

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1766

**AN ORDINANCE RELATING TO THE INCURRENCE OF INDEBTEDNESS; AUTHORIZING THE ISSUANCE OF ITS LOCAL IMPROVEMENT DISTRICT NO. 08-1 BOND ANTICIPATION NOTE, 2012, SERIES A (FEDERALLY TAX-EXEMPT) AND ITS LOCAL IMPROVEMENT DISTRICT NO. 08-1 BOND ANTICIPATION NOTE, 2012, SERIES B (FEDERALLY TAXABLE) PENDING THE RECEIPT OF THE PROCEEDS OF THE LOCAL IMPROVEMENT DISTRICT BONDS AUTHORIZED TO BE ISSUED BY ORDINANCE NO. 1659; FIXING THE DATE, AGGREGATE PRINCIPAL AMOUNT, INTEREST RATE, MATURITY, DENOMINATIONS, REDEMPTION AND REGISTRATION PRIVILEGES, TERMS, COVENANTS AND FORM OF THE NOTES; AND PROVIDING FOR THE SALE OF SUCH NOTES TO CASHMERE VALLEY BANK**

WHEREAS, by Ordinance No. 1659 (the "LID Ordinance"), after a public hearing thereon, the City of Fife, Washington (the "City"), ordered certain water and sanitary sewer improvements on Valley Avenue East from approximately 70<sup>th</sup> Avenue East to Freeman Road, as set forth in Exhibit A to the LID Ordinance (the "Improvements"); established Local Improvement District No. 08-1 (the "District") of the City; provided that payment for the Improvements be made by special assessments upon the property in the District, payable by the mode of "payment by bonds"; and provided for the issuance and sale of local improvement district warrants redeemable by cash or other short-term financing, and local improvement district bonds; and

WHEREAS, by Ordinance No. 1732 (the "2011 Note Ordinance"), the City Council deemed it to be in the best interest of the City that the City borrow money and authorized the issuance and sale of its Local Improvement District No. 08-1 Bond Anticipation Notes, 2011, Series A (Federally Tax-Exempt) (the "2011A Notes") and its Local Improvement District No. 08-1 Bond Anticipation Notes, 2011, Series B (Federally Taxable) (the "2011B Notes" and, together with the 2011A Notes, the "2011 Notes"), each maturing on March 1, 2012, to provide funds to pay part of the cost and expense of the Improvements pending the receipt of local improvement district bond proceeds; and

WHEREAS, the City does not expect to finalize the assessment roll for the District and issue local improvement district bonds to provide permanent financing for the Improvements until the second quarter of 2012; and

WHEREAS, the City Council deems it to be in the best interest of the City that the City issue and sell two new series of its short-term obligations in the form of local improvement district bond anticipation notes in an aggregate principal amount of \$3,068,621.08 to obtain funds to pay the principal of and interest on the 2011 Notes, when due at their maturity, thereby extending the interim

containing substantially similar representations with respect to such 2012 Note as the Investor Letter delivered to the City by the Purchaser on the date of this Ordinance.

Section 7. Mutilated, Lost, Stolen or Destroyed 2012 Notes. If either 2012 Note becomes mutilated, lost, stolen or destroyed, the City may deliver a new 2012 Note of the same series and interest rate, for the same principal amount, and of like tenor and effect in substitution therefor, all in accordance with law. If such mutilated, lost, stolen or destroyed 2012 Note has matured, the City at its option may pay the same without the surrender thereof. However, no such substitution or payment shall be made unless and until the applicant shall furnish evidence satisfactory to the Finance Director of the destruction or loss of the original 2012 Note and the ownership thereof, and such additional security, indemnity or evidence as may be required by or on behalf of the City. No substitute 2012 Note of either series shall be furnished unless the applicant shall reimburse the City for its expenses in the furnishing thereof.

