

ORDINANCE NO. 2097

AN ORDINANCE of the City of Nokomis, Montgomery County, Illinois, proposing the incurring of a loan and issuance of sewerage revenue bonds of the City in an aggregate principal amount not to exceed \$9,000,000 for the purpose of defraying the cost of acquiring and constructing improvements to the sewerage system of the City

WHEREAS, the City of Nokomis, Montgomery County, Illinois (the "City"), has heretofore been duly organized and is now operating as a municipality under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto (the "Act"); and

WHEREAS, the City operates a sewerage system in accordance with the provisions of Division 141 of Article 11 of the Act (the "System"); and

WHEREAS, the Mayor and City Council of the City (the "Corporate Authorities") have determined that it is advisable, necessary and in the best interests of the public health, safety and welfare to design, acquire and construct improvements to the System, including but not limited to generally any one or more or all of the following improvements that may be constructed in phases from time to time:

Construction of improvements to the existing wastewater treatment facility and collection system. Phase 1 to include wastewater treatment plant improvements to upgrade the facility through process upgrades, replacements, and modifications, demolition, and repurposing of existing facilities, building modifications, electrical, mechanical, and plumbing, site work and appurtenances. Phase 2 to include collection system improvements to upgrade the system through lift station upgrades, replacements, and modifications, demolition and repurposing of existing assets, manhole replacement, and rehabilitation, forcemain replacement, modification, and rehabilitation, gravity sewer replacement, modification, and rehabilitation, electrical, mechanical, plumbing, site work, street repair and replacement, and appurtenances,

including all necessary connections, appurtenances, material, labor and equipment incident thereto and all mechanical, electrical and other services necessary, useful or advisable to such projects, and, incidental to thereto, to pay bond discount, bond interest, bond reserve account funding, legal, financing, and administrative expenses (all of which said construction, services, and incidental expenses may be referred to as the "Project"), all in accordance with the preliminary plans and estimate of costs prepared for the City by Benton & Associates, Inc., consulting engineers to the City, approved by the Corporate Authorities and which are now on file in the office of the City Clerk for public inspection; and

WHEREAS, the total estimated costs of the Project are \$9,000,000; and

WHEREAS, the State of Illinois, acting through the Illinois Environmental Protection Agency (the "IEPA"), administers the "Public Water Supply Loan Program" and the "Water Pollution Control Loan Program" of the State (collectively, together with the administrative regulations promulgated thereunder, the "Programs"); and

WHEREAS, there are insufficient funds on hand and lawfully available to pay the costs of the Project, and accordingly such costs must be met from up to \$9,000,000 proceeds of the City's sewerage revenue bonds (the "Bonds") to be issued and sold in one or more series in connection with a loan (the "Loan") to the City from the IEPA pursuant to a loan agreement between the IEPA and the City in accordance with the Programs; and

WHEREAS, it is necessary and advisable to authorize the Loan, issuance of the Bonds, and execution of Loan and Bond documents at the appropriate time; and

WHEREAS, the Bonds and Loan shall bear an interest rate which does not exceed the maximum rate authorized by the Bond Authorization Act, as amended, 30 ILCS 305/0.01 *et seq.*; and

WHEREAS, the Bonds and the Loan shall be payable from revenues of the System and shall be issued pursuant to the Act, the Local Government Debt Reform Act, the Programs and other applicable law (collectively, "Applicable Acts"); and

WHEREAS, the Corporate Authorities find and determine that the number of registered voters of the City determined in accordance with 10 ILCS 5/3-1.3 is 1,186.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. Incorporation of Preambles.

The Corporate Authorities hereby find that the recitals contained in the preambles to this Ordinance are true and correct and do incorporate the recitals contained in the preambles into this Ordinance by this reference.

Section 2. Determination To Issue Bonds.

It is necessary and in the best interests of the City to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described, that the System be operated in accordance with the provisions of the Applicable Acts, and that for the purpose of constructing the Project, as aforesaid, the City proposes to apply for a Loan and there are hereby proposed to be issued and sold the Bonds in an aggregate principal amount not to exceed \$9,000,000 in one or more series.

Section 3. Publication.

