

An Ordinance Amending an Ordinance Entitled:

AN ORDINANCE APPROPRIATING \$2,440,000 FOR THE REPLACEMENT OF THE DEEP RIVER RESERVOIR PUMP AND DRIVE SYSTEM, INCLUDING WATER STORAGE TANKS, AUTHORIZING THE ISSUANCE OF \$2,440,000 REVENUE BONDS OF THE CITY SECURED SOLELY BY WATER REVENUE TO MEET SAID APPROPRIATION, AND AUTHORIZING THE CITY AND DEPARTMENT OF PUBLIC UTILITIES TO ENTER INTO GRANT AND LOAN AGREEMENTS AND A JOINT RESOLUTION WITH THE STATE OF CONNECTICUT WITH RESPECT THERETO

An Ordinance entitled "An Ordinance Appropriating \$2,440,000 For The Replacement Of The Deep River Reservoir Pump And Drive System, Including Water Storage Tanks, Authorizing The Issuance Of \$2,440,000 Revenue Bonds Of The City Secured Solely By Water Revenue To Meet Said Appropriation, And Authorizing The City And Department Of Public Utilities To Enter Into Grant And Loan Agreements And A Joint Resolution With The State Of Connecticut With Respect Thereto" adopted by the City Council at a meeting held September 20, 2010, which Ordinance is hereby ratified, confirmed and adopted, is amended to increase the appropriation and bond authorization therein by \$560,000, from \$2,440,000 to \$3,000,000. The changed portions of the ordinance set forth in cross marks representing deletions and bold representing additions is as follows:

Section 1. The title of the Ordinance is amended to read as follows:

AN ORDINANCE APPROPRIATING **\$3,000,000** ~~2,440,000~~ FOR THE REPLACEMENT OF THE DEEP RIVER RESERVOIR PUMP AND DRIVE SYSTEM, INCLUDING WATER STORAGE TANKS, AUTHORIZING THE ISSUANCE OF **\$3,000,000** ~~2,440,000~~ REVENUE BONDS OF THE CITY SECURED SOLELY BY WATER REVENUE TO MEET SAID APPROPRIATION, AND AUTHORIZING THE CITY AND DEPARTMENT OF PUBLIC UTILITIES TO ENTER INTO GRANT AND LOAN AGREEMENTS AND A JOINT RESOLUTION WITH THE STATE OF CONNECTICUT WITH RESPECT THERETO

Section 2. The first sentence of Section 1 of the Ordinance is amended by substituting the amount of \$3,000,000 for \$2,440,000, thereby making the first sentence of Section 1 read as follows:

"The sum of **\$3,000,000** ~~2,440,000~~ is appropriated for the planning, acquisition and construction of the replacement of the pump and drive system of the Deep River Reservoir located in Lebanon, Connecticut, including the rehabilitation, repair or replacement of all or any portions of the existing pump and drive system, including one or more water storage tanks, holding tanks, high efficiency pumps and drives, under drain systems, piping, equipment, water delivery infrastructure, site work, easements, related and appurtenant improvements, or so much

thereof, or such additional improvements as may be accomplished within said appropriation provided herein, and including administration, advertising, printing, legal, and financing costs (hereafter the "Project") as shall be determined by the Norwich Department of Public Utilities (the "Department").

Section 3. The second and third sentences of Section 2 of the Ordinance are amended by substituting the amount of \$3,000,000 for \$2,440,000, thereby making those sentences of Section 2 read as follows:

The total estimated cost of the Project is ~~\$3,000,000~~ ~~2,440,000~~. ~~\$2,557,753~~ ~~2,390,000~~ of the total Project cost is estimated to be financed by or through the State of Connecticut pursuant to its Clean Water Fund Program (as hereinafter defined), through a low interest loan bearing interest at approximately 2 percent.