Section 8. Defeasance. If money and/or "Government Obligations" (as such obligations are defined in chapter 39.53 RCW, as now in existence or hereafter amended) maturing at such time(s) and bearing such interest to be earned thereon (without any reinvestment thereof) as will provide a series of payments which shall be sufficient, together with any money initially deposited, to provide for the payment of all of the principal of and interest on all or a portion of the 2012 Note of either or both series (the "Defeased 2012 Notes"), when due in accordance with their terms or upon the earlier redemption thereof in accordance with a refunding plan adopted by the City, are set aside in a special fund (the "trust account") to effect such payment or redemption and are pledged irrevocably for the purpose of effecting such payment or redemption, then no further payments need be made into the Local Improvement Fund for the payment of the principal of and interest on such Defeased 2012 Notes, the owners thereon shall cease to be entitled to any lien, claim, benefit or security of this Ordinance, the Local Improvement Fund or the Guaranty Fund except for the right to receive the money and the principal and interest proceeds on the obligations set aside in the trust account, and such Defeased 2012 Notes shall no longer be deemed to be outstanding hereunder.

Section 9. Sale of 2012 Notes. The Purchaser has presented the Investor Letter and the Purchase Offer to the City pursuant to which the Purchaser has offered to purchase both series of the 2012 Notes upon the terms and conditions provided in the Purchase Offer. The City Council finds that accepting the Purchase Offer is in the City's best interest and therefore accepts the Purchase Offer and authorizes the execution of the Purchase Offer on behalf of the City by the City Manager or the Finance Director (each, an "Authorized Officer").

Section 10. Delivery of 2012 Notes; Closing. The 2012A Note and the 2012B Note will each be prepared at City expense and delivered to the Purchaser in accordance with the terms of the Purchase Offer, together with the separate approving legal opinions of Gottlieb Fisher PLLC, bond counsel of Seattle, Washington, relative to the issuance of the 2012A Note and the 2012B Note, respectively. Bond counsel has not been engaged to participate in the preparation or review of, or express any opinion concerning the completeness or accuracy of, any disclosure documentation prepared or used by any person in connection with the offer or sale of the 2012 Notes; and bond counsel's opinion shall so state. Bond counsel has not been retained to monitor, and shall not be responsible for monitoring, the City's compliance with any federal law or regulations to maintain the tax-exempt status of the interest on the 2012A Note.

financing of part of the cost and expense of the Improvements pending the receipt of local improvement district bond proceeds; and

WHEREAS, Cashmere Valley Bank (the "Purchaser") has submitted a written purchase offer (the "Purchase Offer") setting forth the terms and conditions under which it will purchase both series of such bond anticipation notes and a written investor letter (the "Investor Letter"), each of which is on file with the City Clerk and is incorporated herein by this reference; now, therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON  
DO ORDAIN AS FOLLOWS:

Section 1. Authorization, Purpose and Description of 2012 Notes. The City hereby authorizes the issuance of bond anticipation notes for the District in two series (each, a "series"). One series shall be designated as the City's "Local Improvement District No. 08-1 Bond Anticipation Note, 2012, Series A (Federally Tax-Exempt)" (the "2012A Note") and the other series shall be designated as the City's "Local Improvement District No. 08-1 Bond Anticipation Note, 2012, Series B (Federally Taxable)" (the "2012B Note"). The 2012A Note and the 2012B Note (each, a "2012 Note" and, collectively, the "2012 Notes") shall be issued on the same day (the "Date of Issue").

The 2012A Note shall be issued as a single note in the principal amount of \$2,041,583.57 for the purpose of obtaining funds necessary to pay the principal of and interest on the 2011A Notes, when due at their maturity, thereby extending the interim financing of that part of the cost and expense of the Improvements that is eligible to be financed with federally tax-exempt obligations, and to pay incidental costs and costs related to the sale and issuance of the 2012A Note. The 2012A Note shall be issued in fully registered form but without number, shall be dated the Date of Issue, shall mature on March 1, 2013, and shall bear interest at the rate of 1.75% per annum (computed on the basis of a 365-day year and the actual number of days elapsed), payable at the maturity or earlier redemption of the 2012A Note.

