

AN ORDINANCE COMBINING THE WATERWORKS SYSTEM AND THE SEWERAGE SYSTEM OF THE CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS, AND PROVIDING FOR THE ISSUANCE OF ONE HUNDRED FORTY-FOUR THOUSAND FIVE HUNDRED DOLLARS (\$144,500) WATERWORKS AND SEWERAGE IMPROVEMENT AND REFUNDING REVENUE BONDS OF SAID CITY, FOR THE PURPOSE OF IMPROVING AND EXTENDING THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF SAID CITY, AND IN CONNECTION THEREWITH OF REFUNDING CERTAIN OUTSTANDING WATER REVENUE BONDS, PAYABLE SOLELY FROM THE REVENUES OF THE PREVIOUSLY EXISTING WATERWORKS; PRESCRIBING THE FORM AND DETAILS OF SAID BONDS; PROVIDING FOR THE COLLECTION OF REVENUES FROM SAID SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COST OF THE OPERATION AND MAINTENANCE THEREOF, PROVIDING AN ADEQUATE DEPRECIATION FUND THEREFOR, AND PROVIDING FOR THE PAYMENT OF SAID BONDS, BOTH AS TO PRINCIPAL AND INTEREST; AND FURTHER PROVIDING FOR THE SEGREGATION AND DISTRIBUTION OF SAID REVENUES.

WHEREAS, the City of Nokomis, Montgomery County, Illinois, now owns and operates a waterworks system and a sewerage system and the Council finds and declares that it is necessary that the waterworks system and the sewerage system be improved and extended, and that it is advisable that such improvements and extensions be financed through the issuance of bonds payable solely from the revenues to be derived from the operation of such systems; and further determines and declares that it is advisable that the aforesaid waterworks system and the aforesaid sewerage system shall henceforth be maintained and operated as a combined waterworks and sewerage system, to consist of the entire existing waterworks and sewerage systems, together with all improvements and extensions thereof; and

WHEREAS, the Council of the City of Nokomis deems it to be advisable, necessary, and for the best interests of said City that the combined waterworks and sewerage system of said City be improved as follows:

By the construction of a sewerage treatment plant and outfall sewers, the repair of existing water storage elevated tank, the repair the rehabilitation of an existing sewage pumping station and other necessary incidental work.

for such improvements and extensions to be made by competent engineers on behalf of said City, and said plans and specifications have been accepted and approved by the Council and are now on file in the office of the City Clerk, open for public inspection; and

WHEREAS, the cost of constructing such improvements and extensions will be at least Two Hundred Thirty-one Thousand Dollars (\$231,000), of which One Hundred Thousand Dollars (\$100,000) will be provided through the issuance of tax secured sewerage bonds of the City; and

WHEREAS, the following Water Revenue Bonds of the City of Nokomis, payable from the revenues of the waterworks system of said City are now outstanding:

\$13,500  $\frac{1}{8}$ % Water Revenue Bonds, dated July 1, 1934, of the denomination of \$1,000, except bond numbered 31, which is of the denomination of \$500 (being the outstanding remainder of an issue authorized by Ordinance No. 343, passed on 17th day of December, 1934, in the original amount of \$35,000), numbered and maturing as follows:

<u>BOND NUMBERS</u>	<u>AMOUNT</u>	<u>MATURITY</u>
30 and 31	\$1,500	July 1, 1953
32 and 33	2,000	July 1, 1954
34 and 35	2,000	July 1, 1955
36 and 37	2,000	July 1, 1956
38 and 39	2,000	July 1, 1957
40 and 41	2,000	July 1, 1958
42 and 43	2,000	July 1, 1959

and

WHEREAS, funds are not available for the payment of said bonds, and it is necessary that they be refunded in connection with the issuance of the bonds authorized hereby for waterworks and sewerage improvements and extensions; and

WHEREAS, no bonds or certificates of indebtedness other than those above mentioned, payable from the revenues of the waterworks or of the sewerage system of said City, are now outstanding; and

WHEREAS, for the purpose of constructing the improvements and extensions hereinabove described and for the refunding of the above described outstanding Revenue Bonds, it is necessary to issue Waterworks and Sewerage Improvement and Refunding Revenue Bonds in the aggregate amount of One Hundred Forty-

MONTGOMERY COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. That this Council hereby determines that the existing waterworks and the existing sewerage system of said City shall be maintained and operated together as a combined waterworks and sewerage system, and that said combined system shall include the entire waterworks and the entire sewerage system of said City, and all future improvements and extensions thereto.

SECTION 2. That this Council has caused to be prepared an estimate of the cost of making improvements and extensions to said combined waterworks and sewerage system as described in the preamble hereto, including engineering, legal and other expenses, and this Council hereby determines that the total estimated cost of such improvements, including interest during construction and six months thereafter, engineering, legal and other expenses, is the sum of Two Hundred Thirty-one Thousand Dollars (\$231,000), of which One Hundred Thousand Dollars (\$100,000) will be provided through the issuance of tax secured bonds of the City.

SECTION 3. That this Council hereby declares that the period of usefulness of the now existing combined waterworks and sewerage system and the improvements and extensions to be made thereto pursuant to this ordinance is forty (40) years from the date of this ordinance.