Section 4. Subsections (iv) [third sentence] and (vi) of Section 3 of the Ordinance are amended by substituting the amount of \$3,000,000 for \$2,440,000, thereby making the third sentence of subsection (iv) and subsection (vi) read as follows:

(iv) "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 ~~\$3,000,000~~ ~~2,440,000~~."

(xii) "any combination of bonds, temporary notes, notes, or obligations as set forth in section 3(i), 3(ii), 3(iii), 3(iv), or 3(v) 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 ~~\$3,000,000~~ ~~2,440,000~~."

Section 5. In all other respects the ordinance shall remain unchanged.

Section 6. The City Clerk shall cause an ordinance incorporating all amendments into one complete text to be prepared, labeled "As Amended" at the top, and filed with the minutes of the meeting at which the amending ordinance is adopted.

Section 7. This Ordinance shall be effective upon adoption by the City Council and its approval by the Board.

RESOLUTION APPROVING AMENDMENTS INCREASING
THE APPROPRIATION AND WATER REVENUE BOND
AUTHORIZATION TO \$3,000,000 TO FINANCE THE DEEP
RIVER RESERVOIR PUMP, DRIVE AND TANK PROJECT,
AND RECOMMENDING THE CITY COUNCIL APPROVE
SUCH AMENDMENT TO THE DEEP RIVER PUMP/DRIVE
BOND ORDINANCE

Resolved, the Board of Public Utility Commissioners (the "Board") having considered:

1. requirements for improvements to the Deep River Pump Drive and Tank Project (the "Project")
2. an Ordinance proposed to be adopted by the Council of the City of Norwich ("Council") to amend the Project bond ordinance as originally adopted by the Council on September 20, 2010, to increase the appropriation and water revenue secured bond issuance authorization from \$2,440,000 to \$3,000,000
3. Joint Resolution of the City of Norwich, Connecticut and the Board of Public Utility Commissioners of the City of Norwich, Water System General Revenue Bond Resolution approved by the City Council on August 7, 2000 and the Board on July 17, 2000, (the "General Resolution" or "Joint Resolution")

in connection with the planning, acquisition, construction and financing of pump, drive and tank improvements to the Deep River Reservoir in Lebanon, Connecticut as more fully set forth in the Amending Ordinance, and the Ordinance "As Amended", both attached hereto, hereby approves the Amending Ordinance and the Ordinance As Amended, and the General Resolution, and recommends their adoption to the City Council, and specifically approves the Project and entering into a loan agreement in connection therewith with the State of Connecticut Department of Public Health. The General Manager is authorized on behalf of the Board to enter into a loan agreement with such additions, revisions and deletions as in his judgment are in the best interest of the Board, including a schedule to fund a debt service reserve fund, and to revise the General Resolution, including the addition of information, completion of schedules, or such other changes as may facilitate the project and its financing, provided, the full faith and credit of the City shall not be pledged to secure the bonds authorized to finance the Project. The Board specifically authorizes and approves the Project, the issuance of up to \$3,000,000 of water system revenue bonds, the pledge and lien established by the General Resolution, the delegation to the General Manager of authority and responsibility, the terms and conditions of issuing debt, all as set forth therein. The Board covenants to establish the rates necessary to pay the bonds and to comply with the provisions and requirements therein. The Board recommends that the City Council take all action necessary to approve the project and its financing, including approval of the Amending Ordinance.

