

# **ORDINANCE NO. 15/16-M-08**

## **AN ORDINANCE AMENDING ORDINANCE 14/15-M-11 WATER POLLUTION CONTROL LOAN PROGRAM ORDINANCE AUTHORIZING LOAN AGREEMENT NON-HOME RULE ENTITY**

**AN ORDINANCE AUTHORIZING THE ROCK RIVER WATER RECLAMATION DISTRICT (DISTRICT) IN WINNEBAGO COUNTY, ILLINOIS TO BORROW FUNDS FROM THE WATER POLLUTION CONTROL LOAN PROGRAM**

**WHEREAS**, the District of Winnebago, County, Illinois operates its sewerage system (“the System”) and in accordance with the provisions of The Sanitary Act of 1917, 70 ILCS 2405 and the Local Government Debt Reform Act, 30 ILCS 350/1 (collectively, “the Act”); and

**WHEREAS**, the PRESIDENT AND BOARD OF TRUSTEES of the District (“the Corporate Authorities”) 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:

Phase C consists of the construction of approximately 1,385 lineal feet of 30-inch trunk sewer, 12,442 lineal feet of 24-inch trunk sewer, 2,713 lineal feet of 21-inch trunk sewer, 417 lineal feet of 20-inch trunk sewer, 2,472 lineal feet of 18-inch trunk sewer, and 480 lineal feet of 8-inch trunk sewer main, road and driveway work, erosion control and restoration, and all other appurtenances as indicated on the plans and in the specifications.

together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to the construction and installation (“the Project”), all in accordance with the plans and specifications prepared by engineers of the District; which Project has a useful life of 25 years or more; and

**WHEREAS**, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is **\$18,638,576**, and there are insufficient funds on hand and lawfully available to pay these costs; and

**WHEREAS**, the loan shall bear an interest rate as defined by 35 Ill. Adm. Code 365, which does not exceed the maximum rate authorized by the Bond Authorization Act, as amended, 30 ILCS 305/0.01 et. seq., at the time of the issuance of the loan; and

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

**WHEREAS**, the costs are expected to be paid for with a loan to the District from the Water Pollution Control Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from system revenues including User Fees 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 District is authorized to borrow funds from the Water Pollution Control Loan Program in the aggregate principal amount of **\$18,638,576** to provide funds to pay the costs of the Project; and

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

**NOW THEREFORE**, be it ordained by the Corporate Authorities of the District of Winnebago County, Illinois, as follows;

### **SECTION 1. INCORPORATION OF PREAMBLES**

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

### **SECTION 2. DETERMINATION TO BORROW FUNDS**

It is necessary and in the best interest of the District to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described; that the System continues to be operated in accordance with the provision of the Act; and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the District in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed **\$18,638,576**.

### **SECTION 3. ADDITIONAL ORDINANCES**

The Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for entering into the Loan Agreement with the Illinois Environmental Protection Agency, prescribing all the details of the Loan Agreement, and providing for the collection, segregation and distribution of the system revenues including user fees, so long as the maximum amount of the Loan Agreement as set forth in this Ordinance is not exceeded and there is no material change in the Project of purposes described herein. Any additional ordinances or proceedings shall in all instances become effective in accordance with the Act or other applicable law. This Ordinance, together with such addition ordinances or proceedings, shall constitute complete authority for entering into the Loan Agreement under applicable law.

However, notwithstanding the above, the District 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, preferences, 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 District to pay the principal and interest due to the Water Pollution Control Loan Program without the written consent of the Illinois Environmental Protection Agency.

#### **SECTION 4. LOAN NOT INDEBTEDNESS OF THE DISTRICT**

Repayment of the loan to the Illinois Environmental Protection Agency by the District pursuant to this Ordinance is to be solely from the revenue derived from system revenues including User Fees and the loan does not constitute an indebtedness of the District within the meaning of any constitutional or statutory limitation.

#### **SECTION 5. APPLICATION FOR LOAN**

The President is hereby authorized to make application to the Illinois Environmental Protection Agency for a loan through the Water Pollution Control Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 365.