The 2012B Note shall be issued as a single note in the principal amount of \$1,027,037.51 for the purpose of obtaining funds necessary to pay the principal of and interest on the 2011B Notes, when due at their maturity, thereby extending the interim financing of that part of the cost and expense of the Improvements that is ineligible to be financed with federally tax-exempt obligations, and to pay incidental costs and costs related to the sale and issuance of the 2012B Note. The 2012B Note shall be issued in fully registered form but without number, shall be dated the Date of Issue, shall mature on March 1, 2013, and shall bear interest at the rate of 1.94% per annum (computed on the basis of a 365-day year and the actual number of days elapsed), payable at the maturity or earlier redemption of the 2012B Note.

The 2012 Notes shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 2. Place, Manner and Medium of Payment. Both principal of and interest on the 2012 Notes shall be payable in lawful money of the United States of America by wire transfer to the account of the owner, or otherwise as such owner shall designate in writing to the Finance Director/Treasurer of the City (the "Finance Director").

Section 3. Prepayment. The City reserves the right and option to prepay each of the 2012A Note and the 2012B Note prior to its stated maturity date, in whole or in part on any date upon 15 days prior written notice to the owner thereof, at par plus interest accrued to the prepayment date.

Section 4. Special Fund Obligations of the City. The 2012A Note and the 2012B Note are special fund obligations of the City, payable solely out of the Local Improvement Fund, District No. 08-1 (the "Local Improvement Fund") created by the LID Ordinance, to be funded from the proceeds of local improvement district bonds authorized to be issued by the LID Ordinance, revenue warrants and other short-term obligations, which the City covenants to use its best efforts to issue, prepaid special benefit assessments within the District and/or other funds, if available for such purposes; or, if necessary, from the City's Local Improvement Guaranty Fund (the "Guaranty Fund"). The 2012 Notes are not general obligations of the City.

Section 5. Form and Execution of 2012 Notes. The 2012A Note and the 2012B Note shall each be typewritten, printed or lithographed on good bond paper in a form consistent with this Ordinance and Washington State (the "State") law.

The 2012A Note and the 2012B Note shall each be signed on behalf of the City with the facsimile or manual signatures of the Mayor and the City Clerk, and shall each have the seal of the City impressed or a facsimile thereof imprinted thereon.

In case either or both of the officers who shall have executed any 2012 Note shall cease to be such officer or officers of the City before the 2012 Note so signed shall have been issued and delivered by the City, such 2012 Note nevertheless may be issued and delivered and, upon such issuance and delivery, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any 2012 Note also may be signed and attested on behalf of the City by such persons as at the actual date of execution of such 2012 Note shall be the proper officers of the City although at the original date of such 2012 Note such persons were not such officers of the City.

Section 6. Registration and Transfer of 2012 Notes. The Finance Director shall serve as the registrar for both series of the 2012 Notes and shall keep books or records containing the name(s) and mailing address(es) of the owner(s) of the 2012A Note and the 2012B Note.

The 2012A Note and the 2012B Note are each transferable only upon due execution by the owner thereof of the assignment form appearing thereon and surrender of the applicable 2012 Note by such owner or its duly authorized attorney to the Finance Director. Upon such surrender, the Finance Director shall cancel the surrendered 2012 Note and shall issue a new 2012 Note of the same series in the principal amount then unpaid and bearing the same terms as to the payment of interest on the unpaid principal as the surrendered 2012 Note, registered as to both principal and interest, naming as owner the person listed as the assignee on the assignment form appearing on the surrendered 2012 Note; provided, that the Finance Director shall not effect, permit or recognize any sale, offer for sale, exchange, transfer, assignment, pledge or hypothecation of the 2012 Note of either series unless the purchaser, transferee, assignee or pledgee of such 2012 Note shall have delivered an investor letter, signed by it, to the Finance Director, in substantially the same form and

The proper City officials, including the Authorized Officers and the City Clerk, are authorized and directed to approve and/or execute all documents, and to do everything necessary for the preparation and delivery of a transcript of proceedings pertaining to the issuance of the 2012 Notes, and the preparation, execution and delivery of definitive 2012 Notes to the Purchaser and for the proper application and use of the proceeds of the sale thereof.

