

RESOLUTION NO. 2009-64

JOINT RESOLUTION BY THE EXECUTIVE COMMITTEE, FINANCE AND HUMAN RESOURCES COMMITTEE AND ECONOMIC DEVELOPMENT AND LAND USE PLANNING COMMITTEE AUTHORIZING RACINE COUNTY TO MAKE AN INVESTMENT OF UP TO \$300,000.00 FOR THE PURPOSE OF A LOAN TO THE RACINE COUNTY DRAINAGE DISTRICT – NORWAY/DOVER DISTRICT TO PAY FOR THE ENGINEERING, ADMINISTRATION AND CONSTRUCTION REQUIRED TO SATISFY THE NORWAY/DOVER DRAINAGE DISTRICT SPECIFICATIONS OBLIGATION UNDER WIS. ADMIN. CODE §ATCP 48.20

To the Honorable Members of the Racine County Board of Supervisors:

BE IT RESOLVED by the Racine County Board of Supervisors that an investment in the amount of \$300,000 to the Racine County Drainage District – Norway/Dover District (“RCDD”) pursuant to the terms and conditions set out in the Term Loan Agreement marked as “Exhibit A,” that is attached hereto and incorporated herein, is authorized and approved.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that any two of the County Clerk, the County Executive and/or the County Board Chairman are authorized to execute any contracts, agreements or any other documents necessary to carry out the intent of this resolution.

Respectfully submitted,

1st Reading \_\_\_\_\_

EXECUTIVE COMMITTEE

2nd Reading \_\_\_\_\_

\_\_\_\_\_  
Peter L. Hansen, Chairman

BOARD ACTION

Adopted \_\_\_\_\_

For \_\_\_\_\_

Against \_\_\_\_\_

Absent \_\_\_\_\_

\_\_\_\_\_  
Robert N. Miller, Vice-Chairman

\_\_\_\_\_  
Karen A. Nelson, Secretary

VOTE REQUIRED: Majority

Prepared by:  
Corporation Counsel

\_\_\_\_\_  
Joseph F. Bellante, Jr.

\_\_\_\_\_  
Robert D. Grove

\_\_\_\_\_  
Jeff Halbach

\_\_\_\_\_  
Michael J. Miklasevich

\_\_\_\_\_  
Dan F. Sharkozy

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5 \_\_\_\_\_  
6 Van H. Wanggaard

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8 \_\_\_\_\_  
9 Pamela Zenner-Richards

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11 **FINANCE AND HUMAN RESOURCES**  
12 **COMMITTEE**

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15 \_\_\_\_\_  
16 Karen A. Nelson, Chairman

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18 \_\_\_\_\_  
19 Robert N. Miller, Vice-Chairman

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21 \_\_\_\_\_  
22 Thomas Pringle, Secretary

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24 \_\_\_\_\_  
25 Russell A. Clark

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27 \_\_\_\_\_  
28 Q. A. Shakoor, II

29  
30 \_\_\_\_\_  
31 Van H. Wanggaard

32  
33 \_\_\_\_\_  
34 Pamela Zenner-Richards

35  
36 **ECONOMIC DEVELOPMENT AND LAND USE**  
37 **PLANNING COMMITTEE**

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40 \_\_\_\_\_  
41 Robert D. Grove, Chairman

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43 \_\_\_\_\_  
44 Mark M. Gleason, Vice Chairman

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46 \_\_\_\_\_  
47 Dan F. Sharkozy, Secretary

48  
49 \_\_\_\_\_  
Kenneth Hall

4 \_\_\_\_\_  
5 Thomas Pringle  
6

7 \_\_\_\_\_  
8 Q. A. Shakoor, II  
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10 \_\_\_\_\_  
11 John A. Wisch  
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13 **The foregoing legislation adopted by the County Board of Supervisors of**  
14 **Racine County, Wisconsin, is hereby:**

