

29-O-24

AN ORDINANCE

**Authorizing the City to Borrow Funds from
the Illinois Environmental Protection Agency
Public Water Supply Loan Program**

WHEREAS, the City of Evanston, in the County of Cook, Illinois (the “City”) operates its public water supply system (“the System”) and in accordance with the provisions of the provisions of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois 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 (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:

Annual replacement of approximately 500 service lines throughout the City over a five-year period.

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 100 years; and

WHEREAS, the estimated cost of constructing and installing the Project, including engineering, legal, financial, and other related expenses is Twenty Five Million dollars (\$25,000,000) and there are insufficient funds on hand and lawfully available to pay such costs; and

WHEREAS, the loan shall bear an interest rate as defined by 35 Ill. Adm. Code 663, 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 repayment period shall not be less than 30 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 from 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 Waters Supply Loan Program in the aggregate principal amount of Twenty Five Million dollars (\$25,000,000) 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;

NOW THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS AS FOLLOWS:

SECTION 1: 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: 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 (which can include construction period interest financed over the term of the loan) not to exceed Twenty Five Million dollars (\$25,000,000).

SECTION 3: 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 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: 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: The City Manager is hereby authorized to make an 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 663.

SECTION 6: 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: The City has outstanding bonds, payable from revenues of the system, that are senior to the loan authorized by this Ordinance, and the City establishes an account, coverage, and reserves equivalent to the account(s), coverage(s) and reserve(s) as the senior lien holders in accordance with 35 Ill. Adm. Code 663.350(a)(9)(C)(PWS).

SECTION 8: The City Manager 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 City Manager 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: 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: All ordinances, resolutions, orders, or parts thereof, which conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed.

Introduced: _____ March 11, 2024

Approved:

Adopted: _____ March 25, 2024

_____ March 25, 2024

Daniel Biss

Daniel Biss, Mayor

Attest:

Approved as to form:

Stephanie Mendoza

Alexandra B. Ruggie

Stephanie Mendoza, City Clerk

Alexandra B. Ruggie, Interim Corporation
Counsel