Section 11. Application of 2012 Note Proceeds. Principal proceeds of the 2012A Note in the sum of \$2,079.18 shall be deposited into the Guaranty Fund. The remainder of the principal proceeds of the 2012A Note shall be deposited into the Local Improvement Fund and applied to pay the principal of and interest on the 2011A Notes, when due at their maturity on March 1, 2012, and the incidental costs and costs related to the sale and issuance of the 2012A Note.

Principal proceeds of the 2012B Note in the sum of \$1,351.88 shall be deposited into the Guaranty Fund. The remainder of the principal proceeds of the 2012B Note shall be deposited into the Local Improvement Fund and applied to pay the principal of and interest on the 2011B Notes, when due at their maturity on March 1, 2012, and the incidental costs and costs related to the sale and issuance of the 2012B Note.

Section 12. Tax-Exemption Covenants for 2012A Note. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exclusion of the interest on the 2012A Note from the gross income for purposes of federal income taxation, and will take or require to be taken such acts as may be permitted by State law and as may from time to time be required under other applicable law to continue the exclusion of the interest on the 2012A Note from the gross income for purposes of federal income taxation. Without limiting the generality of the foregoing, the City will not invest or make or permit any use of the proceeds of the 2012A Note or of its other money at any time during the term of the 2012A Note which would cause the 2012A Note to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

The City covenants that it shall calculate or cause to be calculated, and shall rebate to the United States, all earnings from the investment of 2012A Note proceeds that are in excess of the amount that would have been earned had the yield on such investments been equal to the yield on the 2012A Note, plus income derived from such excess earnings, to the extent and in the manner required by Section 148.

The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the City is a bond issuer the arbitrage certifications of which may not be relied upon.

The City will take no actions and will make no use of the proceeds of the 2012A Note or any other funds held under this Ordinance which would cause the 2012A Note to be treated as a "private activity bond" (as defined in Section 141(b) of the Code) subject to treatment under said Section 141(b) as an obligation not described in Section 103(a) of the Code, unless the tax exemption thereof is not affected.

Section 13. Annual Financial Statement. The City hereby agrees to provide to the owner of each 2012 Note, on or before September 30, 2012, an annual financial statement for the City for the fiscal year ending December 31, 2011, showing ending fund balances prepared in accordance with the generally accepted accounting principles applicable to governmental units, as such principles may be changed from time to time and as permitted by State law; which statements will not be audited, except that, if and when audited financial statements are otherwise prepared and available to the City, they will also be provided.

Section 14. Contract; Severability. The covenants contained in this Ordinance shall constitute a contract between the City and the owners of each 2012 Note. The City unconditionally covenants that it will keep and perform all of the covenants of the 2012 Notes and this Ordinance. If any one or more of the provisions of this Ordinance shall be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining provisions of this Ordinance or the 2012 Notes, and this Ordinance and the 2012 Notes shall be construed and enforced as if such unconstitutional or invalid provision had not been contained herein.

Section 15. Effective Date. This Ordinance shall take effect from and after its passage and five days following its publication as required by State law. A summary of this Ordinance may be published in lieu of the entire Ordinance as authorized by State law.

Introduced the 24<sup>th</sup> day of January, 2012.

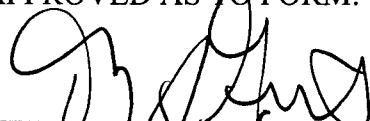
Passed by the City Council on the 24<sup>th</sup> day of January, 2012.