SECTION 4. That the plans and specifications now on file in the office of the City Clerk and open to the inspection of the public for the improvements and extensions to the combined waterworks and sewerage system of the City of Nokomis have been and now again are approved.

SECTION 5. That the improvements and extensions to the combined waterworks and sewerage system of the City of Nokomis, described in a general manner in the preamble hereto, shall be constructed.

SECTION 6. That for the purpose of (a) paying part of the cost of constructing improvements and extensions to the combined waterworks and sewerage system of said City in the amount of One Hundred Thirty-one Thousand Dollars (\$131,000), and (b) for refunding the outstanding Water Revenue Bonds, numbered Thirty (30) to Forty-three (43) inclusive, of said City, described in the preamble hereto, in

and Sewerage Improvement and Refunding Revenue Bonds of the City of Nokomis, Montgomery County, Illinois, in the aggregate amount of One Hundred Forty-four Thousand, Five Hundred Dollars (\$144,500).

Said bonds shall have all the qualities of negotiable instruments under the Laws of the State of Illinois;

Shall be dated the first day of July, 1952;

Shall be numbered from One (1) to One Hundred Forty-five (145), both inclusive;

Shall be in the denomination of One Thousand Dollars (\$1,000), except bond No. 1, which shall be of the denomination of Five Hundred Dollars (\$500);

Shall bear interest at the rates per annum hereinbelow set out from the date of said bonds until the principal thereof respectively shall have been fully paid, payable on the first day of January, 1953 and semi-annually thereafter on the first day of July and the first day of January in each year. Interest to accrue on and prior to maturity shall be evidenced by appropriate coupons to be attached to each of said bonds;

Bonds numbered One (1) to Twenty-eight (28), inclusive, shall bear interest at the rate of four per centum (4%) per annum;

Bonds numbered Twenty-nine (29) to One Hundred Forty-five (145), inclusive, shall bear interest at the rate of three and one-half per centum (3-1/2%) per annum;

Said bonds shall be payable in lawful money of the United States of America at the Mercantile Trust Company, in the City of St. Louis, State of Missouri.

Said bonds shall mature as hereinbelow set out. Bonds numbered 1 to 106 shall mature without option of prior payment; but any or all of bonds numbered 107 to 145 shall be callable for payment prior to maturity, as hereinbelow provided, on July 1, 1962 or on any interest payment date occurring after such date.

Any bonds called for payment prior to their maturity shall be called in the inverse order of their numbers and shall be paid at par, plus accrued interest. Thirty (30) days' written notice of the call of any bond shall be given to the paying agent designated therefor. Interest shall cease on any bond so called from the redemption date, provided that provision shall have been made for its payment on that date. In the circumstances set out in Section 11 it shall be the duty of the Council to call bonds for payment.

Said bonds shall be numbered and shall mature as follows:

0	to	11,	"	4,000	July 1, 1972
12	to	15,	"	4,000	July 1, 1956
16	to	19,	"	4,000	July 1, 1957
20	to	23,	"	4,000	July 1, 1958
24	to	28,	"	5,000	July 1, 1959
29	to	33,	"	5,000	July 1, 1960
34	to	38,	"	5,000	July 1, 1961
39	to	43,	"	5,000	July 1, 1962
44	to	48,	"	5,000	July 1, 1963
49	to	54,	"	6,000	July 1, 1964
55	to	60,	"	6,000	July 1, 1965
61	to	66,	"	6,000	July 1, 1966
67	to	72,	"	6,000	July 1, 1967
73	to	78,	"	6,000	July 1, 1968
79	to	85,	"	7,000	July 1, 1969
86	to	92,	"	7,000	July 1, 1970
93	to	99,	"	7,000	July 1, 1971
100	to	106,	"	7,000	July 1, 1972
107	to	113,	"	7,000	July 1, 1973
114	to	121,	"	8,000	July 1, 1974
122	to	129,	"	8,000	July 1, 1975
130	to	137,	"	8,000	July 1, 1976
138	to	145,	"	8,000	July 1, 1977

That any of said bonds may be registered as to principal, as provided in the form of bond set out herein.

SECTION 7. That said bonds shall be executed by the manual signature of the Mayor of said City and attested by the signature of the City Clerk, with the seal of said City impressed thereon, and the interest coupons to be attached thereto shall be executed by the facsimile signatures of said officials, who, by the execution of said bonds, shall be held to have adopted such facsimile signatures as their own proper signatures.

SECTION 8. That said bonds and the coupons attached thereto shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF ILLINOIS  
COUNTY OF MONTGOMERY  
CITY OF NOKOMIS

\_\_\_\_\_ %

WATERWORKS AND SEWERAGE IMPROVEMENT  
AND REFUNDING REVENUE BOND

NO. \_\_\_\_\_ \$ \_\_\_\_\_

The City of Nokomis, Montgomery County, Illinois, for value received, hereby promises to pay to bearer, or, if this bond be registered as hereinafter

wise, the sum of

\_\_\_\_\_ DOLLARS

( \$ \_\_\_\_\_ ) on the first day of July, 19 \_\_\_\_\_, with interest thereon from the date hereof at the rate of \_\_\_\_\_ per centum ( \_\_\_\_\_ % ) per annum, payable semi-annually on the first day of January and the first day of July in each year until the principal of this bond shall have been fully paid. Interest to and including maturity shall be payable upon presentation and surrender of the annexed interest coupons as they severally become due.

