

COUNCIL ORDINANCE

AN ORDINANCE APPROPRIATING \$6,750,000 FOR THE COSTS OF THE REHABILITATION AND REPLACEMENT OF THE SOUTH THAMES STREET PUMP STATION FORCE MAIN IN THE CITY OF NORWICH, AUTHORIZING THE ISSUANCE OF \$6,750,000 REVENUE BONDS OF THE CITY SECURED SOLELY BY SEWER REVENUES TO MEET SAID APPROPRIATION, AND AUTHORIZING THE CITY AND THE SEWER AUTHORITY TO ENTER INTO GRANT AND LOAN AGREEMENTS AND A JOINT RESOLUTION WITH THE STATE OF CONNECTICUT WITH RESPECT THERETO

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORWICH:

Section 1. The sum of \$6,750,000 is appropriated for the costs of the rehabilitation and replacement of the force main between the South Thames Street Pump Station and the Norwich Water Pollution Control Facility and the rehabilitation of the utility bridge crossing the Yantic River in the City of Norwich, Connecticut, and all related site work, easements, land acquisition, materials, installation and deployment costs, and such additional improvements as may be accomplished within said appropriation provided herein, and including all administration, advertising, printing, legal, and financing costs (the "Project") as shall be determined by the Sewer Authority of the City of Norwich (the "Sewer Authority"). Said appropriation shall be inclusive of State and Federal grants in aid thereof. The Sewer Authority is authorized to enter into contracts, expend the appropriation and implement the Project herein authorized.

Section 2. The estimated useful life of the Project is not less than twenty years. The total estimated cost of the Project is \$6,750,000. Of the total estimated Project costs, approximately \$3,375,000 is anticipated to be grant funded by or through the State of Connecticut pursuant to its Clean Water Fund Program (as hereinafter defined), and approximately \$3,375,000 is anticipated to be financed by or through the State of Connecticut pursuant to its Clean Water Fund Program, through subsidized interest loans. The Project is a general benefit to the City of Norwich and its general governmental purposes.

Section 3. To meet said appropriation:

(i) bonds of the City or so much thereof as shall be necessary for such purpose, shall be issued, maturing not later than the twentieth year after their date (or such longer term as may be authorized). Said bonds may be issued in one or more series as determined by the City Manager, the Comptroller - acting on behalf of the City herein - and General Manager of the Department of Public Utilities of the City of Norwich (the "Department") - acting on behalf of the Department and the Sewer Authority of the City of Norwich (hereafter the "Sewer Authority") herein - (the "Issuer Officials") and the amount of bonds of each series to be issued shall be fixed by the Issuer Officials in the amount necessary to meet the Issuer's share of the cost of the Project determined after considering the estimated amount of the State and Federal grants-in-aid of the Project, or the actual amount thereof if this be ascertainable, and the anticipated times of the receipt of the proceeds thereof, provided that the total amount of bonds to be issued shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds. The bonds shall be in the denomination of \$1,000 or a whole multiple thereof, or, be combined with other bonds of the Issuer and such combined issue shall be in the denomination per aggregate maturity of \$1,000 or a whole multiple thereof, be issued in bearer form or in fully registered form, be executed in the name and on behalf of the City by the

facsimile or manual signatures of the Issuer Officials bear the City seal or a facsimile thereof, be certified by a bank or trust company designated by the Issuer Officials, which bank or trust company may be designated the registrar and transfer agent, be payable at a bank or trust company designated by the Issuer Officials and be approved as to their legality by Bond Counsel. They shall bear such rate or rates of interest as shall be determined by the Issuer Officials. The issuance of such bonds in one or more series, the aggregate principal amount of bonds to be issued, the annual installments of principal, redemption provisions, if any, the date, time of issue and sale and other terms, details and particulars of such bonds shall be determined by the Issuer Officials, in accordance with the Joint Resolution. In the case of Parity Indebtedness as defined in the Joint Resolution between the City of Norwich and the Sewer Authority (as hereinafter defined as the “Joint Resolution”), the Issuer Officials, shall also determine the revenues and property to be pledged for payment of such Parity Indebtedness; or

