

TOWN OF COUPEVILLE

ORDINANCE NO. 414

AN ORDINANCE of the Town of Coupeville, Washington, relating to the waterworks utility of the Town; specifying and adopting a system or plan of additions and betterments to and extensions of such waterworks utility, including the sanitary sewage disposal system as a part thereof; declaring the estimated cost thereof; authorizing the issuance of not to exceed \$450,000 par value of its Public Works Trust Fund Revenue Bond, 1986, for the purpose of providing funds to pay part of the cost of such additions, betterments and extensions; fixing the date, interest rate, installments, maturity, form, terms, and covenants of such bond; providing for the issuance of that bond to the State of Washington Department of Community Development; and providing for the execution and delivery to such Department of a loan agreement to be performed subject to the provisions of this ordinance.

WHEREAS, the Town of Coupeville, Washington (the "Town"), by Ordinance No. 239, passed by the Town Council and approved by the Mayor on December 11, 1972, combined its sanitary sewage disposal system with the waterworks utility of the Town pursuant to the provisions of RCW 35.67.331 and RCW 35.67.340, and such sanitary sewage disposal system thereafter has been operated as a part of and as belonging to its waterworks utility, the combined systems, including all additions thereto and betterments and extensions thereof at any time made, being hereinafter referred to as the "Waterworks Utility;" and

WHEREAS, pursuant to Ordinance No. 254 passed October 14, 1974, as amended by Ordinance No. 264 passed June 9, 1975, the Town heretofore issued and has outstanding its \$179,000 par value Water and Sewer Revenue Bond, 1975, for the purpose of carrying out the system or plan of additions to and betterments and extensions of the Waterworks Utility adopted therein;

WHEREAS, pursuant to Ordinance No. 305 passed January 15, 1979, the Town heretofore issued its \$111,000 par value Water and Sewer Revenue Bond, 1978, for the purpose of carrying out

the system or plan of additions to and betterments and extensions of the Waterworks Utility adopted therein; and

WHEREAS, pursuant to Ordinance No. 391 passed July 8, 1985, as amended by Ordinance No. 393 passed August 12, 1985, the Town heretofore issued and has outstanding its \$120,000 par value Water and Sewer Revenue Bonds, 1985, for the purpose of carrying out the system or plan of additions to and betterments and extensions of the Waterworks Utility adopted by Ordinance No. 340; and

WHEREAS, the ordinances authorizing the previously issued and now outstanding obligations of the Town permit the issuance of additional revenue obligations junior in lien to such obligations; and

WHEREAS, RCW 35.92.100 allows the Town to issue and sell revenue bonds to carry out any part or all of its comprehensive plan; and

WHEREAS, in order to provide for the replacement and upgrading of portions of the Town's Waterworks Utility, including the replacement of wells and appurtenances, rehabilitation of two existing pump stations, and repairs to the distribution and storage elements of the utility, it is necessary that certain additions and betterments to and extensions of the Waterworks Utility of the Town be acquired, constructed and installed; and

WHEREAS, by Resolution No. 86-5 adopted March 10, 1986, the Town Council expressed its intention to obtain a Public Works Trust Fund Loan for the purpose of paying a part of the cost of carrying out such additions to and betterments and extensions of the Town's Waterworks Utility; and

WHEREAS, in order to provide part of the funds necessary to acquire, construct and install those additions, betterments and extensions, it is deemed necessary and advisable that the Town

issue and sell its water and sewer revenue bond in the principal amount of not to exceed \$450,000 for the purpose of evidencing a loan from the Department of Community Development on behalf of the Public Works Board to finance part of such acquisition, construction and installation; NOW THEREFORE,