Both principal of and interest on this bond are payable in lawful money of the United States of America at the Mercantile Trust Company, in the City of St. Louis, State of Missouri.

The right is reserved unto the City of Nokomis, at its option, to call in, pay and redeem any or all of bonds numbered 107 through 145, prior to their maturity, in the inverse order of their numbers, at par and accrued interest, on July 1, 1962 or on any interest payment date thereafter. Thirty days' written notice of the call of any bonds shall be given to the paying agent designated therefor. Interest shall cease on any bond so called from the redemption date, provided that provision shall have been made for its payment on that date.

This bond is one of an authorized issue of One Hundred Forty-five (145) bonds, numbered from One (1) to One Hundred Forty-five (145), both inclusive, all of like date, tenor and effect, except as to rate of interest, denomination, date of maturity and provision for redemption prior to maturity, aggregating the sum of One Hundred Forty-four Thousand, Five Hundred Dollars (\$144,500), issued by the City of Nokomis for the purposes of paying the cost of constructing improvements and extensions to the combined waterworks and sewerage system of said City, and in connection therewith of refunding outstanding bonds of said City payable from the revenues of the waterworks system included in such combined system, under authority of Article 62 of The Revised Cities and Villages Act of the State of Illinois, and pursuant to an ordinance of said City duly adopted on the 20<sup>th</sup> day of October, 1952, which is hereby incorporated herein as fully as if set out herein.

This bond and the issue of which it is one are payable solely from the revenues derived from said combined waterworks and sewerage system and not otherwise, and do not constitute an indebtedness of said City within any constitutional or statutory limit.

Under said Act and the ordinance adopted pursuant thereto, the entire revenues derived from the operation of the combined waterworks and sewerage system shall be set aside as collected and be deposited in a separate fund designated the "Waterworks and Sewerage Fund" of said City, and a sufficient amount thereof shall be used only in paying the cost of maintenance and operation of such combined system, of providing an adequate depreciation fund, and of paying the principal of and the interest on all bonds of said City payable from the revenues of said system.

The City of Nokomis hereby covenants that it will perform all duties required by law and by the ordinance which authorized this bond; that it will continuously operate said combined waterworks and sewerage system, and that it will fix and maintain rates for the services thereof and will collect and account for revenues therefrom sufficient at all times to pay promptly the cost of maintenance and operation of said combined system, to provide an adequate depreciation fund, to pay the principal of and the interest on the bonds authorized hereby, and to pay the principal of and interest on any and all other bonds or obligations chargeable to the revenues of said system.

It is hereby certified, recited and represented that all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the issuance of this bond and of the issue of which it is one, in order to make the same valid and binding obligations of said City, do exist, have happened and have been performed in regular and due time, form and manner, as required by law. For the performance in apt time and manner of every official act necessary for the prompt payment of this bond, both as to principal and interest, the full faith of said City of Nokomis is hereby irrevocably pledged.

This bond may be registered as to principal in the name of the holder on the books of said City in the office of the City Treasurer, such registration to be evidenced by notation of said Treasurer on the back hereof, after which no

transfer hereof shall be valid unless made on said books and similarly noted hereon, but it may be discharged from registration by being transferred to bearer, after which it shall be transferable by delivery, but it may again be registered as before. The registration of this bond shall not affect the negotiability of the coupons hereto attached, which shall continue negotiable by delivery merely, notwithstanding the registration hereof.

IN WITNESS WHEREOF, the City of Nokomis, Montgomery County, Illinois, has caused this bond to be signed by its Mayor, its corporate seal to be hereto affixed, and attested by the City Clerk, and the coupons hereto attached to be signed by the facsimile signatures of said Mayor and said City Clerk, who, by the execution of this bond shall be held to have adopted such facsimile signatures as their own proper signatures, and this bond to be dated the first day of July, 1952.

CITY OF NOKOMIS, ILLINOIS  
BY \_\_\_\_\_ Mayor  
Attest: \_\_\_\_\_ City Clerk

(FORM OF COUPON TO BE ATTACHED TO BONDS  
NUMBERED 1 to 106, INCLUSIVE.)

NO. \_\_\_\_\_ January, 19 \_\_\_\_\_, the City of Nokomis, Montgomery County, Illinois, will pay to bearer, solely out of the revenues of the combined waterworks and sewerage system of said City \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America, at the

Mercantile Trust Company, in the City of St. Louis, State of Missouri, being interest then due on its Waterworks and Sewerage Improvement and Refunding Revenue Bond, dated July 1, 1952, and numbered \_\_\_\_\_.  
CITY OF NOKOMIS, ILLINOIS  
BY \_\_\_\_\_ Mayor

OPERATION OF THIS COUPON SHALL BE VALID AFTER THE DELIVERY OF ANY BONDS ISSUED UNDER THE PROVISIONS OF THIS COUPON. THE SEVERAL WATERWORKS AND SEWERAGE SYSTEM SHALL BE OPERATED ON THE BASIS OF A FISCAL YEAR CORRESPONDING TO THE FISCAL YEAR ESTABLISHED BY THE CITY OF NOKOMIS.



