

NORTHERN MORAIN WASTEWATER RECLAMATION DISTRICT

ORDINANCE NO. 22-02

AN ORDINANCE FURTHER AUTHORIZING THE NORTHERN MORAIN WASTEWATER RECLAMATION DISTRICT, LAKE AND McHENRY COUNTIES, ILLINOIS, TO BORROW FUNDS FROM THE WATER POLLUTION CONTROL LOAN PROGRAM

Adopted by the
President and Board of Trustees
of
The Northern Moraine Wastewater Reclamation District
this 8th day of March, 2022

Published in pamphlet form by direction
and authority of the
Northern Moraine Wastewater Reclamation District,
Lake and McHenry Counties, Illinois
this 9th day of March, 2022

and

Published in the *Northwest Herald* on
the 10th day of March, 2022

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WHEREAS, the Northern Moraine Wastewater Reclamation District, Lake and McHenry Counties, Illinois (the "***District***"), operates its sewerage system (the "***System***") pursuant to and in accordance with the provisions of the Sanitary District Act of 1917, 70 ILCS 2405 (the "***1917 Act***") and the Local Government Debt Reform Act, 30 ILCS 350 (the "***Debt Reform Act***" and, collectively with the 1917 Act, 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 interest of the public health, safety, and welfare to improve the System to serve the Village of Holiday Hills, McHenry County, Illinois and the ultimately adjacent unincorporated Le Villa Vaupell Subdivision (the "***Service Territory***"), through the extension of sanitary sewers, force mains, lift stations, and all other necessary facilities and equipment, together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to the construction and installation (collectively, the "***Project***"), all in accordance with the plans and specifications prepared by the consulting engineers of the District, which Project has an anticipated useful life of fifty (50) years; and

WHEREAS, pursuant to District Ordinance No. 21-06, the Corporate Authorities had previously authorized borrowing up to \$4,000,000.00 to pay a portion of the costs of the Project through the Water Pollution Control Loan Program of the Illinois Environmental Protection Agency (the "***Loan Program***"); and

WHEREAS, at the time of adoption of District Ordinance No. 21-06, the estimated cost of the Project was \$7,500,000.00; and

WHEREAS, following the opening of competitive bids for undertaking the Project, the anticipated cost of the Project is now approximately \$8,850,000.00, including engineering, legal, financial and other related expenses; and

WHEREAS, the Corporate Authorities have determined that there are insufficient funds on hand and lawfully available to pay the costs of the Project; and

WHEREAS, the Corporate Authorities have determined that, in order to pay the costs of the Project, it will be necessary for the District to borrow up to \$5,600,000 (known as IEPA Loan # L17-5824)(the "**Loan**") for the Project through the Loan Program; 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 on the Loan shall be payable semi-annually, and the Loan shall mature in twenty (20) years, which is within the period of useful life of the Project and within the time period authorized under 70 ILCS 2405/9(a); and

WHEREAS, the District intends to repay for the Loan from revenues of the System; and

WHEREAS, 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 Loan Program as the Loan in the aggregate principal amount of \$5,600,000.00 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 NORTHERN MORAIN WASTEWATER RECLAMATION DISTRICT, LAKE AND McHENRY COUNTIES, ILLINOIS, as follows:

SECTION 1. INCORPORATION OF PREAMBLES. The Corporate Authorities hereby find that the recitals contained in the foregoing preambles are true and correct, and incorporate them into this Ordinance by this reference.

SECTION 2. DETERMINATION TO BORROW FUNDS. The Corporate Authorities of the District have determined that it is necessary and in the best interests 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 provisions of the Illinois 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 District in the aggregate principal amount (which can include construction period interest financed over the term of the Loan) not to exceed \$5,600,000.00.

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 revenues of the System, 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 or purposes described herein. Any additional ordinances or proceedings shall in all instances become effective in accordance with the Act or other applicable laws. This Ordinance, together with such additional 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, 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 District to pay the principal

and interest due to the 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 the revenues of the System, 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 District Manager is hereby authorized to make application to the Illinois Environmental Protection Agency for the Loan through the Water Pollution Control Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 365, and to take such other actions (directly or through the District Manager's designees) as may be necessary or convenient to secure the Loan.

SECTION 6. ACCEPTANCE OF LOAN AGREEMENT. The Corporate Authorities hereby authorize acceptance of the offer of a Loan through the 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. OUTSTANDING BONDS. The District has outstanding bonds, but such bonds do not have a lien against revenues of the System that are senior to the Loan authorized by this Ordinance.

SECTION 8. AUTHORIZATION OF PRESIDENT TO EXECUTE LOAN AGREEMENT. The President of the District is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency. The Corporate Authorities further authorize the District President and District Manager (and may, by resolution, authorize persons other than the President and District Manager) to authorize or execute any documents associated with Loan or

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, orders, or parts thereof, which conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed. To the extent that this Ordinance differs from District Ordinance No. 21-06, this Ordinance shall control.

SECTION 11. EFFECTIVE DATE. This Ordinance shall be in full force and effect upon its passage, approval, and publication in the manner provided by law.

PASSED by the Corporate Authorities on March 8, 2022.

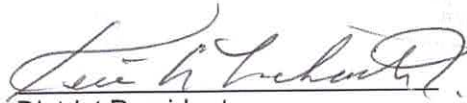
AYES: 5

NAYS: 0

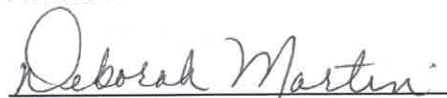
ABSENT: 0

ABSTAIN: 0

APPROVED March 8, 2022.


District President

ATTEST:


District Clerk

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RECORDED in the District Records on March 8, 2022.

ATTEST:

Deborah Martin
District Clerk