This Ordinance, including the notice in the statutory form attached hereto (the "Bond Notice"), shall be published once after passage hereof by the Corporate Authorities in *The Journal-News*, being a newspaper published in the City and with a general circulation in the City, and if no petition, signed by electors numbering 10% or more of the number of registered voters in the City (*i.e.*, not less than 118 legal voters) and asking that the question of proceeding with the Project and the issuance of the Bonds therefor as provided in this Ordinance be submitted to the legal voters of the City, is filed with the City Clerk within thirty (30) days after the date of the publication of this Ordinance and the Bond Notice, then this Ordinance, as it pertains to the Loan and the issuance of the Bonds, shall be in full force and effect. A Petition form shall be provided by the Clerk of the City to any individual requesting one.

Section 4. Additional Ordinances.

If no petition meeting the requirements of the Applicable Acts is filed during the petition period specified in Section 3, then the Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for the issuance and sale

of the Bonds in one or more series, prescribing all the details of the Bonds, and providing for the collection, segregation and distribution of the revenues of the System, so long as the maximum amount of the Bonds as set forth in this Ordinance is not exceeded and there is no material change in the Project or purposes described herein. Such additional ordinances or proceedings shall in all instances become effective in accordance with the Applicable Acts. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for the issuance of the Bonds under applicable law.

However, notwithstanding the above, the City may not adopt additional ordinances or amendments which provide for any substantive or material change in the scope and intent of this Ordinance, including but not limited to interest rate, preference, or priority of any other ordinance with this Ordinance, parity of any other ordinance with this Ordinance, or otherwise alter or impair the obligation of the City to pay the principal and interest due to the Programs without the written consent of the IEPA.

Section 5. Application for Loan.

The Mayor and City Clerk are hereby authorized to make application to the IEPA on behalf of the City for the Loan in accordance with the provisions of this Ordinance and to sign all Loan application forms and supporting documents.

Section 6. Not Indebtedness of City.

Repayment of the Loan and the Bonds pursuant to this Ordinance is to be solely from the revenues derived from revenues of the System and such other lawful sources as described in the preambles hereto, and the Loan and Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

Section 7. Declaration of Official Intent.

This Ordinance is a declaration of official intent under Treasury Regulation Section 1.150-2, and the City hereby declares its official intent that it reasonably expects to reimburse capital expenditures for the Project paid prior to the issuance of the herein described bonds with proceeds from the sale of such bonds.

Section 8. Severability.

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 9. Repealer.

All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Passed by the City Council of the City of Nokomis, Montgomery County, Illinois on January 9, 2023.

Approved: January 9, 2023.

Mike Holliday  
Mayor, City of Nokomis,  
Montgomery County, Illinois

AYES: Commissioners Louis Stauder, Jonathan Nash,  
Derek Durbin, Mayor Michael Holliday

NAYS: \_\_\_\_\_

ABSTAIN: Commissioner Mike Glenn absent

PUBLISHED in *The Journal-News* on \_\_\_\_\_, 2023.

RECORDED in the City's Records on January 9, 2023.

Attest:

Reed W. Hill

City Clerk  
City of Nokomis,  
Montgomery County, Illinois

(SEAL)

*FORM OF BOND NOTICE.*

**NOTICE OF INTENT TO ISSUE REVENUE BONDS  
AND RIGHT TO FILE PETITION**

NOTICE IS HEREBY GIVEN that pursuant to Ordinance No. 2097 (the "Ordinance") duly passed by the Mayor and City Council (the "Corporate Authorities") of the City of Nokomis, Montgomery County, Illinois (the "City") on January 9, 2023, a copy of which is set forth below, the Corporate Authorities intend to incur a loan and issue revenue bonds (the "Bonds") payable from revenues of the City's sewerage system (the "System") pursuant to the Illinois Municipal Code, the Local Government Debt Reform Act and other applicable law in an aggregate principal amount not to exceed \$9,000,000, and bearing interest per annum at a rate not to exceed the maximum rate authorized by law at the time the Bonds are sold, for the purpose of paying the costs of acquiring and constructing improvements to the System. Principal and interest on the Bonds are to be paid from revenues of the System of the City.

