

ORDINANCE NO. 10-16

ORDINANCE declaring the intention of the Village of Chatham, Illinois to pay, to advance and to obligate itself to the South Sangamon Water Commission for a proportionate share of certain costs of construction of the Commission's water supply project, requesting the Commission to issue bonds for said project, and approving an Agreement between the Village, the Commission and the Village of New Berlin, Illinois

PREAMBLES

WHEREAS, the Village of Chatham, Sangamon County, Illinois (the "Village"), is duly established and operates under and in accordance with the provisions of the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*, as supplemented and amended (the "Act"); and

WHEREAS, the President and the Board of Trustees of the Village (the "Corporate Authorities") adopted Ordinance No. 09-02 on January 27, 2009 ("Ordinance 09-02") and the President and Board of Trustees of the Village of New Berlin, Illinois (the "Village of New Berlin") adopted Ordinance No. 09-01 on January 21, 2009 ("Ordinance No. 09-01"), pursuant to which the Village and the Village of New Berlin elected to jointly acquire and operate a common source of supply of water under the authority granted by Division 135 of Article 11 of the Act ("Division 135") and established the Chatham-New Berlin Water Commission, n/k/a the South Sangamon Water Commission (the "Commission"); and

WHEREAS, the Commission and the respective President and Board of Trustees of the Village and the Village of New Berlin (collectively, the "Villages") have determined it is advisable, necessary and in the best interests of the Villages' public health, safety and welfare to proceed with the development and construction of a common source of supply of water at an estimated cost of construction of \$24,000,000 plus capitalized interest and costs of financing, described generally as follows (the "Project"):

A new water well field and new water treatment facilities located east of the Village of Rochester, Illinois designed to treat 3.3 million gallons per day of water, plus 18" and 20" transmission main to carry water 20 miles to the Village, a 10" transmission line to the Village of New Berlin and a booster station that will feed 10 miles of water main, including all necessary engineering, design, land acquisition, connections, appurtenances, material, labor and equipment incident thereto, all mechanical, electrical and other services necessary, useful or advisable to such projects, and, incidental to such improvements, and all bond discount, bond interest, bond reserve account funding, legal, financing, and administrative expenses; and

WHEREAS, the Village has approved and entered into the Wholesale Water Agreement with the Commission (the "Wholesale Water Agreement"); and

WHEREAS, in order to pay a portion of the initial costs of the Project, it is necessary and advisable for the Commission to issue its revenue bonds in an aggregate principal amount not to exceed \$7,000,000 to bear interest at a rate or rates not in excess of the rates authorized by law (the "Bonds"); and

WHEREAS, Section 11-135-1 of Division 135 authorizes the Villages to pay, to advance or to obligate themselves to the Commission to bear a proportionate share of the construction and operating costs of the Project by adopting ordinances declaring their intention to do so, and

WHEREAS, it is necessary and advisable for the Villages to initially so obligate themselves to the Commission to their respective amounts which in the aggregate is sufficient to provide revenues to the Commission that will pay principal and interest on the Bonds.

NOW, THEREFORE, Be It Ordained by the President and Board of Trustees of the Village of Chatham, Sangamon 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, correct, and complete and do incorporate them into this Ordinance by this reference.

Section 2. Authorization

This Ordinance is adopted pursuant to Division 135, the Intergovernmental Cooperation article of the Illinois Constitution (Section 10 of Article VII of the Constitution of the State of Illinois), the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, the Act including the Municipal Bond Reform Act, 65 ILCS 5/8-4.1-1 *et seq.*, the Local Government Debt Reform Act, 30 ILCS 350/1 *et seq.*, the Omnibus Bond Acts, 5 ILCS 70/8, and other applicable law, all of which are incorporated herein by reference

Section 3. Declaration of Intent to Pay Proportionate Share.

It is necessary and advisable for the Village, and the Village does hereby declare its intention, to contribute, pay and obligate itself to the Commission for a proportionate share of the initial costs of construction of the Project. The Village's proportionate share is \$6,300,000, which shall be due and payable to the Commission on January 1, 2012 plus an amount equal to 90% of the interest due on the Bonds (the "Obligation"). The maximum amount which the Village shall pay on the Obligation is \$6,300,000 plus an amount equal to 90% of the interest due on the Bonds, in addition to any other sums the Village expends on behalf of the Project. The Village covenants and agrees to pay the Obligation on or before its due date and to include an amount sufficient to pay the Obligation in the next succeeding appropriation ordinance and each year thereafter until paid in full, provided however that (i) the maximum amount paid shall not exceed the sum equal to 90% of the principal and interest to come due on the Bonds, and (ii) if the Commission's Bonds are refunded prior to their maturity, the Obligation shall terminate and be of no further force and effect.