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

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

- (a) "Bond Fund" shall mean the Town's Water and Sewer Revenue Bond Fund, 1986 (Public Works Loan), created by this ordinance for the purpose of paying the principal of and interest on the Bond.
- (b) "Bond" shall mean the not to exceed \$450,000 par value of Water and Sewer Revenue Bond, 1986 (Public Works Loan), of the Town issued pursuant to and for the purposes provided in this ordinance.
- (c) "Construction Fund" shall mean the Town's ~~Sewer~~^{6 Lfy} Construction Fund, 1987.
- (d) "Department" shall mean the Washington State Department of Community Development or its successor.
- (e) "Gross Revenue of the Waterworks Utility" shall mean all Gross Revenue of the Waterworks Utility as that term is used in Ordinance No. 391 of the Town.
- (f) "Loan Agreement" shall mean an agreement between the Town and the Department substantially in the form of the Public Works Trust Fund Loan Agreement on file with the Town and incorporated herein by this reference.
- (g) "Maintenance and Operation Expenses" shall mean all reasonable expenses incurred by the Town in causing the Waterworks Utility to be operated and maintained in good repair,

working order and condition, but shall not include any depreciation or taxes levied or imposed by the Town.

(h) "Prior Lien Obligations" shall mean the Town's Water and Sewer Revenue Bond, 1975, issued by Ordinance No. 254 as amended by Ordinance No. 264, Water and Sewer Revenue Bond, 1978, issued by Ordinance No. 305, and Water and Sewer Revenue Bonds, 1985, issued by Ordinance No. 391 as amended by Ordinance No. 393, respectively, any bonds or other obligations hereafter issued on a parity of lien with such Prior Lien Obligations, any bonds hereafter issued to refund such Prior Lien Obligations, and any other bonds or other obligations that the Town may, as it expressly reserves the right to do without limitation or qualifications, hereafter issue having a claim on the Gross Revenue of the Waterworks Utility prior to that of the Bonds.

(i) "Town" shall mean the Town of Coupeville, Washington, a municipal corporation duly organized and existing under the laws of the State of Washington as a fourth class town.

(j) "Waterworks Utility" shall mean the waterworks utility of the Town, including the sanitary sewage disposal system as a part thereof, as the same shall be added to, bettered, improved and extended for as long as any of the Bond and any Prior Lien Bonds are outstanding.

Section 2. The system or plan for the acquisition, construction and installation of additions and betterments to and extensions of the System as set forth in Exhibit A to the Loan Agreement and incorporated herein by this reference, is hereby specified and adopted.

There shall be included in the foregoing all appurtenances, valves and fittings as may be required, and the acquisition of any easements, rights-of-way and land that may be required; and there shall be included the performance of any work which may be necessary to the foregoing construction and installation.

The Town Council expressly reserves the right to make changes in the items listed as a part of such system or plan where such changes will not substantially alter the system or plan, which would, in the opinion of the Town Council, be in the best interests of the Town, and to proceed with the acquisition, construction and installation of such improvements in whole or in successive parts or units from time to time as may be advisable and as funds for the same become available.

The life of the foregoing additions and betterments to and extensions of the Waterworks Utility is hereby declared to be at least 20 years.

The estimated cost of the acquisition, construction and installation of the plan of additions and betterments to and extensions of the Waterworks Utility, including the cost of issuing the Bond, is hereby declared to be as near as may be the sum of \$670,000, approximately \$450,000 of which shall be provided by the issuance of the Bond, and the balance of which shall be provided by anticipated state grants and other money of the Town legally available therefor.

For the purpose of providing the funds necessary to pay the cost of carrying out a portion of the plan of additions and betterments to and extensions of the Waterworks Utility, the Town shall cause to be issued and delivered to the Department the Bond in an amount not to exceed \$450,000. The Town shall make incremental draws of principal of the Bond under the terms of the Loan Agreement, and the principal of the Bond at any time shall be the outstanding principal of all loan draws made under this ordinance and the Loan Agreement. The Bond shall be dated its date of issuance; shall not be registered (notwithstanding Ordinance No. 392 of the Town); shall be repaid in nineteen equal annual principal installments commencing July 1, 1988; and shall bear interest on the outstanding principal balance at a

rate of 3% per annum, calculated on the basis of a 360-day year of twelve 30-day months, payable each July 1 commencing July 1, 1987. Principal installments and interest shall be payable in lawful money of the United States of America by check, draft or warrant mailed to the Department at the address designated by the Department. The Bond shall be payable from the Gross Revenue of the Waterworks Utility after all payments required for the Prior Lien Obligations. The Bond shall be payable solely out of the Bond Fund and shall not be a general obligation of the Town.