(FORM OF COUPON TO BE ATTACHED TO BONDS  
NUMBERED 107 TO 145, INCLUSIVE.)

NO. \_\_\_\_\_ \$ \_\_\_\_\_

On the first day of July, 19\_\_\_\_, unless the hereinafter mentioned bond be then callable for redemption and shall theretofore have been called for redemption and provision for such redemption duly made, the City of Nokomis, Montgomery County, Illinois, will pay to bearer, solely out of the revenues of the combined waterworks and sewerage system of said City \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America at the Mercantile Trust Company, in the City of St. Louis, State of Missouri, being interest then due on its Waterworks and Sewerage Improvement and Refunding Bond, dated July 1, 1952, and numbered \_\_\_\_\_.

CITY OF NOKOMIS, ILLINOIS

Attest: BY \_\_\_\_\_ Mayor

\_\_\_\_\_  
City Clerk

The following shall appear on the reverse of the bonds:

(FORM OF REGISTRATION CERTIFICATE)

No writing below except by the Treasurer of the City of Nokomis, Illinois.

<u>DATE OF REGISTRATION</u>	<u>IN WHOSE NAME REGISTERED</u>	<u>SIGNATURE OF CITY TREASURER</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

SECTION 9. That the bonds authorized hereby, and the interest thereon, shall be payable equally and ratably, solely from the revenues derived from the operation of the combined waterworks and sewerage system of said City, including any improvements and extensions thereto, and shall not constitute an indebtedness of the City of Nokomis within the meaning of any constitutional or statutory limitation.

SECTION 10. That from and after the delivery of any bonds issued under the provisions of this ordinance, the combined waterworks and sewerage system shall be operated on the basis of a fiscal year corresponding to the fiscal year estab-

lished for other affairs of the City, which now begins on May 1 of each year and ends on April 30 of the ensuing year. All revenues derived from the operation of the combined waterworks and sewerage system shall be deposited in a separate fund to be designated as the "WATERWORKS AND SEWERAGE FUND"; and a sufficient amount thereof shall be used only for and is pledged to the payment of (1) the cost of maintenance and operation of the system, (2) the payment of the principal of and the interest on all revenue bonds of said City which may be payable from the revenues of the combined system, and (3) the creation of an adequate depreciation fund; and such funds shall at all times be sufficient for the above purposes. All sums in the Waterworks and Sewerage Fund shall at all times be held in bank accounts separate and distinct from the bank accounts in which other City funds are held.

SECTION 11. That sums in the WATERWORKS AND SEWERAGE FUND shall be set aside for, allocated to, and deposited in the following separate accounts, which are hereby created in said Fund, by the financial officer of the City of Nokomis, without further direction of or action by the Council or other authority of said City. Such allocations and deposits shall be made on the first business day of each month following that in which quarterly water and sewer bills are sent out as long as any of the bonds authorized hereby, or the coupons attached thereto, shall remain outstanding and unpaid:

(a) Into an account hereby created and designated the "WATERWORKS OPERATION AND MAINTENANCE ACCOUNT" there shall be deposited a sum sufficient to pay the estimated cost of operating and maintaining the system in good repair and working order during the next ensuing quarter in an efficient and economical manner.

(b) Into an account hereby created and designated the "WATERWORKS AND SEWERAGE BOND ACCOUNT" there shall be deposited in each quarter year a sum at least equal to one-half (1/2) of the amount of interest that will become due on the then next interest payment date on all bonds of the issue authorized by this ordinance then outstanding, plus a sum at least equal to one-fourth (1/4th) of the amount of principal that will become due on the then next principal payment date; sums allocated to and deposited in this account shall immediately, on the first business day of each month following each month in which quarterly water and sewer bills are sent out, be transmitted to the Mercantile Trust Company, St. Louis, Missouri, and shall be used only for the payment of the principal of and the interest on the bonds authorized by this ordinance as the same shall become due or may be called for redemption prior to maturity as herein provided.

(c) Into an account hereby created and designated the "WATERWORKS AND SEWERAGE DEPRECIATION ACCOUNT" there shall be deposited in each quarter year the sum of \$300.00, which deposit shall be continued in each quarter while any of the bonds issued under this ordinance

remain outstanding and unpaid. If the said Account should be reduced or depleted for any cause, including payments therefrom made in accordance with this ordinance, then an additional sum shall be deposited in said Account each quarter until such time as the balance in said Account shall be restored to the amount which would have been credited to said Account under the terms of this ordinance if no withdrawals from said Account had been made. The aggregate of all deposits made into said Account shall not exceed the sum of Twelve Hundred Dollars (\$1200) in any one fiscal year. Sums in said Account shall be expended only for unusual or extraordinary repairs and replacements of the combined system and for emergency expenses of said system.