Section 4. Approval of Agreement for Issuance of Bonds.

The Corporate Authorities approve the Agreement for Issuance of Bonds by and between the Villages and the Commission in substantially the form presented (the "Agreement") with such changes as the President and Clerk may approve. The President and Clerk be and they are hereby authorized and directed to execute and attest the Agreement on behalf of the Village and to do all things necessary and essential to effectuate the provisions of the Agreement and this Ordinance, including the execution of any documents and certificates incidental thereto or necessary to carry out the provisions thereof. The Commission's issuance of the Bonds shall constitute the initial issuance of bonds under Section 9.1 of the Wholesale Water Agreement.

Section 5. Payment; Annual Budget.

The Corporate Authorities hereby represent, warrant, and agree (i) that the obligation to make the payment due under this Ordinance and the Agreement shall be a lawful direct general obligation of the Village payable from the general funds of the Village, revenues of the Village's existing waterworks and sewerage system (the "System"), and such other sources of payment as are otherwise lawfully available, (ii) that the total amount due the Commission under the Agreement, together with all other indebtedness of the Village, is within all statutory and constitutional debt limitations, and (iii) to budget and appropriate funds of the Village annually and in a timely manner sufficient to provide for the making of all payments when due under the terms of this Ordinance and the Agreement.

Section 6. Obligation Unconditional.

The Village acknowledges and consents to the pledge and assignment of the payment of the Obligation to the owners of the Bonds and the securing of the Bonds with the contribution and payment by the Village of the Obligation. The Village covenants to establish and maintain fees, charges, and rates for the use and service of the System, and to take all actions necessary to meet and pay the Village's obligations hereunder. The Village shall have no right to terminate, cancel or rescind its obligation hereunder, no right to withhold from the Commission payments due or to become due under this Ordinance or the Agreement, no right of reduction or set-off against the amounts due or to become due the Commission under this Ordinance or the Agreement, and no lien on the such amounts for any reason or on account of the existence or occurrence of any event, condition or contingency, whether foreseen or unforeseen or foreseeable or unforeseeable by the Village, the Commission or any other person; it being the intent hereof that the Village shall be absolutely and unconditionally obligated to make all payments under this Ordinance and the Agreement.

Section 7. Commission Bonds.

The Village's obligation hereunder and under the Agreement is subject to the issuance of the Bonds by the Commission. The Corporate Authorities request the Commission to issue the Bonds payable from the Commission's revenues to be received from the Villages pursuant to the Agreement, the Wholesale Water Agreement and the Village's payment obligations hereunder. The Corporate Authorities acknowledge and agree that the Village of New Berlin and the owners of the Commission's Bonds are relying upon the Village's obligations hereunder. This Ordinance shall constitute a contract with, and shall inure to the benefit of, the Commission, the Village of New Berlin, and the registered owners of the Bonds. The Commission, the Village of New Berlin and any registered owner of a Bond may proceed by civil action, mandamus or other proceeding to compel performance of all duties required by this Ordinance, the Wholesale Water Agreement, and the Agreement, including the establishment and collection of fees, charges and rates for the services supplied by the System.

Section 8. Severability.

If any section, paragraph, clause or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 9. Repeal.

All ordinances or parts thereof in conflict herewith be and the same are hereby repealed.

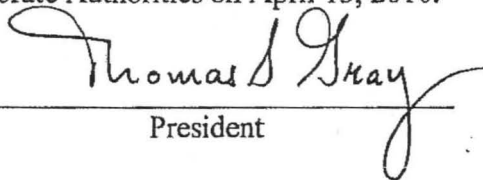
Section 10. Effective Date.

This Ordinance shall be in full force and effect forthwith upon its adoption and publication as required by law.

PASSED by the Corporate Authorities on April 13, 2010.

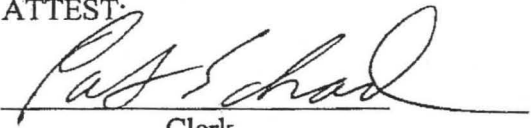
APPROVED: April 13, 2010.

RECORDED in the Records of the Corporate Authorities on April 13, 2010.