#### **SECTION 6. ACCEPTANCE OF LOAN AGREEMENT**

The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Water Pollution Control Loan Program, including all terms and conditions of the Loan Agreement as well as all special conditions contained therein and made a part thereof by reference. The Corporate Authorities further agree that the loan funds awarded shall be used 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 7. RESERVE ACCOUNTS**

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

#### **SECTION 8. AUTHORIZATION OF PRESIDENT TO EXECUTE LOAN AGREEMENT**

The PRESIDENT is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency. The Corporate Authorities may authorize by resolution a person other than the PRESIDENT for the sole purpose of authorizing or executing any documents associated with payment requests or reimbursements from the Illinois Environmental Protection Agency in connection with this loan.

#### **SECTION 9. SEVERABILITY**

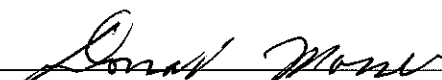
If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

**SECTION 10. REPEALER**

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

PASSED by the Corporate Authorities on January 25, 2016.

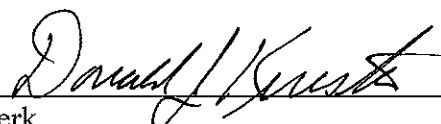
Approved January 25, 2016.

  
PRESIDENT  
Rock River Water Reclamation District of  
Winnebago County, Illinois

AYES: 5  
NAYS: 0  
ABSENT: 0

RECORDED in the District Records on January 25, 2016.

ATTEST:

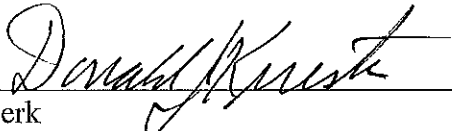
  
Clerk  
Rock River Water Reclamation District of  
Winnebago County, Illinois

## CERTIFICATION

I, Donald Kerestes, do hereby certify that I am duly elected, qualified and acting Clerk of the Rock River Water Reclamation District (the District) of Winnebago County, Illinois. I do further certify that the above and foregoing, identified as Ordinance Number 15/16-M-08, is a true, complete and correct copy of an ordinance otherwise identified as An Ordinance Amending Ordinance 14/15-M-11, Water Pollution Control Loan Program Ordinance Authorizing Loan Agreement Non-Home Rule Entity, passed by the Board of Trustees of the District on the 25<sup>th</sup> day of January, 2016, and approved by the President of the Board of Trustees of the District on the same said date, the original of which is part of the books and records within my control as Clerk of Rock River Water Reclamation District.

Dated this 25<sup>th</sup> day of January, 2016.

ATTEST:

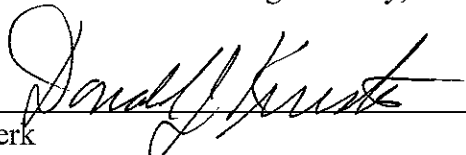
  
\_\_\_\_\_  
Clerk  
Rock River Water Reclamation District of  
Winnebago County, Illinois

**NO REFERENDUM CERTIFICATE**

I, the undersigned, do hereby certify that I am the duly qualified, and acting Rock River Water Reclamation District (the District) Clerk of the District of Winnebago County, Illinois, and as such officer I am the keeper of the books, records, files and journal of proceedings of the District and of the PRESIDENT and BOARD OF TRUSTEES of the District.

I do further certify that Ordinance Number 15/16-M-08, being the Ordinance entitled, An Ordinance Amending Ordinance 14/15-M-11, Water Pollution Control Loan Program Ordinance Authorizing Loan Agreement Non-Home Rule Entity (the "Ordinance") was presented to and passed by the PRESIDENT and BOARD OF TRUSTEES of the District at its legally convened meeting held on 25<sup>th</sup> day of January, 2016, and signed by the PRESIDENT of the District on said day.

IN WITNESS WHEREOF I have hereunto affixed my official signature and the corporate seal of the District of Winnebago County, Illinois this 25<sup>th</sup> day of January, 2016.

  
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Clerk  
Rock River Water Reclamation District of  
Winnebago County, Illinois

(SEAL)