  
David Zabell, City Manager

ATTEST:

  
Carol Egen, City Clerk

APPROVED AS TO FORM:

  
Daniel S. Gottlieb, Bond Counsel to the City

Published: January 27<sup>th</sup>, 2012  
Effective Date: February 1<sup>st</sup>, 2012

Received Finance Dept

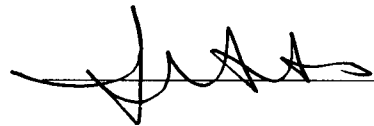
FEB 06 2012

City of Fife

**AFFIDAVIT OF PUBLICATION  
STATE OF WASHINGTON  
COUNTY OF PIERCE**

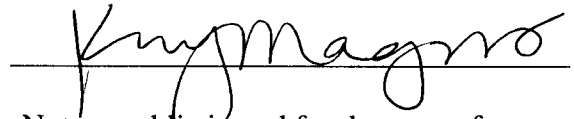
I, Jesi Wells, being first duly sworn, on oath, says that she is the legal clerk of The News Tribune, a daily newspaper, published in Tacoma, Pierce County, Washington, and of general circulation in said state, and having a daily circulation of over 96000 copies. That said newspaper is now and at all times hereinafter mentioned as a legal newspaper as defined by the laws of the state, duly approved by the Superior Court of Pierce County, Washington. That the advertisement, of which the attached is a printed copy as it was published in the regular issue of said newspaper, was published 1 time(s), commencing on the 27<sup>th</sup> day of January 2012 and ending on the 27<sup>th</sup> day of January 2012.

Ad number 1291014  
ACCT# 220218AIM CITY OF FIFE



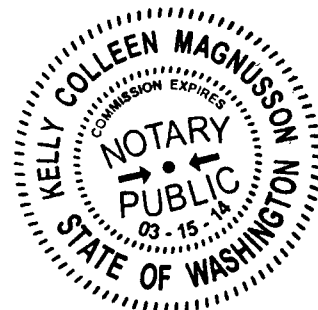
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Subscribed to and sworn before me on this  
27<sup>th</sup> day of January 2012.



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Notary public in and for the state of  
Washington, residing in Pierce County.  
1950 So. State St. Tacoma, WA 98405



# Ad Order Confirmation

**Ad Order Number** 0001291014  
**PO Number** ORD 1766  
**Customer Account** 220218AIM  
**Customer** CITY OF FIFE  
ACCOUNTS PAYABLE,5411 23RD ST E,  
FIFE WA 98424-2061 USA

**Ad Number** 0001291014-01  
**Sales Rep.** kdahline  
**Blind Box**  
**Tear Sheets** 3  
**Proofs** 0  
**Ad Size** 1.0 X 25 Li  
**Invoice Text:** ORD 1766  
**Affidavits** 1  
**Placement** Legal  
**Position** Legals-001

**Phone Number** 253-922-2489  
**Phone Number 2**  
**Customer Fax**

**Payment Method**  
**Total Amount** \$143.55  
**Payment Amt** \$0.00  
**Amount Due** \$143.55

Product	Start Date	Stop Date	# Inserts
The News Tribune	1/27/2012	1/27/2012	1

**NOTICE OF ORDINANCES PASSED BY  
THE CITY OF FIFE  
ORDINANCE NO. 1766**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, RELATING TO THE INCURRENCE OF INDEBTEDNESS AUTHORIZING THE ISSUANCE OF ITS LOCAL IMPROVEMENT DISTRICT NO. 08-1 BOND ANTICIPATION NOTE, 2012 SERIES A (FEDERALLY TAX-EXEMPT) AND ITS LOCAL IMPROVEMENT DISTRICT NO. 08-1 BOND ANTICIPATION NOTE, 2012 SERIES B (FEDERALLY TAXABLE) PENDING THE RECEIPT OF THE PROCEEDS OF THE LOCAL IMPROVEMENT DISTRICT BONDS AUTHORIZED TO BE ISSUED BY ORDINANCE NO. 1659; FIXING THE DATE, AGGREGATE PRINCIPAL AMOUNT, INTEREST RATE, MATURITY, DENOMINATIONS, REDEMPTION AND REGISTRATION PRIVILEGES, TERMS, COVENANTS AND FORM OF THE NOTES AND PROVIDING FOR THE SALE OF SUCH NOTES TO CASHMERE VALLEY BANK.

A complete copy of the ordinances on the City of Fife website, [www.cityoffife.org](http://www.cityoffife.org).  
Carol Etgen  
City Clerk