President

(SEAL)
ATTEST:



Clerk

AYES: 5 HEER BOYCK REYNOLDS
KAVANAGH SCHATKMAN

NAYS: 1 MAU

ABSENT: 0



STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

CERTIFICATE

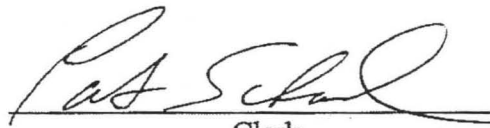
I, Patrick S. Schad, Clerk of the Village of Chatham, Sangamon County, Illinois (the "Village"), hereby certify that the foregoing Ordinance No. 10-16 entitled:

ORDINANCE declaring the intention of the Village of Chatham, Illinois to pay, to advance and to obligate itself to the South Sangamon Water Commission for a proportionate share of certain costs of construction of the Commission's water supply project, requesting the Commission to issue bonds for said project, and approving an Agreement between the Village, the Commission and the Village of New Berlin, Illinois

is a true copy of an original Ordinance which was duly adopted by the recorded affirmative votes of a majority of the members of the President and Board of Trustees of the Village at a meeting thereof which was duly called and held on April 13, 2010, and at which a quorum was present and acting throughout, and that said copy has been compared by me with the original Ordinance signed by the President of the Village and recorded in the records of the Village and that it is a correct transcript thereof and of the whole of said Ordinance, and that said Ordinance has not been altered, amended, repealed or revoked, but is in full force and effect.

I do further certify that said Ordinance was published in pamphlet form on said date, by authority of the President and Board of Trustees, and that said Ordinance as so published was on said date readily available for public inspection and distribution, in sufficient number to meet the needs of the general public, at my office as Village Clerk located in the Village.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village this APR 13, 2010.


Clerk

(SEAL)



AGREEMENT FOR ISSUANCE OF BONDS

THIS AGREEMENT dated as of April 13, 2010 (the "Agreement") is by and among the South Sangamon Water Commission, Sangamon County, Illinois (the "Commission"), the Village of Chatham, Illinois (the "Village of Chatham") and the Village of New Berlin, Illinois (the "Village of New Berlin"). This Agreement is made pursuant to Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 *et seq.* ("Division 135"), the Intergovernmental Cooperation article of the Illinois Constitution (Section 10 of Article VII of the Constitution of the State of Illinois), the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, the Illinois Municipal Code including the Municipal Bond Reform Act, 65 ILCS 5/8-4.1-1 *et seq.*, the Local Government Debt Reform Act, 30 ILCS 350/1 *et seq.*, the Omnibus Bond Acts, 5 ILCS 70/8 and other applicable law (collectively, "Applicable Acts").

WITNESSETH:

WHEREAS, the Village of Chatham and the Village of New Berlin (collectively, the "Villages") adopted ordinances pursuant to which the Villages elected to jointly acquire and operate a common source of supply of water under the authority granted by Division 135 and to establish the Commission; and

WHEREAS, the Commission and the Villages have determined it is advisable, necessary and in the best interests of the Villages and the Commission to proceed with the development and construction of a common source of supply of water at an estimated cost of construction of \$24,000,000 plus capitalized interest and costs of financing, described generally as follows (the "Project"):

a new water well field and new water treatment facilities located east of the Village of Rochester, Illinois designed to treat 3.3 million gallons per day of water, plus 18" and 20" transmission main to carry water 20 miles to the Village of Chatham, a 10" transmission line to the Village of New Berlin and a booster station that will feed 10 miles of water main, including all necessary engineering, design, land acquisition, connections, appurtenances, material, labor and equipment incident thereto, all mechanical, electrical and other services necessary, useful or advisable to such projects, and, incidental to such improvements, and all bond discount, bond interest, bond reserve account funding, legal, financing, and administrative expenses; and

WHEREAS, the Commission has insufficient funds on hand and lawfully available to pay the costs of the Project; and

WHEREAS, in order to pay a portion of the initial costs of the Project, it is necessary and advisable for the Commission to issue its revenue bonds in an aggregate principal amount not to exceed \$7,000,000 (the "Bonds"); and

WHEREAS, Section 11-135-1 of Division 135 authorizes the Villages to pay, to advance or to obligate themselves to the Commission to bear a proportionate share of the construction costs of the Project by adopting ordinances declaring their intention to do so; and

WHEREAS, the President and Board of Trustees of the Village of Chatham adopted Ordinance No. 10-16 on April 13, 2010 ("Ordinance No. 10-16") obligating the Village of Chatham to pay the Commission \$6,300,000 on January 1, 2012 plus an amount equal to 90% of the interest due on the Bonds, provided however that (i) the maximum amount paid shall not exceed the sum equal to 90% of the principal and interest to come due on the Bonds, and (ii) if the Commission's Bonds are refunded prior to their maturity, such obligation shall terminate and be of no further force and effect; and