- (d) Into an account hereby created and designated the "WATERWORKS AND SEWERAGE BOND RESERVE ACCOUNT" there shall be deposited in each quarter year a sum of at least Six Hundred Dollars (\$600) until the sum of Twenty Thousand Dollars (\$20,000) shall have been accumulated in said Account. If said Account should thereafter be reduced or depleted for any cause, including payments therefrom made in accordance with this ordinance, then the aforementioned quarterly deposits shall be resumed and continued until said Account shall be restored. Sums allocated to and deposited in said Reserve Account shall be transmitted to the Mercantile Trust Company, St. Louis, Missouri, on the first business day in the month following each month in which quarterly water and sewer bills are sent out in each year, and shall be disbursed only for the payment of the bonds authorized by this ordinance or the interest thereon, and then only when and to the extent that other funds are not available for that purpose. Sums in this Account shall not be used to pay bonds called for payment prior to their maturity unless all bonds of the issue herein authorized and then outstanding are then to be redeemed.

(e) Any surplus remaining in the Waterworks and Sewerage Fund, after making all the deposits into the accounts provided for in the foregoing paragraphs designated (a), (b), (c) and (d), shall be allocated to and deposited in an account designated the "WATERWORKS AND SEWERAGE SURPLUS ACCOUNT" and shall be used only for the following purposes:

- 1) The payment of bonds called for payment prior to maturity;
- 2) The payment of the cost of improvements and extensions to the waterworks and sewerage system of the City;
- 3) The temporary loan of such surplus for the payment, either as to principal or interest, of the Sewerage Bonds of the City of Nokomis, dated July 1, 1952, authorized in the amount of \$100,000 by Ordinance No. ~~433~~, of the City, for the purpose of paying the cost of a part of the improvements and extensions contemplated by this ordinance, but such payments shall be made only if absolutely necessary to prevent or cure a default in the payment of said bonds, as to principal or interest. If any payment of said bonds, as either as to principal or interest, be made, then the City recognizes its duty (as declared by the Supreme Court of Illinois in the case of Gates v. Sweiter, 347 Ill. 353) to levy and collect additional taxes sufficient to restore to the Waterworks and Sewerage Fund the amount so loaned.

Whenever there shall be on deposit in said Waterworks and Sewerage Surplus Account an amount in excess of \$5,000, it shall be the mandatory duty of the Council to call for payment on the next permissible interest payment date such an amount of bonds as will exhaust such excess over \$5,000; provided that the foregoing requirement shall not be construed to prevent the Council from exercising its right to call bonds at any

time, although the balance in the Waterworks and Sewerage Surplus Account shall be less than \$5,000. After bonds numbered 107 through 145 shall all have been paid and redeemed, sums in said Account may be used to purchase other outstanding bonds of this issue at the best price obtainable, and all such bonds so purchased shall be cancelled and shall not be re-issued.

SECTION 12. The City of Nokomis recognizes that charges for waterworks and sewerage services are imposed for waterworks and sewerage purposes and not for general corporate purposes and the City covenants and agrees, as a part of the contract for the security of the bonds authorized hereby that so long as any of said bonds or coupons are outstanding no portion of the revenues of the combined waterworks and sewerage system shall be transferred to the general or any special fund of the City or used for any of its general or special corporate purposes, other than as provided in Section 11 hereof.

SECTION 13. That the amounts to be set aside for the payment of the bonds herein authorized to be issued and the interest thereon are hereby declared to be as follows:

	<u>PRINCIPAL</u>	<u>INTEREST</u>	<u>TOTAL</u>
1953	\$2,500	\$5,195	\$7,695
1954	4,000	5,095	9,095
1955	4,000	4,935	8,935
1956	4,000	4,775	8,775
1957	4,000	4,615	8,615
1958	4,000	4,455	8,455
1959	5,000	4,295	9,295
1960	5,000	4,095	9,095
1961	5,000	3,920	8,920
1962	5,000	3,745	8,745
1963	5,000	3,570	8,570
1964	6,000	3,395	9,395
1965	6,000	3,185	9,185
1966	6,000	2,975	8,975
1967	6,000	2,765	8,765
1968	6,000	2,555	8,555
1969	7,000	2,345	9,345
1970	7,000	2,100	9,100
1971	7,000	1,855	8,855
1972	7,000	1,610	8,610
1973	7,000	1,365	8,365
1974	8,000	1,120	9,120
1975	8,000	840	8,840
1976	8,000	560	8,560
1977	8,000	280	8,280

If all of the bonds authorized hereunder be not issued, or if some of the bonds issued be retired before maturity, then the amounts to be deposited as above set forth may correspondingly be reduced. No error in stating the amounts

due in any year, as above set forth, shall impair the obligation upon the City to pay promptly all the bonds and the interest thereon according to the terms thereof.

SECTION 14. That if the revenues derived from the operation of the waterworks system should be insufficient at any time to make the payments and deposits required by Section 11 of this ordinance, the deficiency shall be made good by additional payments to be made out of the first available revenues of said system received during any succeeding month or months. Whenever and as long as sums actually on deposit in the Waterworks and Sewerage Bond Account and in the Waterworks and Sewerage Bond Reserve Account together shall equal the principal amount of all outstanding bonds issued hereunder, plus the amount of all interest due thereon until the respective maturity dates of all such bonds, then no further deposits need be made into said accounts.

