



MEMO

TO: Mayor and City Council

FROM: Peggy Colby, Finance Director

DATE: January 22, 2021

RE: **Ordinance 21-10** AN ORDINANCE authorizing the City of Batavia, Kane and DuPage Counties, Illinois, to issue Waterworks Revenue Bonds in an aggregate principal amount not to exceed \$4,425,000 in evidence of loans issued pursuant to the Public Water Supply Loan Program

The City Council passed Authorizing Ordinance 20-41 for \$3.9M for improvements at the Water Treatment Plant on July 6, 2020. The Water Department put the bids out and the numbers came in higher than the engineers estimate. While both Jeremy Barkei and Gary Holm believe that the project can still be done in the original window of \$3.9M, they feel it best to increase the loan at the forefront. The IEPA has indicated their willingness to accept a higher authorizing Ordinance and has indicated that the funds are available. It is much easier to increase the loan now particularly because the funds are available but also because they may not approve an increase at the end of the project for any number of reasons. The process at the end requires substantial evidence of need and is a more cumbersome process. If we do not pass this new Ordinance and the project goes over the \$3.9M, it will affect construction since the utility does not have additional funds available at this time. The revenue stream, however, can cover the additional debt should it be needed. The IEPA would not approve the increase if the metrics did not work. I agree with both Jeremy and Gary that we should increase the loan now in case it is needed. The interest rate will be 1.35% and so it is very favorable from that aspect. Jeremy will be able to answer any specific questions about the bids and about his request for this new Ordinance. Ordinance 21-10, which was prepared by Chapman and Cutler, also repeals the original Ordinance 20-41.

Ordinance 21-10 has a new limit of \$4,425,000, which is the top end of the lowest bid. I ask that you please call for passage of Ordinance 21-10, An Ordinance authorizing the City of Batavia, Kane and DuPage Counties, Illinois, to issue Waterworks Revenue Bonds in an aggregate principal amount not to exceed \$4,425,000 in evidence of loans issued pursuant to the Public Water Supply Loan Program. This will be on the 1-26-21 COW and if approved, the 2-1-21 CC meeting. Thank you

Cc: Laura Newman
Gary Holm
Jeremy Barkei
File

EXTRACT OF MINUTES of a regular public meeting of the City Council of the City of Batavia, Kane and DuPage Counties, Illinois, held in the City Council Chambers of City Hall, 100 North Island Avenue, Batavia, Illinois, in said City, at 7:00 o'clock P.M., on the 1st day of February, 2021.

* * *

The Mayor called the meeting to order and directed the City Clerk to call the roll. Upon the roll being called, the Mayor and the following Aldermen were physically present at said location: _____

The following Aldermen were allowed by a majority of the Aldermen in accordance with and to the extent allowed by rules adopted by the City Council to attend the meeting by video or audio conference: _____

No Alderman was not permitted to attend the meeting by video or audio conference.

The following Aldermen were absent and did not participate in the meeting in any manner or to any extent whatsoever: _____

The Mayor announced that in order to finance the necessary improvements to the City's waterworks system, it would be necessary for the City to issue Waterworks Revenue Bonds in an amount not to exceed \$4,425,000, and that the City Council would consider the adoption of an ordinance authorizing the issuance of such bonds.

Thereupon, the City Clerk presented, the Mayor explained, and there was read by title an ordinance as follows, a copy of which was provided to each Alderman prior to said meeting and to everyone in attendance at said meeting who requested a copy:

ORDINANCE NO. 21-10

AN ORDINANCE authorizing the City of Batavia, Kane and DuPage Counties, Illinois, to issue Waterworks Revenue Bonds in an aggregate principal amount not to exceed \$4,425,000 in evidence of loans issued pursuant to the Public Water Supply Loan Program.

