

ORDINANCE NO. ____-____

Date Passed: June 11, 2012

**AN ORDINANCE AUTHORIZING LOAN AGREEMENT BETWEEN
THE CITY OF ROCHELLE (A NON-HOME RULE ENTITY) AND THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

WHEREAS, the City of Rochelle, Ogle County, Illinois, operates its public water supply system (“the System”) in accordance with the provisions of the Illinois Municipal Code, 65 ILCS 5/139, and the Local Government Debt Reform Act, 30 ILCS 350/1 (collectively, “the Act”) and;

WHEREAS, the Mayor and City Council of the City of Rochelle (“Corporate Authorities”) have determined that it is advisable, necessary, and in the best interest of public health, safety, and welfare to improve the System, including the following: construction of a new well, pump house, and water mains, together with any land or rights in the land and all electrical, mechanical, or other services necessary, useful or advisable to the construction and installation, all in accordance with the plans and specifications prepared by consulting engineers of the City (“Project”), which Project has a useful life of 30 years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial, and other related expenses is \$4,300,000, and there are insufficient funds on-hand and lawfully available to pay these costs; and

WHEREAS, the costs are expected to be paid for with a loan to the City of Rochelle from the Public Water Supply Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from revenues of the system 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 of Rochelle is authorized to borrow funds from the Public Water Supply Loan Program in the aggregate principal amount of \$4,300,000.00 to provide funds to pay the costs of the Project; and

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

WHEREAS, the loan shall bear an interest rate as defined by 35 Ill. Adm. Code 662, 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;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCHELLE, OGLE 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.

The Corporate Authorities find that it is necessary and in the best interests of the City of Rochelle to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described, and that the System continue to be operated in accordance with the provisions of the Act. For the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the City of Rochelle in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$4,300,000.

Section 3. Publication.

This Ordinance, together with a Notice in statutory form (attached as **Exhibit A**), shall be published once within ten days after passage in the Rochelle News-Leader, a newspaper published and of general circulation in the City of Rochelle, and if no petition, signed by electors numbering 10% or more of the registered voters in the City of Rochelle (i.e., 528), asking that 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 of Rochelle, is filed with the Clerk of the City of Rochelle within 30 days after the date of publication of this Ordinance and Notice, then this Ordinance shall be in full force and effect. A petition form shall be provided by the City of Rochelle to any individual requesting one.

Section 4. Additional Ordinances.

If no petition meeting the requirements of the Act and other applicable laws 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 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 complete authority for entering into the Loan Agreement under applicable law.

However, notwithstanding the above, the City of Rochelle 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 over this Ordinance, parity of any other ordinance with this Ordinance, or otherwise alter or impair the obligation of the City of Rochelle, 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 of Rochelle.

Repayment of the loan to the Illinois Environmental Protection Agency by the City of Rochelle 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 City of Rochelle within the meaning of any constitutional or statutory limitation.

Section 6. Application for Loan.

The City Manager 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.

Section 7. Acceptance of Loan Agreement.

The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Public Water Supply 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 8. 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 9. Authorization of the Mayor to Execute Loan Agreement.

The Mayor 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 Mayor 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 10. 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 11. 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 AND APPROVED this 11th day of June, 2012.

Ayes: _____ Nays: _____ Abstain/Absent: _____

Attested: _____
City Clerk Mayor

PUBLISHED in the Rochelle News-Leader on _____, 2012.

RECORDED in the City of Rochelle Records on _____, 2012.

ATTEST:

Clerk, Bruce McKinney, City of Rochelle
Ogle County, Illinois

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EXHIBIT A
(Publication Notice)

NOTICE OF INTENT TO BORROW FUNDS AND RIGHT TO FILE PETITION

NOTICE IS HEREBY GIVEN that pursuant to Ordinance Number __ - _____, adopted on June 11, 2012, the City of Rochelle, Ogle County, Illinois (the “City”), intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed \$4,300,000 and bearing annual interest at an amount not to exceed the maximum rate authorized by law at the time of execution of the Loan Agreement, for the purpose of paying the cost of certain improvement to the water distribution system of the City of Rochelle. A complete copy of the Ordinance accompanies this notice.

NOTICE IS HEREBY FURTHER GIVEN that if a petition is signed by 528 or more electors of the City of Rochelle (being equal to 10% of the registered voters in the City of Rochelle), requesting that the question of improving the water distribution system and entering into the Loan Agreement is submitted to the Clerk of the City of Rochelle within 30 days after the publication of this Notice, the question of improving the water distribution system of the City of Rochelle as provided in the Ordinance and Loan Agreement shall be submitted to the electors of the City of Rochelle at the next election to be held under general election law on November 6, 2012. A petition form is available from the office of the Clerk of the City of Rochelle.

City Clerk
City of Rochelle
Ogle County, Illinois