Sums held in the Waterworks and Sewerage Depreciation Account and in the Waterworks and Sewerage Bond Reserve Account may be held as cash deposits or may be invested in bonds or other securities of the United States Government, or bonds or other securities unconditionally guaranteed by the United States Government, which shall mature within five years from the date of the purchase thereof. The purchase of such bonds or other securities may be directed by the Council of the City of Nokomis, in its discretion, but the bonds or other securities so purchased shall remain in the custody of the bank in which the account from which the purchase was made is deposited. The bank hereinbefore designated as the place of payment of the bonds herein authorized to be issued is hereby authorized and directed, without any further order or direction of the Council, from time to time to liquidate all or such part of any such investment or investments made for the Waterworks and Sewerage Bond Reserve Account as may be necessary from time to time to provide funds to meet the withdrawals to be made from said Waterworks Bond Reserve Account under the terms of this ordinance. The said bank shall not be liable either to the City or to any bondholder or bondholders for any loss resulting from the liquidation of any investment or investments under the terms of this ordinance. Any investment or investments made for the Waterworks Depreciation Account may be liquidated at any time or times upon order of the Council when funds may be required under the terms of this ordinance.

SECTION 15. That if the revenues otherwise derived from the operation of

the waterworks system should at any time be insufficient to make the payments and deposits required by and under this ordinance, the City shall pay into the aforesaid Waterworks and Sewerage Fund on the first business day of each month a reasonable sum for supplying water and sewerage service to said City for its corporate uses and purposes. Such payments shall be continued until such time as the revenues otherwise derived from the operation of the waterworks and sewerage system shall be sufficient to make the payments and deposits required by and under this ordinance.

SECTION 16. That the City of Nokom's covenants and agrees with the holder or holders of the bonds herein authorized to be issued that it will perform all duties with respect to the operation and maintenance of said combined waterworks and sewerage system, including all improvements and extensions thereto, and with respect to the fixing, maintaining and collecting of the rates, fees and charges for the services and facilities thereof, and the establishment of the accounts herein authorized and created, and all other matters and things required by law and by this ordinance, and that it will do or cause to be done, in apt time and season, each and every official act necessary for the payment of the principal of and the interest on the bonds herein authorized to be issued, as the same shall mature and accrue.

Said City further covenants with the holders of said bonds as follows:

(a) That it will construct the improvements to the combined waterworks and sewerage system contemplated by this ordinance, as expeditiously as possible, and that as long as any of the bonds or interest coupons authorized by this ordinance are outstanding and unpaid, it will operate and maintain said combined system and for that purpose will maintain its corporate existence.

(b) That as long as any of said bonds or the interest coupons pertaining thereto remain outstanding and unpaid, the City will fix and maintain rates and make and collect charges for the use and service of the combined waterworks and sewerage system, sufficient to pay the cost of maintenance and operation thereof and to pay the principal of and the interest on all revenue bonds or other obligations issued by said City chargeable to the revenues of said system, to provide the sums required to maintain the reserve account and the depreciation account created by Section 11 hereof, and to provide ample funds to meet all requirements of this ordinance. Such rates shall from time to time be revised so as fully to meet the requirements of this ordinance. No free service of the system shall be furnished to any person, firm, organization, or corporation, public or private, and all rates and charges shall be non-discriminatory, provided that the Council reserves the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust. No such special charges or rates shall operate to reduce the revenues of the system so that they shall be insufficient to provide ample funds to meet all requirements of this ordinance.

(d) That as long as any of said bonds or interest coupons shall remain outstanding and unpaid, the said City shall carry and maintain all-risk insurance, including public liability insurance, upon all of the properties forming a part of said combined waterworks and sewerage system which may be of an insurable nature; such insurance to be of the type and kind and for such amount or amounts as carried and maintained by other municipalities or private companies rendering services of a similar character in similar communities. The proceeds of all such insurance, except public liability insurance, shall be used only for the maintenance and restoration of said combined system, or for the payment of the principal of and the interest on the bonds authorized to be issued by this ordinance.

(d) That said City shall set up and maintain a proper system of accounts and records separate from all other accounts and records, showing the amount of revenue received from its combined waterworks and sewerage system and the application of such revenues and all financial transactions in connection therewith. Such accounts, at least once a year, shall be audited properly by an independent public accountant employed for the purpose. A report of such audit shall be furnished each year, without further request, to the original purchaser of the bonds authorized hereby, within sixty (60) days after the close of the fiscal year, and, upon request, to any bondholder. The annual audit of the waterworks and sewerage system shall include:

(1) A classified statement of the gross revenues received, of the operating expenditures, of the net operating revenue, of the amount of any capital expenditures in connection with the system for the fiscal year;

(2) A balance sheet as of the end of each fiscal year, including a statement of the amount on hand at the end of the fiscal year in each of the accounts created by Section 11 of this ordinance;

(3) A statement of the profit or loss for such fiscal year;

(4) A statement of the number of customers served by the waterworks system and of the number served by the sewerage system at the beginning and the ending of the fiscal year;

(5) A statement of the number of gallons of water pumped and sold during the fiscal year;

(6) A statement of the amount and character of insurance carried by the City on the property of the system, and of the names of the insurers and of the expiration dates of the several policies;

(7) Such comments regarding the City's methods of operation and accounting practices as the auditor may deem desirable.