(ii) temporary notes of the City may be issued in one or more series pursuant to Section 7-244a of the General Statutes of Connecticut, as amended. The amount of such notes to be issued, if any, shall be determined by the Issuer Officials, and they are hereby authorized to determine the date, maturity, interest rate, form and other details and particulars of such notes, and to sell, execute and deliver the same; or

(iii) sewer assessment notes of the City may be issued in one or more series pursuant to Section 7-269a of the General Statutes of Connecticut, as amended. The amount of such notes to be issued, if any, shall be determined by a majority of the Issuer Officials, and they are hereby authorized to determine the date, maturity, interest rate, form and other details and particulars of such notes, and to sell, execute and deliver the same; or

(iv) interim funding obligations and project loan obligations or any other obligations of the City (hereinafter “Clean Water Fund Obligations”) evidencing an obligation to repay any portion of the costs of the Project determined by the State of Connecticut Department of Environmental Protection, Public Health or other department as applicable to be eligible for funding under Section 22a-475 et seq. of the Connecticut General Statutes, as the same may be amended from time to time (the “Clean Water Fund Program”). The General Manager of the Department is hereby authorized, on behalf of the City and the Sewer Authority, to enter into any other agreements, instruments, documents and certificates for the consummation of the transactions contemplated by this Ordinance. The General Manager of the Department is hereby authorized, on behalf of the City and the Sewer Authority, to apply for and accept any and all Federal and State grants for the Project, to expend said funds in accordance with the terms hereof, and in connection therewith to contract in the name of the Department with engineers, contractors and others. The City may issue Clean Water Fund Obligations in one or more series and in such denominations as the Issuer Officials shall determine, provided that the total of all such Clean Water Fund Obligations, bonds and notes issued and appropriation expended pursuant to this ordinance shall not exceed \$6,750,000. The Issuer Officials are hereby authorized to determine the amount, date, maturity, interest rate, form and other details and particulars of such interim funding obligations and project loan obligations, subject to the provisions of the Clean Water Fund Program, and to execute and deliver the same. Clean Water Fund Obligations shall be secured solely from a pledge of sewer system revenues; or

(v) promissory notes, bonds or other obligations made payable to the United States of America to meet any portion of the costs of the Project determined by the federal government, including acting through the Rural Utility Service of the United States Department of Agriculture (“USDA”) or other federal program or agency, to be eligible for loan and/or grant monies; or

(vi) any combination of bonds, temporary notes, notes, or obligations as set forth in the preceding subsections may be issued, provided that the total, aggregate principal amount thereof outstanding, and including the amount of grant funding obtained pursuant to a Project Grant and Project Loan Agreement, at any time shall not exceed \$6,750,000.

Section 4.

(i) Bonds, temporary notes, or sewer assessment notes, Clean Water Fund Obligations and federal obligations all as set forth in section 3 are hereafter referred to as "Bonds." The Bonds shall be sewer revenue bonds of the City, the payment of principal and interest on which shall be secured solely by revenues derived from the operation of the sewerage system, including use charges, connection charges, benefit assessments or any combination thereof, investment income derived there from, or other property of the sewerage system or revenue derived from the operation of the sewerage system in accordance with the Joint Resolution. Each of the Bonds shall recite to the effect that every requirement of law relating to its issue has been duly complied with, that such Bond is within every debt and other limit prescribed by law, that such Bond does not constitute a general obligation of the City for which its full faith and credit is pledged, and that such Bond is payable solely from revenues, assessments, charges or property of the sewerage system specifically pledged therefore.

(ii) The bonds authorized to be issued by section 3 shall be, issued and secured pursuant to the Joint Resolution of the City and the Sewer Authority, Sewer System General Revenue Bond Resolution approved by the City Council on November 21, 1994 and by the Sewer Authority on November 22, 1994, as amended, and as supplemented by various supplemental Resolutions adopted pursuant to the Joint Resolution, and which is hereby ratified, confirmed and approved in its entirety, including without limitation, the rate and revenue covenants therein. The Sewer Authority irrevocably agrees to comply with the provisions of the Joint Resolution, including Supplemental Resolutions, including but not limited to: to set, establish and collect and maintain rates and revenue as necessary to continually comply with the terms, conditions and covenants of the Joint Resolution. The City irrevocably agrees to comply with the provisions of the Joint Resolution. In order to implement the provisions of the Joint Resolution the City and the Sewer Authority may enter into an indenture of trust with a bank and trust company which indenture may contain provisions customarily included in revenue bond financings, including provisions of a similar nature to those in the Joint Resolution and which are necessary, convenient or advisable in connection with the issuance of the Bonds and their marketability. A majority of the Issuer Officials are hereby authorized to execute and deliver on behalf of the City and the Sewer Authority an indenture in such final form and containing such terms and conditions as they shall approve, and their signatures on any such indenture shall be conclusive evidence of their approval as authorized hereby.