The Bond shall be subject to the terms and conditions contained in this ordinance and, to the extent not contrary to the provisions of this ordinance, shall be subject to the terms and conditions contained in the Loan Agreement.

The Bond shall be issued to the Department and may not be assigned or transferred to any other owner except to a successor agency of the State of Washington as provided by law. The Bond may be so assigned and transferred only as a whole. It is not intended by the Town Council that the Bond shall be an obligation the interest on which shall be exempt from federal income taxation.

Section 3. The Bond Fund is created and established in the office of the Town Treasurer-Clerk. The Gross Revenue of the Waterworks Utility is pledged to the payment of the Bond. This pledge shall constitute a lien and charge upon the Gross Revenue of the Waterworks Utility, subordinate only to (a) the prior liens and charges upon such Gross Revenue of the Waterworks Utility for the Prior Lien Obligations, whether now outstanding or hereafter issued as the Town has reserved the right to do, and (b) Maintenance and Operation Expenses.

If the Town fails to set aside and pay into the Bond Fund the amounts necessary to timely pay installments of principal

and interest on the Bond, the Department may bring action against the Town and compel the setting aside and payment of such amounts.

In the event that any installment of principal is not received within 30 days of the date when due, such overdue amount shall bear interest at the rate of 12% per annum (calculated on the basis of a 360-day year of twelve 30-day months) until paid. In the event that any installment of principal is not received within 30 days of the date when due, the Department may at its option declare the entire principal amount of the Bond immediately due and payable.

The Town irrevocably and unconditionally covenants that it will keep and perform all of the covenants of the Bond, this ordinance and the Loan Agreement subject to the provisions of this ordinance.

The Town Council hereby finds and determines, in fixing the amounts to be paid into the Bond Fund as provided herein, that it has exercised due regard to the Maintenance and Operation Expenses of the Waterworks Utility and the amounts pledged to pay the principal of and interest on the Prior Lien Obligations and has not obligated the Town to set aside and pay into the Bond Fund a greater amount of the revenue of the Waterworks Utility than in its judgment will be available to make such payments over and above such Maintenance and Operation Expenses and the charges necessary to pay the principal of and interest on the outstanding Prior Lien Obligations.

Section 4. The Bond shall be typewritten or photocopied in a form consistent with the terms of this ordinance. The Bond shall be on good quality bond paper; shall be signed manually by the Mayor and attested by the Town Treasurer-Clerk, and shall be sealed with the Town seal.

Section 5. The Town Council finds that it is in the best interests of the Town to accept the offer of the Department of Community Development to make a loan of not to exceed \$450,000 to the Town and to accept the Bond as evidence of such loan, and the Town hereby accepts such offer. The Town accepts the Loan Agreement and authorizes the proper officers and agents of the Town to execute and deliver the same in substantially the form on file with the Town. Such officers are directed to proceed with the preparation of the Bond and the performance of all other matters in connection therewith in order to complete the sale and delivery thereof, and the performance of the Loan Agreement subject to the provisions of this ordinance.