(e) That any holder or holders or the original purchaser of said bonds shall be permitted, at all reasonable times, to inspect said combined system and all records and data relating thereto and shall be furnished all data and information relating to said combined system which may reasonably be requested.

(f) That as long as any of said bonds or the coupons pertaining thereto shall remain outstanding and unpaid, the said City shall not sell, lease, loan, mortgage, pledge or otherwise encumber or in any manner dispose of or permit any lien to attach to any revenue producing portion of said combined waterworks and sewerage system, or any part thereof, unless the bonds authorized hereby shall have been paid in full both as to principal and interest, or unless adequate provision shall have been made which shall assure the full payment of said bonds and the interest thereon to maturity in full, according to their terms.

(g) That said City shall employ a competent, experienced and qualified person to supervise and manage the operation of said combined waterworks and sewerage system and such further employees as may be required for its efficient and economical operation.

(h) That the Council shall require that accounts be rendered to it monthly as of the first of each month showing the revenues, disbursements and other transactions in connection with its combined waterworks and sewerage system. Copies of such statements shall be mailed to the original purchaser of the bonds without further request.

SECTION 17. That any holder of a bond or bonds or any of the coupons of any bond or bonds issued hereunder may, either in law or equity, by suit, mandamus or other proceedings, enforce or compel performance of all duties required by this ordinance, including the making and collecting of sufficient rates for water and sewerage service and application of income and revenue therefrom.

SECTION 18. That from and after the delivery of the bonds authorized hereby no further bonds shall be issued or obligations incurred by said City which are in whole or in part payable from or chargeable to the revenues derived or to be derived from the operation of said combined waterworks and sewerage system (except obligations incurred in the operation and maintenance thereof) except upon compliance with the conditions hereinbelow set out in paragraphs I, II and III.

I.

That the average revenues derived from the operation of the waterworks and sewerage system for the then next preceding two fiscal years shall be equal to the sum of the following:

(a) The average expenses of operation and maintenance of said system incurred during such fiscal years; plus

(b) The sum of \$ 1200 per year (the amount provided to be deposited in the Depreciation Account); plus

(c) 150% of the highest amount which shall thereafter become due in any one fiscal year as principal of and as interest on all bonds or other obligations then outstanding and the bonds or other obligations then to be issued, (not, however, including any amounts required to be paid into or held in the Waterworks and Sewerage Bond Reserve Account provided by Section 11 (c) of this ordinance or the Waterworks and Sewerage Depreciation Account created by Section 11 (d) of this Ordinance;)



in which case additional bonds or other obligations may be issued on a parity with the bonds authorized hereby.

II.

Unless such additional bonds or other obligations are in all respects junior and subordinate to the bonds authorized hereby, and subject and subordinate to the provisions of Section 11 hereof, requiring certain payments to be made into the accounts therein established, provided, however, that interest on such junior bonds may be paid before making the deposits required by Section 11, Paragraphs (c) and (d).

III.

The restrictions upon the issuance of additional bonds or other obligations set out in this section shall not apply in the following circumstances:

- (a) That the waterworks or sewerage system of the City of Nokomis should hereafter be destroyed or damaged to such extent that it cannot be operated.
- (b) That all funds received from insurance or otherwise available shall be insufficient to pay the cost of the restoration of said waterworks or sewerage system to such a condition that it can again be operated. The cost of such restoration shall be determined by the estimate of a reputable and competent engineer or engineering firm or corporation selected by the City, with the approval of the holders of 75% of the outstanding bonds. This estimate shall be based upon plans and specifications for the restoration of the system prepared for that purpose.
- (c) That the holders of at least 51% of the principal amount of the bonds authorized by this ordinance then outstanding shall give written consent to the issuance of additional bonds on a parity with the bonds authorized hereby and shall file such written consents with the Clerk of the City of Nokomis. Such consents shall be acknowledged before a notary public and shall state the precise amount of additional certificates of indebtedness or bonds which may be issued.

Upon the occurrence of all of the circumstances set out above, additional bonds may be issued solely for the purpose of paying the cost of restoring the waterworks and sewerage system to reasonable working order in an amount not greater than the amount stated in the consents filed by the holders of the outstanding bonds.

SECTION 19. That the provisions of this ordinance shall constitute a contract between the City of Nokomis and the holders of the bonds herein authorized to be issued, and after the issuance of the bonds, no changes, additions or alterations of any kind shall be made hereto in any manner except in accordance with the provisions of this ordinance, or until such time as all of said bonds issued hereunder and the interest thereon shall be paid in full, or unless and until such

provision shall have been made as will assure the full payment of all such bonds and interest thereon to maturity.

SECTION 20. That all bonds issued hereunder shall be payable equally and ratably, without regard to the date when said bonds shall actually be delivered, and shall enjoy parity of lien, one with the other, upon the revenues of said combined system.

SECTION 21. That bonds numbered 1, 2, 4, 5, 8, 9, 12, 13, 16, 17, 20, 21, 24 and 25 shall be delivered in exchange for and upon surrender of the Water Revenue Bonds dated July 1, 1934, refunded hereby and described in the preamble hereto.