15 **Approved:** \_\_\_\_\_

16 **Vetoed:** \_\_\_\_\_

17 **Date:** \_\_\_\_\_,  
18  
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20 \_\_\_\_\_  
21 **William L. McReynolds, County Executive**  
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26 **INFORMATION ONLY**  
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28 **WHEREAS**, The Racine County Drainage District – Norway/Dover District is  
29 responsible for the supervision and administration under Chapter 88 of Wisconsin State  
30 Statutes of the parcels currently making up the Norway/Dover Drainage District; and  
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32 **WHEREAS**. RCDD promises to pay to Racine County the principal sum of Three  
33 Hundred Thousand Dollars (\$ 300,000.00) on September 1<sup>st</sup>, 2011, plus interest; and  
34

35 **WHEREAS**, the loan bears interest on the unpaid principal balance before maturity at  
36 the rate of 1.5% per annum. Interest shall be calculated on a 360 day year consisting of  
37 twelve 30 day months. Interest is due and payable on December 31, 2009 and June 30,  
38 2010 and on the same dates of each consecutive year thereafter, and at maturity; and  
39

40 **WHEREAS**, the goal of this investment is to encourage the RCDD to satisfy their  
41 statutory obligation under Wis. Admin. Code §ATCP 48.20 to adopt the "specifications"  
42 that relate to the Norway/Dover Drainage District and that shall first be presented to the  
43 Department of Agriculture, Trade and Consumer Protection for their approval.  
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TERM LOAN AGREEMENT

This TERM LOAN AGREEMENT ("Agreement") is by and between RACINE COUNTY DRAINAGE DISTRICT – NORWAY/DOVER DISTRICT ("RCDD") and RACINE COUNTY ("RC").

RCDD and RC wish to enter into a lender/borrower relationship; they do so in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RCDD and RC agree as follows:

1. Term Loan. RCDD requests RC to make a term loan to RCDD, and RC agrees to lend \$ 300,000.00 (Three Hundred Thousand Dollars and no/100) as a term loan (the "Loan") to RCDD. The Loan shall be evidenced by and payable to in accordance with the Term Business Note in the form of Exhibit 1 and any renewals, extensions or modifications thereof. Amount advanced to RCDD under the Loan and repaid to RC may not be reborrowed by RCDD under this Agreement.

2. Condition for Loan. RC'S obligation to make the Loan is subject to satisfaction of the condition that RC shall have received the Term Note properly executed by RCDD.

3. Representations. RCDD represents and warrants to RC that:

a) Purpose of Loan. The Loan funds will be used for preparation of the specifications for the Norway/Dover Drainage District as mandated under Wis. Admin. Code §ATCP 48.20 and for one or more of the following purposes:

- (i) Annual Maintenance and brush/tree eradication - est. \$45,000;
- (ii) Engineering and Surveyor costs – est. \$80,000;
- (iii) Outstanding accounts payable – est. \$56,000;
- (iv) Administrative Costs/Fees including: mapping, publication, and notices, insurance, legal costs, commissioner compensation, copy expenses. – est. \$76,000;
- (v) Inflation adjustments – est. \$10,000
- (vi) Construction/maintenance contingency – est. \$30,000

b) Conditions. RCDD agrees to comply with the formal bid process for all engineering and construction work performed under the scope of this agreement and RC will assist RCDD with bid processes in a

manner set out in Chapter 7, Article VIII of the Racine County Code of Ordinances. RCDD further agrees to provide RC with any district accounting and budget documentation in an expedient timeframe upon the request of RC. In addition, RCDD agrees that they will not expend any money whatever from this loan toward future legal fees that relate in anyway to litigation that RC and/or the Wind Lake Management District is a party.

- c) Authority. The execution and delivery of this Agreement and the Note and the performance by RCDD of its obligations under this Agreement and the Note are within its power, have been duly authorized by proper action on the part of RCDD, are not in violation of any existing law, rule or regulation, any order or decision of any court, the Articles of Incorporation, Bylaws or other governing documents of RCDD, as applicable, or the terms of any agreement or restriction to which RCDD is a party or by which it is bound, and do not require the approval or consent of any person or entity. This Agreement, the Note and all documents delivered by RCDD hereunder, when executed and delivered, will constitute the valid and binding obligations of RCDD enforceable in accordance with their terms.
  - d) Organization. RCDD is a corporation validly existing and in good standing under the laws of the State of Wisconsin.
4. Principal and Interest. RCDD agrees to pay interest and repay principal to RC on the unpaid principal balance of the Loan in accordance with the Note. Principal may be prepaid at any time, without penalty.
5. Default and Acceleration. Upon the occurrence of any one or more of the following Events of Default:
- a) RCDD fails to pay any amount when due under this Agreement of the Note;
  - b) Any representation or warranty made under this Agreement or information provided by RCDD in connection with this Agreement is or was false or fraudulent in any material respect; or
  - c) RCDD fails to timely observe or perform any of the covenants or duties contained in this Agreement or in the Note;