Section 6. The Town reserves the right to issue additional Prior Lien Obligations or other revenue obligations and to create a special fund or funds for the payment of principal of or interest on such additional revenue bonds or obligations, or reserves therefor, which would have a priority over the payments required by this ordinance, if such Prior Lien Obligations or other obligations are issued for either (a) the purpose of acquiring, constructing and installing additions to, betterments and improvements to and extensions of, acquiring necessary equipment for, or making necessary replacements of, or repairs or capital improvements to, the Waterworks Utility, or (b) the purpose of refunding by exchange or purchasing and retiring at or prior to their maturity any part or all of the Bond or the Prior Lien Obligations of the Town, and the Town reserves the right to pledge that payments shall be made out of the Gross Revenue of the Waterworks Utility, to pay and secure the payment of the principal of and interest on such Prior Lien Obligations with a higher priority than the payments required by this ordinance to pay and secure the payment of the principal of and interest on the Bond.

Nothing herein shall prevent the Town from issuing water and sewer revenue bonds, warrants or other obligations which are a charge upon the Gross Revenue of the Waterworks Utility junior or inferior to the payments required to be made therefrom into the Bond Fund for the payments of the Bond or from pledging the payment of money into a fund or account created to pay and secure the payment of the principal of and interest on such junior lien bonds or other obligations.

Section 7. In the event the Town shall issue advance refunding bonds pursuant to the laws of the State of Washington, or have money available from any other lawful source to pay the principal of and interest on the Bond or such portion thereof included in the refunding plan as the same become due and payable and to refund all such then outstanding installments of the Bond, and to pay the costs of refunding, and shall have irrevocably set aside for and pledged to such payment and refunding, money and/or direct obligations of the United States of America or other legal investments (with the right of the Town to make substitutions for such investments) sufficient in amount, together with known earned income from the investments thereof, to make such payments and to accomplish the refunding as scheduled (hereinafter called the "trust account") and shall irrevocably make provisions for redemption of such installments of the Bond, then in that case all right and interest of the Department in the installments of the Bond to be so retired or refunded (hereinafter collectively called the "defeased Bond installments") in the covenants of this ordinance, in the Gross Revenue of the Waterworks Utility and funds and accounts obligated to the payment of such installments of the Bond shall thereafter cease and become void, except that the Department shall have the right to receive payment of the principal of and interest on the defeased Bond installments from the trust

account. After the establishing and full funding of such trust account, the Town may then apply any money in any other fund or account established for the payment or redemption of the defeased Bond installments to any lawful purposes as it shall determine, subject only to the rights of the holders of any other bonds then outstanding.

In the event that the refunding plan provides that the refunding bonds to be secured by cash and/or direct obligations of the United States of America or other legal investments pending the prior redemption of those Bond installments being refunded and if such refunding plan also provides that certain cash and/or direct obligations of the United States of America or other legal investments are irrevocably pledged for the prior redemption of those Bond installments included in the refunding plan, then only the debt service on the Bond and the refunding bonds payable from the Gross Revenue of the Waterworks Utility shall be included in the computation of coverage for determining compliance with the rate covenants.

Section 8. There has been created in the Office of the Town Treasurer-Clerk a special fund called the ~~Sewer~~ Construction Fund, 198⁶~~2~~ (the "Construction Fund"), into which fund shall be deposited the principal proceeds of the Bond and out of which shall be paid the costs of carrying out those portions of the plan of additions, betterments and extensions payable from proceeds of the Bond and the costs of issuing the Bond. The Town may use any money remaining in the Construction Fund after the payment of all such costs to carry out any other capital improvements to the Waterworks Utility, except that unexpended proceeds of the Bond shall be transferred to the Bond Fund and promptly applied, within thirty days after submission of the Final Project Report (as defined in the Loan Agreement) to the payment of principal and interest on the Bond.

Section 9. Any act done pursuant to and in furtherance of the authority, and prior to the effective date, of this ordinance, which shall be five days after its passage and legal publication, is ratified, approved and confirmed.

PASSED by the Town Council and APPROVED by the Mayor of the Town of Coupeville, Washington, at a regular open public meeting thereof this 11th day of August, 1986.

TOWN OF COUPEVILLE, WASHINGTON

Lew Haddy
Mayor

ATTEST:

Dennis G. Ward
Town Treasurer-Clerk

FORM APPROVED:

John Olson
Town Attorney

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