in the refunding or defeasance plan such provisions as the Town deems necessary for notice of the defeasance to be given to the owner of the defeased bonds and to such other persons as the Town shall determine, and for any required replacement of a Bond certificate for the defeased bonds. The defeased bonds shall be deemed no longer outstanding, and the

Town may apply any money in any other fund or account established for the payment or redemption of the defeased bonds to any lawful purposes as it shall determine.

Notwithstanding anything to the contrary in this ordinance, for as long as the United States of America, acting through the United States Department of Agriculture, is the owner of the Bonds, the Town agrees not to defease or refund the Bonds.

Section 16. Preservation of Tax Exemption for Interest on Bonds. To the extent required under the Letter of Conditions, the Town covenants that it will take all actions necessary to prevent interest on the Bonds 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 Bonds or other funds of the Town treated as proceeds of the Bonds at any time during the term of the Bonds which shall cause interest on the Bonds to be included in gross income for federal income tax purposes. The Town certifies that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon. If applicable, the Mayor is authorized and directed to adopt and implement on behalf of the Town procedures to facilitate compliance by the Town with the covenants in this Section 16 and the applicable requirements of the Code that must be satisfied after the issue date necessary to maintain tax exemption for interest on the Bonds after the Issue Date.

Section 17. Form and Execution of the Bonds. The Bonds shall be prepared in a form consistent with the provisions of this ordinance and State law and shall be signed by the Mayor and Town Clerk-Treasurer, either or both of whose signatures may be manual or in facsimile, and the seal of the Town or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate Of Authentication. This Bond is one of the fully registered Town of Eatonville, Washington, Waterworks Utility Revenue Bonds, 2012, 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.

If any officer whose manual or facsimile signature appears on the Bonds ceases to be an officer of the Town authorized to sign bonds before the Bonds bearing his or her manual or facsimile signature are authenticated or delivered by the Bond Registrar or issued by the Town, those Bonds nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the Town as though that person had continued to be an officer of the Town authorized to sign bonds. Any Bond also may be signed on behalf of the Town by any person who, on the actual date of signing of the Bond, is an officer of the Town authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Section 18. Bond Registrar. The Bond Registrar shall keep, or cause to be kept, at its office, sufficient books for the registration and transfer of the Bonds, which shall be open to

inspection by the Town at all times. The Bond Registrar is authorized, on behalf of the Town, to authenticate and deliver the Bonds if it is transferred or exchanged in accordance with its provisions and this ordinance, to serve as the Town's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and Town Ordinance No. 2000-11 establishing a system of registration for the Town's bonds and obligations. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on the Bond.

Section 19. Sale of the Bonds. It is anticipated that the Purchaser will offer to purchase the Bonds at a price equal to the stated principal amount of the Bonds. Pursuant to RCW 39.46.040(2), the Designated Representative is hereby authorized to serve as the designated representative of the Town. The Bonds will be prepared at Town expense and will be delivered to the Purchaser in accordance with the Letters of Conditions, with the approving legal opinion of Foster Pepper PLLC, Bond Counsel, regarding the Bonds. The Town Council being of the opinion that it is in the best interest of the Town to accept such offer, accepts the same.

The proper Town officials are authorized and directed to do everything necessary for the prompt authentication and delivery of the Bonds to the Purchaser and for the proper application and use of the proceeds of the sale thereof and to execute such certificates and documents as are consistent with the purposes of this ordinance.

Section 20. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and following its publication as required by law.

PASSED by the Town Council and APPROVED by the Mayor of the Town of Eatonville, Washington, at a regular meeting thereof, this __th day of June, 2012.

_____
Raymond Harper, Mayor

ATTEST:

_____
Kathy Linnemeyer, Town Clerk

APPROVED AS TO FORM:

_____
Foster Pepper PLLC, Bond Counsel

EXHIBIT A

PARITY CONDITIONS

The Town reserves the right to issue Future Parity Bonds so long as the following Parity Conditions are complied with:

(a) There must be no deficiency in the Bond Fund.

(b) The ordinance providing for the issuance of the Future Parity Bonds shall provide that all ULID Assessments 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 such Future Parity Bonds shall provide for the payment of the principal thereof and interest thereon out of the Bond Fund.

(d) The ordinance providing for the issuance of such Future Parity Bonds shall provide for the deposit into the Reserve Account of (i) an amount equal to the Reserve Requirement for those Future Parity Bonds from the Future Parity Bond proceeds or other money legally available, or (ii) to the extent that the Reserve Requirement is not funded from Future Parity Bond proceeds or other legally available money at the time of issuance of those Future Parity Bonds, within five years from the date of issue of the Future Parity Bonds from ULID Assessments, if any, levied and first collected for the payment of the principal of and interest on those Future Parity Bonds and, to the extent that ULID Assessments are insufficient, then from the Net Revenue of the Waterworks Utility in five approximately equal annual payments.

(e) The ordinance authorizing the issuance of such Future Parity Bonds shall 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 to their maturity date from money in the Principal and Interest Account.

(f) There shall be on file from a licensed professional engineer experienced in the design, construction and operation of municipal utilities, or from an independent certified public accountant, a certificate showing that in his or her professional opinion the Net Revenue 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. The certificate, in estimating the Net Revenue available for debt service, may adjust Net Revenue to reflect:

(1) Any changes in rates in effect and being charged or expressly committed by ordinance to be made in the future;

(2) Income derived from customers of the Waterworks Utility who have become customers during the 12 consecutive month period or thereafter, adjusted to reflect one year's revenue from those customers;

(3) Income from any customers to be connected to the Waterworks Utility who have paid the required connection charges;

(4) The engineer's or accountant's estimate of the Net Revenue to be derived from customers anticipated to connect for whom building permits have been issued;

(5) Income received or to be received which is derived from any person, firm, corporation or municipal corporation under any executed contract for water, sewage disposal or other utility service, which revenue was not included in the historical Net Revenue;

(6) The engineer's or accountant's 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 Waterworks 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 Waterworks Utility then under construction and not fully connected to the facilities of the Waterworks Utility when such additions, improvements and extensions are completed; and

(7) 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.

If Future Parity Bonds proposed to be so issued are for the sole purpose of refunding outstanding Parity Bonds, such certification of coverage shall not be required if the amount required for the payment of the principal and interest in each year for the refunding bonds is not increased more than $5,000 over the amount for that same year required for the bonds or the portion of that bond issue to be refunded thereby and if the maturities of such refunding bonds are not extended beyond the maturities of the bonds to be refunded thereby.

CERTIFICATION

I, the undersigned, Town Clerk of the Town of Eatonville, Washington (the "Town"), hereby certify as follows:

1. The attached copy of Ordinance No. 2012-7 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the Town Council of the Town held at the regular meeting place thereof on June 25, 2012, as that ordinance appears on the minute book of the Town; and the Ordinance will be in full force and effect five days after the publication of its summary in the town's official newspaper; and

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

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of June, 2012.

TOWN OF EATONVILLE, WASHINGTON

_____

Kathy Linnemeyer, Town Clerk