NOTICE IS HEREBY FURTHER GIVEN that if a petition, signed by electors numbering 10% or more of the number of registered voters in the City (*i.e.*, not less than 118 legal voters), requesting that the question of acquiring and constructing improvements to the System and the incurring of the loan and issuance of the Bonds therefor be submitted to referendum is filed with the Clerk of the City within thirty (30) days after the date of publication of the Ordinance and this Notice, the question of acquiring and constructing improvements to the System of the City as provided in the Ordinance and incurring the loan and issuance of the Bonds therefor shall be submitted to the legal voters of the City at the election to be held on March 19, 2024, for the purpose of voting upon such question, unless the legal voters of the City are not scheduled to cast votes for any candidates for nomination for, election to or retention in public office, in which case said question shall be submitted to the legal voters of the City at the next succeeding election at which legal voters of the City are scheduled to cast votes for candidates for nomination for, election to or retention in public office. A form of petition for such purpose is available to any individual requesting one from the office of the Clerk of the City.

By order of the City Council.

Dated: January 9, 2023

/s/ Rachel Hill

City Clerk, City of Nokomis,  
Montgomery County, Illinois

CERTIFICATE

I, Rachel Hill, City Clerk of the City of Nokomis, Montgomery County, Illinois (the "City"), hereby certify that the foregoing Ordinance No. 2021 entitled "AN ORDINANCE of the City of Nokomis, Montgomery County, Illinois, proposing the incurring of a loan and issuance of sewerage revenue bonds of the City in an aggregate principal amount not to exceed \$9,000,000 for the purpose of defraying the cost of acquiring and constructing improvements to the sewerage system of said City" (the "Ordinance") is a true copy of an original Ordinance which was duly adopted by the recorded affirmative votes of a majority of the members of the City Council of the City of Nokomis, Montgomery Illinois, at a meeting thereof which was duly called and held in compliance with the Open Meetings Act on January 9, 2023, and at which a quorum was present and acting throughout, and that such copy has been compared by me with the original Ordinance signed by the Mayor of the City on January 9, 2023 and recorded in the Ordinance book of the City and that it is a correct transcript thereof and of the whole of such Ordinance, and that such Ordinance has not been altered, amended, repealed or revoked, but is in full force and effect.

I do further certify that the Ordinance was duly and properly published in *The Journal-News*, a newspaper published and of general circulation within the City, on January \_\_, 2023, and that the publication included a separate notice of (1) the specific number of voters required to sign the petition requesting the question of acquiring and constructing improvements to the sewerage system of the City and the issuance of bonds therefore, as provided in the Ordinance; (2) the time in which such petition must have been filed; and (3) the date of the prospective referendum.

I do further certify that a petition form was made available and provided to any individual so requesting a petition form, which petition form provided for submission to the electors of the City of the question as set forth therein.

I do further certify that no petition was filed in my office within 30 days after publication of the Ordinance or as of the time of the signing hereof as provided by statute asking that the question of acquiring and constructing improvements to the sewerage system as provided in the Ordinance and the issuance of bonds therefore be submitted to the electors of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Nokomis, Montgomery County, Illinois, this January 9, 2023.

Rachel Hill  
City Clerk

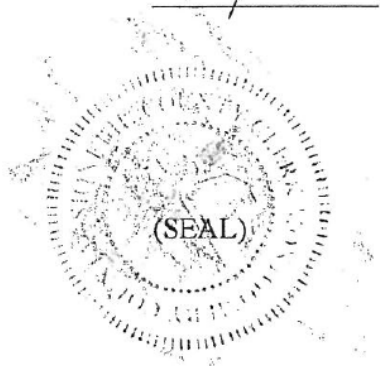
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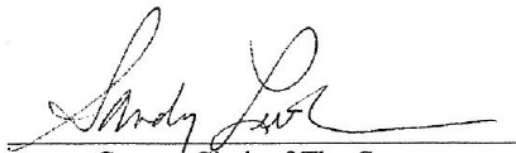
STATE OF ILLINOIS        )  
                                  )     SS.  
COUNTY OF MONTGOMERY    )

CERTIFICATE OF COUNTY CLERK

I, the undersigned County Clerk of Montgomery County, Illinois, do hereby certify that the number of registered voters of the City of Nokomis, Montgomery County, Illinois determined in accordance with 10 ILCS 5/3-1.3 is 1186.

WITNESS my official signature and the seal of The County of Montgomery, Illinois, this 12/23, 2022.



  
\_\_\_\_\_  
County Clerk of The County  
of Montgomery, Illinois