

CITY OF CARNATION, WASHINGTON

ORDINANCE NO. 827

AN ORDINANCE of the City of Carnation, Washington, amending Ordinance No. 790 to extend the maturity date of the Note authorized therein and providing for a replacement Note; and authorizing the City Manager of the City to take actions and execute documents with respect to the Note.

THE CITY COUNCIL OF THE CITY OF CARNATION, WASHINGTON, DO ORDAIN as follows:

Section 1: Recitals and Findings. The Council makes note of the following:

(a) By Ordinance 790, passed January 18, 2011, the City Council of the City of Carnation, Washington provided for the issuance of a not to exceed \$2,812,064 aggregate principal amount Water and Sewer Bond Anticipation Note, 2011 at any time outstanding for the purpose of providing interim financing to pay all or part of the cost of replacing or improving certain water storage tanks and water transmission mains within the City's water service area.

(b) After due consideration, the Council finds and determines that it is necessary to extend the maturity date of the Note.

Section 2: Amendment of Section 1 of Ordinance No. 790. Section 1 of Ordinance No. 790 is hereby amended as follows. Deleted information is shown as strikeouts and inserted information is shown as double underlined.

Section 1: Definitions. The words and phrases set forth in this ordinance with initial capitalization shall have the respective meanings ascribed to such words and phrases in this section unless the context clearly requires otherwise.

(a) "Bank" means U.S. Bank National Association of Seattle, Washington.

(b) "Bond" means the water and sewer improvement and refunding revenue bond authorized to be issued by Section 5 of this ordinance in the approximate principal amount of \$2,812,064.

(c) "City" means the City of Carnation, Washington.

(d) "Clerk" means the Clerk of the City.

(e) "Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations promulgated thereunder.

(f) “Construction Fund” means the project account created and established in the office of the Treasurer for the purpose of paying authorized costs of the Project.

(g) “Council” means the City Council of the City.

(h) “Future Parity Bonds” means any and all revenue bonds of the City hereafter issued, the payment of which, both principal and interest, constitutes a lien and charge upon the Gross Revenue and ULID Assessments equal in rank with the lien and charge upon such Gross Revenue and ULID Assessments for the payments required to pay and secure the payment of the Bond.

(i) “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, proceeds from the sale of Waterworks Utility property, City taxes collected by or through the Waterworks Utility, principal proceeds of bonds or other obligations, 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.

(j) “Junior Lien Obligations” mean, collectively, (i) PWTF Loan No. PR09-951-010; (ii) PWTF Loan No. PW-05-691-007; (iii) PWTF Loan No. PW-03-691-PRE-106; and (iv) State Revolving Fund Loan No. L0700002.

(k) “Loan Draws” shall have the meaning given such term in Section 6 of this Ordinance.

(l) “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.

(m) “Maturity Date” means ~~24 months from the date of delivery of the Note to the Bank~~ May 23, 2013, or such other date as may be agreed upon by the City Manager and the Bank.

(n) “Mayor” means the Mayor of the City.

(o) "Net Revenue" means the Gross Revenue less Maintenance and Operation Expense.

(p) "Note" means the Waterworks Utility Bond Anticipation Note, 2011 (Non-Revolving Line of Credit), of the City in the principal amount of not to exceed \$2,812,064 which is authorized to be issued by this ordinance.

(q) "Note Fund" means the debt service account described in Section 9 hereof for the payment of principal and interest on the Note.

(r) "Note Register" means the registration records of the City, maintained by the Registrar, on which shall appear the name and address of the Registered Owner of the Note.

(s) "Prime Rate" means the rate of interest from time to time publicly announced by the Bank as its "Prime Rate." For purposes of determining any interest rate that is based on the Prime Rate, the interest rate shall change on the effective date of any change in the Prime Rate.

(t) "Project" shall have the meaning specified in Section 4 hereof.

(u) "PWTF" means Washington State Public Works Trust Fund Program.

(v) "Registered Owner" means the entity or person named as the Registered Owner of the Note on the Note Register, initially the Bank.

(w) "Registrar" initially, means the Treasurer. At any time following the issuance of the Note, however, the Treasurer may determine to appoint a different Registrar, including, but not limited to the fiscal agency of the State. The term "Registrar" also shall include any successor Registrar appointed by the Treasurer as permitted by law.

(x) "State" means the State of Washington.

(y) "Treasurer" means the City Treasurer or the successor officer.

(z) "ULID" means Utility Local Improvement District.

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

(bb) "USDA" means the United States of America, acting through the United States Department of Agriculture, Rural Development.

(cc) "Waterworks Utility" of the City means the waterworks system of the City and all additions to and betterments and extensions thereof at any time made and shall include the system of sewerage, which is the sewer utility made a part thereof by Ordinance No. 659, 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.

Section 3: Authorization of Replacement Note. The City Manager is authorized to have a replacement Note prepared consistent with this ordinance and Ordinance No. 790 and numbered S-1, and to deliver that replacement Note to the Bank in exchange for the original Note. The City Manager is further authorized to cancel the original Note when it is received by the City.

Section 4: General Authorization. The City Manager, or other appropriate officers of the City, are severally authorized and directed to take any actions and to execute documents as in their judgment may be necessary or desirable to carry out the terms of, and complete the transactions contemplated by this ordinance. All acts previously performed by the City Manager or other appropriate City officers that are consistent with the provisions of this ordinance are ratified and confirmed.

Section 5: Ordinance No. 790 to Remain in Full Force and Effect. Except as amended by this ordinance, all other provisions of Ordinance No. 790 shall remain in full force and effect.

Section 6: Severability; Ratification. If any provision of this ordinance shall be 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. All actions heretofore taken by the City consistent with the provisions of this ordinance are ratified, confirmed and approved.

Section 7: 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 at a regular open public meeting thereof and APPROVED by the Mayor this 5th day of February, 2013.

CITY OF CARNATION, WASHINGTON



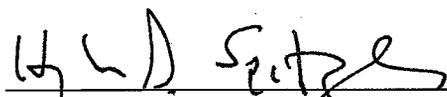
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



FOSTER PEPPER PLLC, Bond
Counsel to the City