

ORDINANCE NO. 24 - _____

ORDINANCE AUTHORIZING THE CITY OF NAPERVILLE TO ENTER INTO A PROPOSED LOAN AGREEMENT PURSUANT TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY WATER POLLUTION CONTROL LOAN PROGRAM

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and

WHEREAS, the City of Naperville, DuPage and Will Counties, Illinois, operates its sewerage system (“the System”) and in accordance with the provisions of Article VII, Section 6(a) of the Illinois Constitution 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 Naperville (“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:

- Phase one of the multi-project program for improvements at the Springbrook Water Reclamation Center includes improvements to the South Plant Grit and RAS which are essential to wastewater service for more than 162,000 Naperville residents currently dependent on the plant;
- The project prepares the South Plant for subsequent improvements that will allow shifting splitting flow evenly between the North and South Plant, providing the South Plant with adequate aeration basin volume for nitrification under design conditions, and reactor volume required for nutrient removal when required;
- The project includes the construction of two vortex grit chambers, two grit removal pumps, two grit classifiers, a RAS/WAS pumping station with three RAS pumps, associated electrical and instrumentation/controls improvements;

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 Naperville, which Project has a useful life of thirty (30) years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$12,000,000.00, 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 365, 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 twenty (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 of Naperville from the Water Pollution Control Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from water utility revenues 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 of Naperville is authorized to borrow funds from the Water Pollution Control Loan Program in the aggregate principal amount of \$12,000,000.00 to provide funds to pay the costs of the Project; and

WHEREAS, the loan to the City of Naperville shall be made pursuant to a Loan Agreement, including certain terms and conditions between the City of Naperville and the Illinois Environmental Protection Agency;

NOW THEREFORE, be it ordained by the Corporate Authorities of the City of Naperville of DuPage and Will 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 Naperville 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 Naperville in the aggregate principal amount not to exceed \$12,000,000.00.

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 water utility revenues, 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 Naperville 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 Naperville to pay the principal and interest due to the Water Pollution Control Loan Program without the written consent of the Illinois Environmental Protection Agency.

SECTION 4. LOAN NOT INDEBTEDNESS OF THE CITY OF NAPERVILLE

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

(Note: Sources of revenue other than revenues of the system may not qualify for the exemption contained in this model paragraph.)

SECTION 5. APPLICATION FOR LOAN

The City Manager is hereby authorized to make an application to the Illinois Environmental Protection Agency for a loan through the Water Pollution Control Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 365.

SECTION 6. ACCEPTANCE OF LOAN AGREEMENT

The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Water Pollution Control 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 Naperville has no outstanding bonds that are payable from revenues of the system.

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.

SECTION 11. This Ordinance shall be in effect upon passage and publication.

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PASSED by the Corporate Authorities on

_____, 2024.

APPROVED _____, 2024

Mayor
City of Naperville
DuPage and Will Counties, Illinois

AYES: _____

NAYS: _____

ABSENT: _____

PUBLISHED in the _____ on _____, 2024.

RECORDED in the City of Naperville Records on _____, 2024.

ATTEST:

City of Naperville Clerk

City of Naperville of DuPage and Will Counties, Illinois

CERTIFICATION

I, _____, do hereby certify that I am the duly elected, qualified and acting Clerk of the City of Naperville. I do further certify that the above and foregoing, identified as Ordinance Number _____, is a true, complete and correct copy of an ordinance otherwise identified as Ordinance Authorizing the City of Naperville to Enter Into a Proposed Loan Agreement Pursuant to the Illinois Environmental Protection Agency Water Pollution Control Loan Program, passed by the City Council of the City of Naperville, Illinois on the _____ day of _____, 2024, and approved by the Mayor of the City of Naperville 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 Naperville.

Dated this ____ day of _____, 2024.

Clerk of the City of Naperville, Illinois