

STATE OF ILLINOIS :  
COUNTY OF MONTGOMERY :  
CITY OF NOKOMIS : **ORDINANCE** No. 2009- 950

**An Ordinance Authorizing CITY OF NOKOMIS OF MONTGOMERY COUNTY, ILLINOIS to Borrow Funds from the Public Water Supply Loan Program.**

**WHEREAS** the CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS the ("CITY "), operates a public water supply system ("the System") in accordance with the provisions of the Illinois Municipal Code (65 ILCS 5/11-139-1 *et seq* and *is seeking to finance improvement thereto in accordance with 65 ILCS 5/8-4-1 et seq*) and the Local Government Debt Reform Act, (30 ILCS 350/1 *et seq*); and

**WHEREAS** the MAYOR AND CITY COUNCIL of the CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS have determined that it is advisable, necessary and in the best interests of public health, safety and welfare to improve the System, including the following:

Extension, Looping and Replacement of water main to improve water quantity and quality in the proposed areas, together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to such construction and installation (the "Project"), all in accordance with the plans and specifications prepared by Farnsworth Group, consulting engineers to the City; and

**WHEREAS** the useful life of the Project is 21 years; and

**WHEREAS** the estimated cost of constructing and installing the Project, including engineering, legal, financial, and other related expenses, is \$984,500, and there are insufficient funds on hand and lawfully available to pay such costs; and

**WHEREAS** the loan shall bear interest that does not exceed the maximum rate authorized by the Bond Authorization Act , (30 ILCS 305/0.01 *et seq.*), as amended, at the time of the making of the loan; and

**WHEREAS** the principle and interest payments shall be payable semi-annually, and the loan shall mature in 20 years, which is within the period of the useful life of the project; and

**WHEREAS** the costs are expected to be paid for with a loan to the CITY from the Public Water Supply Loan Program through the Illinois Environmental Protection Agency,

the loan to be repaid from revenues of the System and municipal utility taxes and the loan is authorized to be accepted at this time pursuant to the Act; and

**WHEREAS**, in accordance with the provisions of the Act, the CITY is authorized to borrow funds from the Public Water Supply Loan Program pursuant to the Environmental Protection Act (415 ILCS 5/19.3) in the aggregate principal amount of \$980,000 to provide funds to pay the costs of the Project; and

**WHEREAS**, the loan to the CITY shall be made pursuant to a Loan Agreement, including certain terms and conditions, between the CITY and the Illinois Environmental Protection Agency;

**NOW THEREFORE** be it ordained by the MAYOR AND 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 them into this ordinance by this reference.

**Section 2. Determination to Borrow Funds.** 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 continue to be operated in accordance with the provisions of the Environmental Protection Act, 415 ILCS 5/1 *et seq*; and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the CITY in an aggregate principal amount (which includes construction period interest financed over the term of the loan) not to exceed \$980,000.00.

**Section 3. Publication.** This Ordinance together with a notice in the statutory form, shall be published once within ten (10) days after passage in Nokomis Free Press Progress, a newspaper of general circulation in the CITY, and if no petition signed by ten percent (10%) of the registered voters in the CITY (i.e., 268 electors) and asking the question of improving the System as provided in this Ordinance and entering into the Loan Agreement therefore be submitted to the electors of the CITY, is filed with the CITY CLERK within thirty (30) days after the date of publication of this Ordinance and the notice, then this Ordinance shall be in full force and effect. A petition form shall be provided by the CITY Clerk to any person requesting one.

**Section 4. Additional Ordinances.** If no petition meeting the requirements of the Illinois Municipal Code and other applicable law is filed during the 30-day petition period, then the Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for the entering into the Loan Agreement with the Illinois Environmental Protection Agency, prescribing all the details of said Loan Agreement, and providing for the collection, segregation and distribution of revenues of the System, so long as the maximum amount of said Loan Agreement as set

forth in this Ordinance is not exceeded and there is no material change in the Project or purposes described herein. Any additional Ordinances or proceedings shall in all instances become effective in accordance with the Act and other applicable law. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for the entering into of said Loan Agreement 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 Public Water Supply Loan Program without the written consent of the Illinois Environmental Protection Agency.

**Section 5. Loan Not Indebtedness of CITY.** Repayment of the loan to the Illinois Environmental Protection Agency by the CITY pursuant to this Ordinance is to be from revenue derived from operation of the System and the municipal utility tax, and the loan does not constitute an indebtedness of the CITY within the meaning of any constitutional or statutory limitation.

**Section 6. Reserve Accounts.** As long as the CITY has outstanding revenue bonds payable from revenues of the system that are senior to the revenue bond authorized by this ordinance, the CITY shall maintain an account, coverage and reserves equivalent to the accounts, coverages and reserves required by the outstanding ordinances.

