

ORDINANCE NO. 402

AN ORDINANCE PROVIDING FOR AND ESTABLISHING THE CITY OF ROLLA SEWER UTILITY FUND AND ACCOUNTS, COVENANTS AND OTHER PROVISIONS RELATING THERETO.

Be it hereby ordained and enacted by the City Council of the City of Rolla, North Dakota (the "City"), as follows:

Section 1. Sewer Utility. The sewerage facilities now owned by the City or hereafter acquired, constructed, or improved were and are declared to be and to constitute a public utility of the City, to be held, operated, maintained, improved, extended and administered as an undertaking to be known and hereinafter referred to as the "sewer utility". The properties of the sewer utility shall include all plants, systems, works, instrumentalities, equipment, materials, supplies, lands, easements, rights in land, contract rights, franchises, sewage disposal plants, intercepting sewer, trunk connections, and other sewer mains, pumping and lift stations, and all parts and appurtenances of the foregoing which are useful or used in connection with the collection, treatment and disposal of sewage, waste and storm waters.

Section 2. Establishment of Fund and Accounts. All monies received by the City in respect of the services, facilities, commodities and benefits furnished and made available by the sewer utility and all enlargements, improvements and extensions from time to time thereof (except collection of special assessments and taxes appropriated to improvement district funds) (hereinafter, the "Revenues") and all earnings, receipts, and returns received from any investments of such monies, shall be paid into the treasury of the City and kept in a special fund hereby established and which shall be permanently maintained on the books of the City, separate and distinct from other funds and designated as the City of Rolla Sewer Utility Fund (hereinafter, the "Fund"), in the records of which Fund all receipts and disbursements of money on account of or in connection with the sewer utility shall be entered and reflected; and the monies from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other City funds. Separate accounts within the Fund shall be established and permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the sewer utility as provided below and such revenues and funds are and shall be administered and accounted for in accounts as follows:

- (a) Revenue Account. The Revenues and investments earnings shall be kept on deposit in the Revenue Account except for such portions thereof required to be deposited into other accounts of the Fund.
- (b) Operation and Maintenance Account. On March 28, 2006, there shall be

made an initial deposit to the Operation and Maintenance Account of \$24,450.00 from City funds on hand. There shall be thereafter deposited at least once in each calendar month to the Operation and Maintenance Account, as a first lien and charge on the Revenues of the sewer utility such sum as shall be needed, over and above any credit balance then held therein, to pay all claims due which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the sewer utility and to maintain a reasonable reserve for contingencies. Earnings from time to time received from investment of the Operation and Maintenance Account shall also be deposited into the Operation and Maintenance Account. Monies in the Operation and Maintenance Account shall be used only to pay expenses of the foregoing type and not for repairs or replacements or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.

- (c) Improvement Warrant Account. The Net Revenues of the sewer utility are herein defined as the aggregate of all sums on hand in the Fund from time to time in excess of the current expense requirements for the Operation and Maintenance Account described above. There shall be deposited monthly into the Improvement Warrant Account Net Revenues in an amount equal to at least 1/12 of the annual amount for the corresponding calendar year pledged and required to be transferred to the Principal and Interest Account of City of Rolla Sewer Improvement District No. 27 Fund pursuant to Paragraph 9 (Conditions and Agreements) of the resolution entitled "Resolution Authorizing Issuance of \$2,799,000 Sewer Improvement District No. 27 Definitive Warrant" adopted by the City Council on March 28, 2006 (hereinafter, the "Resolution"). Earnings from time to time received from investment of the Improvement Warrant Account shall also be deposited into the Improvement Warrant Account. Monies in the Improvement Warrant Account shall be timely transferred to the aforementioned Principal and Interest Account pursuant to the Resolution for payment of the referenced Warrant principal and interest and for no other purpose.
- (d) Reserve for Emergencies and Extensions Account. Commencing on March 28, 2007, the City will cause Net Revenues to be deposited monthly to the Reserve for Emergencies and Extensions Account in an amount equal to at least to \$1,432.00 until \$171,840.00 has been accumulated. Monies in the Reserve for Emergencies and Extensions Account may be used for extensions and emergency repairs, replacements, operations and maintenance of the sewer utility. If monies are withdrawn from the Reserve for Emergencies and Extensions Account, such amounts shall be promptly replaced from Net Revenues

available after making the deposits required to be made by subsections (b) and (c) above.

Notwithstanding anything hereinabove to the contrary, Net Revenues on hand during any calendar year in excess of the annual requirement for the Improvement Warrant Account for such calendar year may be withdrawn from the Fund by the City Council for any use or expenditure as the City Council directs provided that (1) the annual requirement for the Improvement Warrant Account for such calendar year has been fully funded and (2) all amounts withdrawn from the Reserve for Emergencies and Extensions Account shall have been replaced and the amount on deposit in such Reserve for Emergencies and Extensions Account remains not less than the balance then required to have been accumulated therein pursuant to subsection (d) above.

Monies deposited in the several accounts of the Fund are hereby dedicated and appropriated for the respective purposes for which such monies shall be used as hereinabove stated for such accounts. Expenditure of monies from the Fund shall be made and accounted for by the officers of the City empowered to expend and required to account for the City's general funds.

Section 3. Covenants and Agreements of the City. The City hereby covenants and agrees with the original purchaser of the Warrant described in the Resolution and any successor holder thereof from time to time as follows:

- (a) The City will continue to own, operate and maintain the sewer utility, and will not sell or otherwise dispose of any properties thereof; provided, however, that any properties of the sewer utility not essential to continued operation of the sewer utility in satisfaction of other covenants herein prescribed may be sold or otherwise disposed of at their fair market value, and the proceeds thereof used to purchase other properties required for the sewer utility or to pay principal of and interest on obligations issued with respect to such sewer utility. The City will continue to maintain the sewer utility in good and efficient operating condition, supplying service and facilities to the City and its inhabitants and will not authorize or enfranchise the establishment of any other utility for such purpose and will not furnish service free of cost to any customer, including the City.
- (b) The City will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by the sewer utility and will impose and collect the same in amounts at least sufficient to make the minimum deposits into the respective accounts of the Fund as specified in Section 2 above and will revise such schedules in such manner and whenever and as often as needed to perform this covenant.

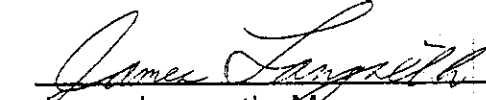
Section 4. Repealer. All other ordinances or parts of ordinances to the extent in conflict herewith are hereby repealed.

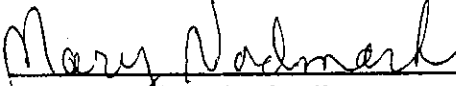
Section 5. Effective Date. This ordinance shall take effect and be in full force and effect from and after the date of its second reading and final passage.

FIRST READING: On the 9th day of March, 2006.

SECOND READING AND FINAL PASSAGE: On the 28th day of March, 2006.

ATTEST:


James Langseth, Mayor
City of Rolla, North Dakota


Mary Nordmark, Auditor
City of Rolla, North Dakota