WHEREAS, the City of Batavia, Kane and DuPage Counties, Illinois (the “*City*”), has a population of more than 25,000, and in accordance with the provisions of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois (the “*Constitution*”), the City is a home rule unit of government and, as such, may exercise any power or perform any function pertaining to its government and affairs including, but not limited to, the power to tax and to incur debt; and

WHEREAS, pursuant to the provisions of Section 6(a) of the Constitution, the City has the power to incur debt payable from any lawful source and maturing within forty (40) years from the time it is incurred without prior referendum approval; and

WHEREAS, the for many years the City has operated a municipal waterworks system (the “*System*”) in accordance with the provisions of Division 129 of Article 11 of the Illinois Municipal Code, as supplemented and amended, and in particular as supplemented by the Local Government Debt Reform Act, as amended (collectively, the “*Act*”); and

WHEREAS, the City Council of the City (the “*Corporate Authorities*”) has determined that it is advisable, necessary, and in the best interest of the public health, safety, and welfare to undertake the following project with respect to the System:

The City's two water treatment plants (“WTPs”) have several components which are nearing the end of their service life and are in need of upgrades in order to maintain treatment of potable water to the City's residents and maintain compliance with all applicable regulations. Both WTPs No. 1 and 2 are located at the same site and discharge to the same transmission main, therefore activities to conduct improvements at both plants under one project are more efficient.

Specific activities to upgrade/improve operations at the WTPs include the following: the rehabilitation of the pumping equipment at Wells Nos. 9, 10, and 11; the rehabilitation of six high service pumps; rehabilitation of the filter at WTP 1; replacement of the backwash lagoon with an underground backwash holding tank for WTP 1; expansion of a brine generator/storage room at WTP 2 for new brine tanks; the replacement of sodium hypochlorite feed pumps; and various building modifications.

together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to the construction and installation (the “Project”), all in accordance with the plans and specifications prepared by the consulting engineers of the City, which Project has a useful life of 20 years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial, bond discount, printing and publication costs, and other expenses, is not less than \$4,425,000, and there are insufficient funds on hand and lawfully available to pay these costs; and

WHEREAS, it is necessary and for the best interests of the City that the Project be undertaken and in order to finance the costs thereof it will be necessary for the City to issue up to \$4,425,000 payable from the revenues of the System as authorized by the Act (the “Bonds”); and

WHEREAS, the State of Illinois (the “State”), acting through the Illinois Environmental Protection Agency (the “IEPA”), has offered to make loans (the “Loans”) to

the City, to be evidenced by waterworks revenue bonds, through the “Public Water Supply Loan Program” (the “*Program*”), for the purpose of paying certain eligible costs of the Project; and it is necessary and advisable to authorize the acceptance of the Loans and execution of appropriate Loan documents at the appropriate times; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the City is authorized to borrow funds from the Program and may issue the Bonds in evidence thereof for the purpose of providing funds to pay the costs of the Project; and

WHEREAS, such loan or loans to the City may be made pursuant to a loan agreement or agreements and bond ordinance or ordinances, with such terms and conditions as may be provided by the IEPA; and

WHEREAS, if funds from the Program are unavailable in a timely manner, the City may pursue the issuance of the Bonds in the conventional public municipal markets:

NOW THEREFORE, be it ordained by the City Council of the City of Batavia, Kane and DuPage Counties, 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 AND ISSUE BONDS

It is necessary and in the best interests of the City to undertake 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 Act, and that, for such purpose, there are hereby authorized to be issued and sold the Bonds in an aggregate principal amount not to exceed \$4,425,000, and in connection therewith, the City is authorized to enter into an agreement with the IEPA for the Loan (the "*Loan Agreement*").

SECTION 3. ADDITIONAL ORDINANCES

The Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance, providing for entering into the Loan Agreement with the IEPA, prescribing all the details of the Bonds, and providing for the collection, segregation and distribution of the revenues of the System, so long as the maximum amount of the Bonds 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 issuance of the Bonds 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 Program without the written consent of the IEPA.

SECTION 4. LOAN NOT INDEBTEDNESS OF CITY OF BATAVIA

Repayment of the Bonds to the IEPA by the City pursuant to this Ordinance is to be solely from the revenue derived from the revenues of the System, and neither the Bonds nor the Loan 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 IEPA for a Loan through the Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 662.