AS AMENDED

AN ORDINANCE APPROPRIATING \$3,000,000 FOR THE REPLACEMENT OF THE DEEP RIVER RESERVOIR PUMP AND DRIVE SYSTEM, INCLUDING WATER STORAGE TANKS, AUTHORIZING THE ISSUANCE OF \$3,000,000 REVENUE BONDS OF THE CITY SECURED SOLELY BY WATER REVENUE TO MEET SAID APPROPRIATION, AND AUTHORIZING THE CITY AND DEPARTMENT OF PUBLIC UTILITIES 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 \$3,000,000 is appropriated for the planning, acquisition and construction of the replacement of the pump and drive system of the Deep River Reservoir located in Lebanon, Connecticut, including the rehabilitation, repair or replacement of all or any portions of the existing pump and drive system, including one or more water storage tanks, holding tanks, high efficiency pumps and drives, under drain systems, piping, equipment, water delivery infrastructure, site work, easements, related and appurtenant improvements, or so much thereof, or such additional improvements as may be accomplished within said appropriation provided herein, and including administration, advertising, printing, legal, and financing costs (hereafter the "Project") as shall be determined by the Norwich Department of Public Utilities (the "Department"). Said appropriation shall be inclusive of state and federal grants in aid thereof. The Department is authorized to enter into contracts, expend the appropriation and implement the Project herein authorized. Any amounts not necessary for the accomplishment of the Project, may be utilized for construction of other Stonybrook Reservoir improvements.

Section 2. The estimated useful life of the Project is thirty years. The total estimated cost of the Project is \$3,000,000. \$2,557,753 of the total Project cost is estimated to be financed by or through the State of Connecticut pursuant to its Clean Water Fund Program (as hereinafter defined), through a low interest loan bearing interest at approximately 2 percent. 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 thirtieth year after their date. 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 City of Norwich Department of Public Utilities – acting on behalf of the Department and the Board of Public Utility Commissioners (hereafter the "Board") 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 Board (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.) notes or bonds of the City may be issued in one or more series pursuant to Section 7-263a 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

(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 City of Norwich Department of Public Utilities is authorized in the name and on behalf of the City and the Board to apply for and accept any and all Federal and State loans and/or grants-in-aid of the Project and is further authorized 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 \$3,000,000. 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 water 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 section 3(i), 3(ii), 3(iii), 3(iv), or 3(v) 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 \$3,000,000.

Section 4.

(i.) Bonds, temporary notes, or water assessment notes, as set forth in section 3(i), 3(ii) or 3(iii) Clean Water Fund Obligations as set forth in section 3(iv), and federal obligations set forth in section 3(v) are hereafter referred to as "Bonds." The Bonds shall be water 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 water system, including use charges, connection charges, benefit assessments or any combination thereof, investment income derived there from, or other property of the water system or revenue derived from the operation of the water 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 water system specifically pledged therefore.

(ii.) The bonds authorized to be issued by section 3(i), the notes authorized to be issued by section 3(ii) and 3(iii) and Clean Water Fund Obligations authorized to be issued by section 3(iv), or any combination of the foregoing shall be, issued and secured pursuant to the Joint Resolution approved by the City Council on August 7, 2000, and the Board on July 17, 2000, 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 Board 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 General Resolution. The City irrevocably agrees to comply with the provisions of the General Resolution. In order to implement the provisions of the Joint Resolution the City and the Board 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. The Issuer Officials are hereby authorized to execute and deliver on behalf of the City and the Board 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 Board 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 water funds or fund balance or water 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 water 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 General Resolution, to execute and deliver on behalf of the Issuer and the Board 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. A notice of sale or a summary thereof describing the bonds and setting forth the terms and conditions of the sale shall be published at least five days in advance of the sale in a recognized publication carrying municipal bond notices and devoted primarily to financial news and the subject of state and municipal bonds. If the Bonds are sold by negotiation, the Issuer Officials, are authorized to execute a purchase agreement on behalf of the City and Board 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. That City of Norwich (the "Issuer") hereby expresses its official intent pursuant to §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 City of Norwich Department of Public Utilities 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 the issue of 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, is in the public interest. The Issuer Officials are hereby authorized to issue and utilize without further approval any financing alternative available to municipal governments pursuant to HR1, "Making Supplemental Appropriations for Job Preservation and Creation, Infrastructure Investment, Energy Efficiency and Science, Assistance to the Unemployed, and State and Local Fiscal Stabilization, for the Fiscal Year Ending September 30, 2009, and for other purposes" (the "American Recovery and Reinvestment Act of 2009"), 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 Board.

Mayor Deberay A. Hinchey