then, at RC'S option, and upon notice to RCDD, the total unpaid balance of the Loan shall become immediately due and payable without presentment, demand, protest, or further notice of any kind, all which are hereby expressly waived by RCDD. The total unpaid balance of the Loan shall automatically become due and payable in the event RCDD becomes the subject of bankruptcy or other insolvency proceedings. RC may waive any default without waiving any other subsequent or prior default. RCDD agrees to pay all costs of collection before and after judgment, including reasonable attorneys' fees and legal expenses.

6. Amendment. No amendment, modification, termination or waiver of any provision of this Agreement, nor consent to any departure by RCDD from any provision of this Agreement shall in any event be effective unless it is in writing and signed by RC, and then such waiver or consent shall be effective only in the specific instance and for the specific purposes for which given.

7. Entire Agreement. This Agreement, including the Exhibits attached to it and any Note evidencing a Loan, is intended by RCDD and RC as a final expression of this Agreement and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Agreement except as set forth in this Agreement.

8. No Waiver; Remedies. No failure on the part of RC to exercise, and no delay in exercising, any right, power or remedy under this Agreement shall operate as a waiver of such right, power or remedy; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise of the right or the exercise of any other right. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided by law.

9. Address. RCDD's address and facsimile number are shown below. RCDD shall notify RC in writing of any change of address.

10. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of RC and RCDD and their respective heirs, personal representatives, successors and assigns except that RCDD may not assign or transfer any of RCDD's rights under this Agreement without the prior written consent of RC.

11. Interpretation. The validity, construction and enforcement of this Agreement are governed by the internal laws of Wisconsin. Invalidity of any provision of this Agreement shall not affect the validity of any other provisions of this Agreement.

Dated as of September 08, 2009.

**LENDER:**

RACINE COUNTY

By: \_\_\_\_\_

Its: \_\_\_\_\_

**CUSTOMER:**

RACINE COUNTY BOARD  
OF DRAINAGE  
COMMISSIONERS

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Exhibit 1: Term Note**

**TERM BUSINESS NOTE**

September 8, 2009

\$ 300,000.00

Racine County Drainage District – Norway/Dover District (“Maker”) promises to pay to Racine County (“Lender”) the principal sum of Three Hundred Thousand Dollars (\$ 300,000.00) on September 1<sup>st</sup>, 2011, plus interest as set forth below.

This Note bears interest on the unpaid principal balance before maturity at the rate of 1.5 % per annum. Interest shall be calculated on a 360 day year consisting of twelve 30 day months. Interest is due and payable on December 31, 2009 and on the same date of each consecutive year thereafter, and at maturity. All unpaid principal and accrued interest bear interest after maturity, whether occurring by acceleration or lapse of time, until paid, at the rate of 1.5 %.

Full or partial prepayment of this Note is permitted at any time without penalty.

If Maker fails to make a payment under this Note when due, or upon the occurrence of an event of default described in the Loan Agreement governing this Note, Lender may declare the entire balance of principal and accrued interest to be payable immediately, without notice or demand.

Presentment, protest, demand and notice of dishonor are waived. Lender may, without notice, grant renewals or extensions, accept partial payments, release or impair any collateral security for the payment of this Note or agree not to sue any party liable on it. Maker agrees to pay all costs of collection before and after judgment, including reasonable attorneys’ fees.

This Note may not be supplemented or modified except in writing. This Note benefits Lender, its successors and assigns, and binds Maker and its successors and assigns.

**RACINE COUNTY DRAINAGE  
DISTRICT – NORWAY/DOVER  
DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_