SECTION 6. ACCEPTANCE OF LOAN AGREEMENT; EXECUTION OF LOAN AGREEMENT

The Corporate Authorities hereby authorize acceptance of the offer of a Loan through the 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 IEPA in accordance with the terms and conditions of the Loan Agreement.

The Mayor of the City is hereby authorized and directed to execute the Loan Agreement with the IEPA. The Corporate Authorities may authorize by resolution a person other than the Mayor for the purpose of authorizing or executing any documents associated with payment requests or reimbursements from the IEPA in connection with the Loan.

SECTION 7. OUTSTANDING OBLIGATIONS

The City has outstanding obligations that are payable from revenues of the System (the "*Prior Obligations*"). The Bonds to be issued hereunder will be issued on parity with the Prior Obligations, and no obligations of the City will be senior to the Bonds with respect to the revenues of the System.

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, including, specifically, Ordinance No.20-41 approved by the Corporate Authorities on July 6, 2020 which provided authorization for the issuance of bonds for the Project.

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PASSED by the Corporate Authorities
on February 1, 2021.

APPROVED February 1, 2021

Jeffrey Schielke
Mayor
CITY OF BATAVIA
Kane, County, Illinois

AYES: _____
NAYS: _____
ABSENT: _____

PUBLISHED in the _____ on _____, 2021.

RECORDED in the CITY OF BATAVIA Records on _____, 2021.

ATTEST:

Ellen Posledni

CITY OF BATAVIA Clerk

CITY OF BATAVIA of Kane County, Illinois

Alderman _____ moved and Alderman _____ seconded the motion that said ordinance as presented and read by the City Clerk be adopted.

After a full and complete discussion thereof, including a public recital of the nature of the matter being considered and other information that informed the public, of the business being conducted, the Mayor directed that the roll be called for a vote upon the motion to adopt the ordinance as read.

Upon the roll being called, the following Aldermen voted AYE: _____

NAY: _____

Whereupon the Mayor declared the motion carried and the ordinance adopted, and henceforth did approve and sign the same in open meeting and did direct the City Clerk to record the same in full in the records of the City Council of the City of Batavia, Kane and DuPage Counties, Illinois, which was done.

Other business not pertinent to the adoption of said ordinance was duly transacted at said meeting.

Upon motion duly made and seconded, the meeting was adjourned.

City Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

CERTIFICATION OF ORDINANCE AND MINUTES

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Batavia, Kane and DuPage Counties, Illinois (the “City”), and as such officer I am the keeper of the books, records, files, and journal of proceedings of the City and of the City Council thereof (the “Council”).

I do further certify that the foregoing constitutes a full, true and complete transcript of the minutes of the meeting of the Council held on the 1st day of February, 2021, insofar as same relates to the adoption of Ordinance No. _____ entitled:

AN ORDINANCE authorizing the City of Batavia, Kane and DuPage Counties, Illinois, to issue Waterworks Revenue Bonds in an aggregate principal amount not to exceed \$4,425,000 in evidence of loans issued pursuant to the Public Water Supply Loan Program.

a true, correct and complete copy of which said ordinance as adopted at said meeting appears in the foregoing transcript of the minutes of said meeting.

I do further certify that the deliberations of the Council on the adoption of said ordinance were conducted openly, that the vote on the adoption of said ordinance was taken openly, that said meeting was held at a specified time and place convenient to the public, that notice of said meeting was duly given to all of the news media requesting such notice, that an agenda for said meeting was posted at the location where said meeting was held and at the principal office of the Council at least 96 hours in advance of the holding of said meeting, that at least one copy of said agenda was continuously available for public review during the entire 96-hour period preceding said meeting, that said agenda contained a separate specific item concerning the proposed adoption of said ordinance, a true, correct and complete copy of the agenda as so posted being attached hereto as *Exhibit A*, that said meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and with the provisions of the Illinois Municipal Code, as amended, and that the Council has complied with all of the applicable provisions of said Act and said Code and its procedural rules in the adoption of said ordinance.

IN WITNESS WHEREOF, I hereunto affix my official signature and the seal of the City,
this 1st day of February, 2021.

City Clerk, City of Batavia,
Kane and DuPage Counties, Illinois

[SEAL]