WHEREAS, the President and Board of Trustees of the Village of New Berlin adopted Ordinance No. _____ on April 21, 2010 ("Ordinance No. _____") obligating the Village of New Berlin to pay the Commission \$700,000 on January 1, 2012 plus an amount equal to 10% of the interest due on the Bonds, provided however that (i) the maximum amount paid shall not exceed the sum equal to 10% of the principal and interest to come due on the Bonds, and (ii) if the Commission's Bonds are refunded prior to their maturity, such obligation shall terminate and be of no further force and effect; and

WHEREAS, Ordinance No. 10-16 and Ordinance No. _____ (collectively, the "Ordinances") obligate the Villages to the Commission to their respective proportionate amounts which in the aggregate is sufficient to provide revenues to the Commission that will pay principal and interest on the Bonds; and

WHEREAS, the Commission approves the foregoing obligations of the Villages to pay their proportionate share; and

WHEREAS, the Villages have requested the Commission to issue the Bonds pursuant to the Applicable Acts which shall be payable from the revenues received by the Commission from the payments made by the Villages pursuant to the Ordinances, this Agreement and the Wholesale Water Agreements between the Villages and the Commission (the "Revenues").

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties agree as follows:

1. The recitals contained in the preambles to this Agreement are true, correct, and complete, and are incorporated into this Agreement by this reference.
2. The Village of Chatham shall pay the Commission \$6,300,000 on January 1, 2012 plus an amount equal to 90% of the interest due on the Bonds, provided however that (i) the amount paid shall not exceed the sum equal to 90% of the principal and interest to come due on the Bonds, and (ii) if the Commission's Bonds are refunded prior to their

maturity, the obligation to make such payment shall terminate and be of no further force and effect.

3. The Village of New Berlin shall pay the Commission \$700,000 on January 1, 2012 plus an amount equal to 90% of the interest due on the Bonds, provided however that (i) the amount paid shall not exceed the sum equal to 10% of the principal and interest to come due on the Bonds, and (ii) if the Commission's Bonds are refunded prior to their maturity, the obligation to make such payment shall terminate and be of no further force and effect.

4. The Commission shall promptly issue the Commission's Bonds in the amount not to exceed \$7,000,000 and apply the proceeds thereof to pay costs of developing and constructing the Project and costs of issuing the Bonds. The Villages and the Commission acknowledge and agree that issuance of the Bonds constitutes the initial issuance of bonds by the Commission under Section 9.1 of the Villages' Wholesale Water Agreements with the Commission.

5. The Bonds shall be payable from the Revenues and the Commission shall secure the Bonds with a pledge and assignment of the Revenues to the owners of the Bonds. The Villages shall have no right to terminate, cancel or rescind this Agreement, no right to withhold from the Commission payments due or to become due under this Agreement and the Ordinances, no right of reduction or set-off against the amounts due or to become due the Commission under this Agreement and the Ordinances, and no lien on the Revenues for any reason or on account of the existence or occurrence of any event, condition or contingency, whether foreseen or unforeseen or foreseeable or unforeseeable by the Villages or the Commission or any other person; it being the intent hereof that the Villages shall be absolutely and unconditionally obligated to make their payments in full under this Agreement and the Ordinances.

6. The representations, warranties and covenants of the Villages made in the Ordinances are incorporated herein as if set forth in full. The Villages acknowledge and agree that the owners of the Commission's Bonds are relying upon the Villages' obligations hereunder and under the Ordinances. This Agreement, the Agreements and the Ordinances shall constitute contracts with, and shall inure to the benefit of, the Commission, the Villages and the owners of the Bonds, and the Commission, the Villages and any registered owner of a Bond may proceed by civil action, mandamus or other proceeding to compel performance of all duties required by this Agreement, the Agreements and the Ordinances.

7. If any section, paragraph, clause or provision of this Agreement shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Agreement.

IN WITNESS WHEREOF, the Villages and the Commission have caused this Agreement to be executed by their duly authorized officers as of the date first shown above.

SOUTH SANGAMON WATER COMMISSION,
Sangamon County, Illinois

By: _____
Chairman

(SEAL)
Attest:

Clerk

VILLAGE OF NEW BERLIN,
Sangamon County, Illinois

By: _____
President

(SEAL)
Attest:

Village Clerk

VILLAGE OF CHATHAM,
Sangamon County, Illinois

By: Thomas S Gray
President

(SEAL)
Attest:

[Signature]
Village Clerk

