

TO: Committee of the Whole - Utilities

FROM: Jeremy Barkei, Water and Sewer Utility Superintendent

DATE: July 16, 2021

RE: Ordinance 21-34, Authorizing the City of Batavia, Kane and DuPage Counties, Illinois, to borrow funds from the Public Water Supply Loan Program

The Water and Sewer Utility has been working with the IEPA Public Water Supply (PWS) State Revolving Fund (SRF) in attaining \$4,000,000.00 in 100% principal forgiveness funding (which will include engineering) for our Lead Service Line Replacement (LSLR) "Get the Lead Out" program.

Our immediate action once the funding became available has put the City in a prime position for potentially receiving substantial funding.

To date, our in-depth LSL inventory has identified and verified 225 full-length replacements (from the watermain to the home) complete with all fixture count data for permitting as well as executed Temporary Construction Easement (TCE) agreements in hand, and several hundred partial replacements (from shutoff valve to home, or from water main to shut off) and counting (as time allows for verification potholing).

The authorizing ordinance is a requirement of the IEPA PWS SRF application.

Recommendations:

Staff recommends approval of Ordinance 21-34, Authorizing the City of Batavia, Kane and DuPage Counties, Illinois, to borrow funds from the Public Water Supply Loan Program.

C. Laura Newman
Gary Holm
Peggy Colby

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 21-34**

**AN ORDINANCE AUTHORIZING THE CITY OF BATAVIA, KANE AND DUPAGE
COUNTIES, ILLINOIS, TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY
LOAN PROGRAM**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
19TH DAY OF JULY, 2021**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 19th day of July, 2021

Prepared by:
City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 21-34**

**AN ORDINANCE AUTHORIZING THE CITY OF BATAVIA, KANE AND DUPAGE
COUNTIES, ILLINOIS, TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY
LOAN PROGRAM**

WHEREAS, the CITY of BATAVIA, Kane County, Illinois, operates its public water supply system (“the System”) and in accordance with the provisions of the Article VII and the Local Government Debt Reform Act, 30 ILCS 350/1 et seq. (collectively “the Act”); and

WHEREAS, the MAYOR and CITY COUNCIL of the CITY OF BATAVIA (“the Corporate Authorities”) 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 following:

Replacement of Lead Water Service Lines:

The City is interested in replacing lead service water lines in the interest of public health, to avoid the risk of increased lead levels beyond regulatory limits in its customers’ water. This includes lead service lines on the public and/or private sides of the service (full lead service line replacements), as well as galvanized steel services on the private side that are or are known to have been downstream of public-side lead services; and

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 OF BATAVIA, which Project has a useful life of 100 years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial, and other related expenses is Four Million Dollars (\$4,000,000), and there are insufficient funds on hand and lawfully available to pay these costs; and

WHEREAS, in accordance with the Procedures for Issuing Loans from the Public Water Supply Loan Program Title 35 Ill. Adm. Code Part 662.250, the CITY OF BATAVIA is eligible to have up to \$4,000,000 of the Project costs be forgiven by the State of Illinois pursuant to principal loan forgiveness provisions; and

WHEREAS, to the extent that principal loan forgiveness is not available for the Project, the CITY OF BATAVIA has determined that it will not be seeking a loan for the Project and, therefore, the loan described herein will not be subject to repayment; and

WHEREAS, in accordance with the provisions of the Act, the CITY OF BATAVIA is authorized to borrow funds from the Public Water Supply Loan Program in the aggregate

principal amount of \$4,000,000 in the form of a forgivable loan 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;

NOW, THEREFORE, BE IT HEREBY 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

It is necessary and in the best interests of the CITY OF BATAVIA 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 OF BATAVIA in the form of a forgivable loan in the aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$4,000,000.

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 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 OF BATAVIA 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 OF BATAVIA 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 CITY OF BATAVIA

Repayment of the loan to the Illinois Environmental Protection Agency by the CITY OF BATAVIA pursuant to this Ordinance is to be solely from the revenue derived from the revenues of the System, and the loan does not constitute an indebtedness of the CITY OF BATAVIA within the meaning of any constitutional or statutory limitation. The foregoing notwithstanding, the CITY OF BATAVIA is only seeking a loan for which principal loan forgiveness is available and, to the extent that principal loan forgiveness is not available for the Project, the CITY OF BATAVIA has determined that it will not be seeking a loan for the Project.

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 Corporate Authorities 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 Corporate Authorities further agree 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. OUTSTANDING BONDS

The CITY OF BATAVIA has outstanding bonds that are payable from revenues of the system; the outstanding bonds are not senior to, but on parity with, the loan authorized by this Ordinance.

SECTION 8. 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. The Corporate Authorities 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 9. 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 10. 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.

THE REST OF THIS PAGE IS LEFT INTENTIONALLY BLANK.

CITY OF BATAVIA, ILLINOIS ORDINANCE 21-34

This Ordinance 21-34 shall be in full force and effect upon its passage, presentation, and approval according to law, effective July 20, 2021.

PRESENTED to the City Council of the City of Batavia, Illinois, this 19th day of July, 2021.

PASSED by the City Council of the City of Batavia, Illinois, this 19th day of July, 2021.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 19th day of July, 2021.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	Solfa					Baerren				
2	Leman					Wolff				
3	Ajazi					Chanzit				
4	Malay					Knopp				
5	Uher					Beck				
6	Cerone					Russotto				
7	Vogelsinger					Miller				
Mayor Schielke										
VOTE: 12 Ayes 0 Nays 2 Absent 0 Abstentions Total holding office: Mayor and 14 aldermen										

ATTEST:

Kate Garrett, City Clerk

CERTIFICATION

I, Kate Garrett do hereby certify that I am the duly elected, qualified and acting Clerk of the CITY OF BATAVIA. I do further certify that the above and foregoing, identified as Ordinance Number, 21-34 is a true, complete and correct copy of an ordinance otherwise identified as An Ordinance authorizing the City of Batavia, Kane and DuPage Counties, Illinois, to borrow funds from the Public Water Supply Loan Program, passed by the City Council of the CITY OF BATAVIA on the 19th day of July, 2021, and approved by the Mayor of the CITY OF BATAVIA on the same said date, the original of which is part of the books and records within my control as Clerk of the CITY OF BATAVIA.

Dated this _____ day of _____, 20 ____.

Kate Garrett, City Clerk