That the remaining bonds of said issue shall be delivered to the purchasers thereof, G. H. Walker & Company and Dempsey-Tegeler & Company, both of St. Louis, Missouri, upon payment of the purchase price in accordance with the contract for the sale of said bonds, which is hereby ratified.

SECTION 22. That the proceeds derived from the issuance and sale of the bonds herein authorized (other than those exchanged for outstanding Water Bonds) shall be applied as follows:

(a) The amount of accrued interest received upon sale and delivery of said bonds shall be deposited in and credited to the Waterworks and Sewerage Bond Account hereinabove provided for, immediately upon delivery of said bonds. The City Treasurer of said City is hereby authorized and directed, without any further or subsequent order of the City Council, upon delivery of the bonds herein authorized to be issued, to remit the sum herein directed to be credited to the Waterworks Bond Account to the bank hereinbefore named as the place of payment of said bonds and the interest coupons pertinent thereto.

(b) The sum of \$6,230.84 debt service requirements on the bonds herein authorized to be issued shall be deposited in and credited to the Waterworks and Sewerage Bond Account hereinabove provided for, immediately upon delivery of said bonds. The City Treasurer of said City is hereby authorized and directed, without any further or subsequent order of the Council, upon delivery of the bonds herein authorized to be issued, to remit the sum herein directed to be credited to said Waterworks and Sewerage Bond Account to the bank hereinbefore named as the place of payment of said bonds and the interest coupons pertinent thereto. In addition, the Treasurer shall remit to said Trust Company the sum of \$2,500 to assure payment of bonds No's. 1, 2 and 3, such remittance to be made out of the Water Fund of said City now on hand.

(c) The remainder of the proceeds of said bonds shall be deposited in The First National Bank, Nokomis, Illinois, in an account to be designated the "WATERWORKS AND SEWERAGE CONSTRUCTION ACCOUNT" and disbursements from said Account shall be made only for the purpose of constructing improvements and extensions to the waterworks and sewerage system contemplated by this ordinance. Such disbursements shall be made only upon order of the Council and pursuant to a certificate of the Engineer charged with the supervision of such improvements and extensions, which certificate shall state:

(1) That the work done or the materials obtained were within the contract or contracts for the construction of the improvements (if such work was done or materials and supplies obtained under a contract), or that the work which was done or the materials or supplies obtained were within the scope of the contemplated improvements and extensions.

(2) That the work done or the materials or supplies obtained meet all the requirements of the contract (if such work was done or materials supplied under contract), or that such work was done in an efficient and workmanlike manner, or that such supplies or materials are of proper quality.

(3) That the amount to be paid is within the contract price (if such work was done or materials or supplies obtained under contract), or that it is a reasonable value of such work, materials or supplies.

Nothing in this section shall be construed to prevent the payment of all costs and expenses in connection with the issuance of the bonds without such certificate of the Engineer.

SECTION 23. That the paying agent and depository banks shall be paid the usual and customary fees for their services rendered hereunder, and all such fees shall be charged to and paid from the Waterworks Operation and Maintenance Account. Unless herein expressly provided otherwise, all funds arising under this Ordinance shall be deposited in the regularly designated depository of the City of Nokomis.

SECTION 24. That 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 other provision of this ordinance

SECTION 25. That upon the delivery of the bonds authorized hereby, all sums credited to the Water Fund of the City shall be deposited in the Waterworks and Sewerage Fund created hereby, except as provided in Section 22 (b) hereof.

SECTION 26. That all ordinances or resolutions in conflict herewith shall be and are hereby repealed to the extent of such conflict.

SECTION 27. That this ordinance, after its passage, shall be published once in the Free Press-Progress, a newspaper published and having a general circulation in the City of Nokomis, and if no petition is filed with the Clerk of said City within ten (10) days after the publication of this ordinance, signed by fifteen per centum (15%) of the number of electors who voted for Mayor of said City at the last general municipal election preceding the passage of this ordinance, asking that the question of extending and improving said combined waterworks and

sewerage system, as provided by this ordinance, and the question of the issuance of revenue bonds therefor, be submitted to the electors of said City, then this ordinance shall be in full force and effect after the expiration of said period of ten days.

Introduced and filed for public inspection Oct. 13<sup>th</sup>, 1952

Passed: Oct. 13<sup>th</sup>, 1952

Recorded: \_\_\_\_\_, 1952

Published: Oct. 16<sup>th</sup>, 1952

*Kenneth S. Holloman*  
Mayor.

*Attest:*  
*M. P. Stearns*  
City Clerk

STATE OF ILLINOIS            )  
  ) ss.  
COUNTY OF MONTGOMERY    )

I, ~~W.P. Gilbert~~ City Clerk of the City of Nokomis,  
Montgomery County, Illinois, hereby certify that the foregoing  
pages constitute a full, true and complete copy of Ordinance  
No. 436, adopted by the Council of said City on the 13th day  
of October, 1952.

I further certify that prior to the making of this certi-  
ficate, the said ordinance was spread at length upon the records of  
said City, where it now appears in book of ordinance.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
affixed the seal of said City of Nokomis, Illinois, this 13th  
day of October, 1952.

  
\_\_\_\_\_  
City Clerk

(SEAL)