

ORDINANCE 2017-016

PASSED: MARCH 13, 2017

AUTHORIZING THE CITY OF DEKALB, ILLINOIS, TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY LOAN PROGRAM THROUGH THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY IN AN AMOUNT NOT TO EXCEED \$2,000,000.

WHEREAS, the City of DeKalb, DeKalb County, Illinois (“the City”) is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1. *et seq.*; and

WHEREAS, the City of DeKalb operates its public water supply system (“the System”); and

WHEREAS, the Mayor and City Council have determined that it is advisable, necessary, and in the best interest of the public health, safety, and welfare to improve the System, including the projects outlined in the 2017 Water Main Replacement Program (“the Project”) together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to the construction and installation of the Project, all in accordance with the plans and specifications prepared by the consulting engineers of the City, which the Project has a useful life of 75 years. The Project generally consists of replacement of approximately 5,000 lineal feet of water main on Lewis Street, Vienna Boulevard, Maplewood Avenue, South Eleventh Street, East Sunset Place and South Sixth Street; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$2,000,000 and there are insufficient funds on hand and lawfully available to pay these costs; 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; and

WHEREAS, the costs are expected to be paid for with a loan to the City 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 is authorized to borrow funds from the Public Water Supply Loan Program in the aggregate principal amount of \$2,000,000 to provide funds to pay the costs of the Project; and

WHEREAS, the loan to the City shall be made pursuant to a Loan Agreement, including certain terms and conditions between the City and the Illinois

Environmental Protection Agency;

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

SECTION 1. INCORPORATION OF PREAMBLES

The Mayor and City Council 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

It is necessary and in the best interests of the City to construct the Project for the public health, safety, and welfare, in accordance with the plans and specifications, as described; that the System continues to be operated in accordance with the provisions of the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.; and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the City in the aggregate principal amount not to exceed \$2,000,000.

SECTION 3. ADDITIONAL ORDINANCES

The Mayor and City Council 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 applicable laws. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for entering into the Loan Agreement under applicable law.

However, notwithstanding the above, the City 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 with this Ordinance, parity of any other ordinance with this Ordinance, or otherwise alter or impair the obligation of the City 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 4. LOAN NOT INDEBTEDNESS OF THE CITY

Repayment of the loan to the Illinois Environmental Protection Agency by the City pursuant to this Ordinance is to be solely from the revenue derived from revenues of the System, and the loan does not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

SECTION 5. APPLICATION FOR LOAN

The Mayor 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 6. ACCEPTANCE OF LOAN AGREEMENT

The Mayor and City Council 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 City further agrees 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 7. AUTHORIZATION OF MAYOR TO EXECUTE LOAN AGREEMENT

The Mayor is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency in form and content acceptable to him with the recommendation of City staff. Council 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 8. 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 9. REPEALER

All ordinances, resolutions, orders, or parts thereof, which conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed.

SECTION 10. EFFECTIVE DATE

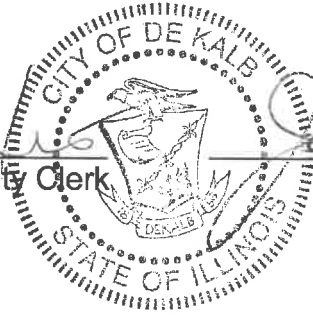
This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: March 14, 2017. Effective date: March 23, 2017.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 13th day of March, 2017, and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey. Waiver of Second Reading passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey.

ATTEST:

Jennifer Jeep Johnson

JENNIFER JEEP JOHNSON, City Clerk



John A. Rey

JOHN A. REY, Mayor