(iii) The Issuer Officials on behalf of the City and the Sewer Authority are authorized to agree to additional terms and to delete or change existing terms and otherwise amend the form of Joint Resolution in order to obtain State or Federal funding, provide better security for the bonds, correct any matter, cure any ambiguity or defect or otherwise benefit the Issuer in their judgment. Such additional or different terms may include restrictions on the use of sewer funds or fund balance or sewer operations, coverage ratios, additional or changed reserve requirements, identification and pledge of revenues securing the Bonds, providing for the form of the Bonds, conditions precedent to the issuance of Bonds and additional Bonds, the establishment and maintenance of funds and the use and disposition there from, including but not limited to accounts for the payment of debt service, the payment of operating expenses, debt service reserve and other reserve accounts, providing for the issuance of subordinated indebtedness, defining an event of default and providing for the allocation of revenues in such event, credit enhancement, providing for a pledge and allocation of sewer revenues to pay for obligations issued by third parties, and provisions of a similar and different nature to those in the Joint Resolution and which are necessary, convenient or advisable in connection with the issuance of the

Bonds and their marketability, and to obtain the benefits of any State or Federal grant or low interest loan program, including but not limited to the Clean Water Fund and Federal Department of Agriculture Programs. The Issuer Officials are hereby authorized, in addition to the Joint Resolution, to execute and deliver on behalf of the Issuer and the Sewer Authority an indenture of trust in such final form and containing such terms and conditions as they shall approve, and their signatures on any such indenture shall be conclusive evidence of their approval as authorized hereby.

Section 5.The issue of the Bonds aforesaid and of all other bonds or notes of the City heretofore authorized but not yet issued, as of the effective date of this Ordinance, would not cause the indebtedness of the City to exceed any debt limit calculated in accordance with law.

Section 6.Said Bonds shall be sold by the Issuer Officials in a competitive offering or by negotiation, in their discretion. If sold in a competitive offering, the Bonds shall be sold upon sealed proposals at not less than par and accrued interest on the basis of the lowest not or true interest cost to the City. If the Bonds are sold by negotiation, the Issuer Officials, are authorized to execute a purchase agreement on behalf of the City and Sewer Authority containing such terms and conditions as they deem appropriate and not inconsistent with this Ordinance.

Section 7.Resolution of Official Intent to Reimburse Expenditures with Borrowings. The City of Norwich (the "Issuer") hereby expresses its official intent pursuant to section 1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid sixty days prior to and after the date of passage of this Resolution in the maximum amount and for the capital project defined in Section 1 with the proceeds of bonds, notes, or other obligations ("Bonds") authorized to be issued by the Issuer. The Bonds shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Comptroller and General Manager of the Department, or their designee, is authorized to pay project expenses in accordance herewith pending the issuance of reimbursement bonds, and to amend this declaration.

Section 8.It is hereby found and determined that it is in the public interest to issue all, or a portion of, the Bonds, Notes or other obligations of the City authorized to be issued herein as qualified private activity bonds, or with interest that is includable in gross income of the holders thereof for purposes of federal income taxation. The Issuer Officials are hereby authorized to issue and utilize without further approval any financing alternative currently or hereafter available to municipal government pursuant to law, including but not limited to any "tax credit bond," or "Build America Bonds" including Direct Payment and Tax Credit Versions.

Section 9.This Ordinance shall be effective upon adoption by the City Council and its approval by the Sewer Authority.

Mayor Peter Albert Nystrom
President Pro Tem Joseph A. DeLucia
Alderman Grant Neuendorf