**Section 7. Acceptance of Loan Agreement.** The CITY MAYOR is hereby authorized to make application to the Illinois Environmental Protection Agency for a loan through the Public Water Supply Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 662. The loan funds shall be solely for the purposes of the project as approved by the Illinois Environmental Protection Agency in accordance with the terms and conditions of the Loan Agreement.

**Section 8. Authorization of CITY MAYOR to Execute the Loan Agreement.** The CITY MAYOR is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency.

**Section 9. Severability.** If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

**Section 10. 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.

This Ordinance shall take effect upon its passage, approval and publication as provided by law.

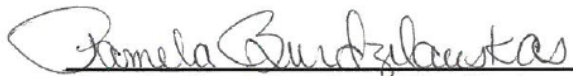
ADOPTED this 13<sup>th</sup> day of April 2009, pursuant to a roll call vote as follows:

COMMISSIONER Lehnen	<u>YEA</u> _____
COMMISSIONER Guidish	<u>YEA</u> _____
COMMISSIONER Hill	<u>YEA</u> _____
COMMISSIONER Stombaugh	<u>YEA</u> _____

PASSED and APPROVED this 13<sup>th</sup> day of APRIL 2009.

  
Keith Hancock, City Mayor

ATTESTED

  
Pamela Burdzilauskas, City Clerk

Published the 22<sup>nd</sup> day of APRIL 2009.

**NOTICE OF INTENT TO BORROW FUNDS**

**(EXHIBIT A)**

Notice is hereby given that pursuant to Ordinance Number 950 adopted APRIL 13, 2009, the City intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed \$980,000 and bearing interest per annum not to exceed the maximum rate authorized by law at the time of execution of the Loan Agreement, for the purpose of paying the costs of certain improvements to the water supply system of the Village. A complete copy of said Ordinance accompanies this notice.

NOTICE IS FURTHER GIVEN that if a petition signed by 268 or more electors of the CITY (being equal to 10% of the registered voters in this CITY), requesting that the question of improving the public water supply system and entering into the Loan Agreement therefore is submitted to the CITY CLERK within 30 days after publication of this notice, the question of improving the public water supply system of the CITY as provided in the Ordinance and the Loan Agreement shall be submitted to the electors of the CITY at the next election held under Illinois Election law, to be held on February 2, 2010. A form of petition is available from the CITY CLERK at CITY Hall, 22 South Cedar Street, Nokomis, Illinois 62075



CITY CLERK  
CITY OF NOKOMIS  
MONTGOMERY COUNTY, IL

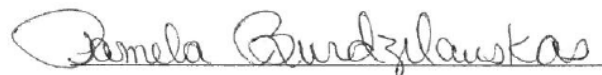


requesting the question of constructing improvements to the public water supply system as provided in the Ordinance; (2) the time in which such petition must have been filed; and (3) the date of the prospective referendum.

I do further certify that I did make available and provide to any individual so requesting a petition form, in the form as attached hereto, which petition form provided for submission to the electors of the CITY of the question as set forth therein. Such petition forms were available from me continuously from APRIL 13, 2009 up to and including MAY 30, 2009.

I do further certify that no Petition has been 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 the question of improving the public water supply system as provided in the Ordinance and the Loan Agreement therefore be submitted to the electors of the CITY.

IN WITNESS WHEREOF I have hereunto affixed my official signature and the corporate seal of the CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS this 30<sup>th</sup> day of APRIL 2009.



CITY CLERK  
CITY OF NOKOMIS  
MONTGOMERY COUNTY, ILLINOIS

(SEAL)

**PETITION**

To the CITY CLERK of the CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS:

We, the undersigned, being registered voters of the CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS, do hereby petition you to cause the question of improving the public water supply system of said CITY, as provided in Ordinance Number \_\_\_\_\_ of said CITY, and the Loan Agreement as provided in said Ordinance, to be certified to the County CLERK of the County of MONTGOMERY, Illinois, and submitted to the electors of said CITY at the [NEXT APPROPRIATE CONSOLIDATED ELECTION] to be held on February 2, 2010.

<u>Name</u>	<u>Address</u>	
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois
_____	_____,	_____, Illinois

I, \_\_\_\_\_, of \_\_\_\_\_ (insert residence address), \_\_\_\_\_, Illinois, do hereby certify that I am a registered voter of the CITY OF NOKOMIS, and in the County of MONTGOMERY, Illinois, and that the signatures on this petition were signed in my presence within the CITY OF NOKOMIS, Illinois and in the County of MONTGOMERY, Illinois, and are genuine, and, to the best of my knowledge and belief, the persons so signing were at the time of signing this petition registered voters of said CITY OF NOKOMIS and that their respective addresses are correctly stated herein.

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public



# PUBLIC NOTICES

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**WHEREAS** the useful life of the Project is 21 years; and

**WHEREAS** the estimated cost of constructing and installing the Project, including engineering, legal, financial, and other related expenses, is \$984,500, and there are insufficient funds on hand and lawfully available to pay such costs; and

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