

ORDINANCE NUMBER 09- 18

**ORDINANCE AUTHORIZING THE LOAN AGREEMENT
FOR THE VILLAGE OF EAST DUNDEE, A HOME RULE
ENTITY IN KANE COUNTY, ILLINOIS, TO BORROW FUNDS
FROM THE PUBLIC WATER SUPPLY LOAN PROGRAM**

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the Village of East Dundee, East Dundee, Kane County, Illinois, operates its public water supply system (“the System”) and in accordance with the provisions of the Section 6 of Article VII of the 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 President and Board of Trustees of the Village of East Dundee (“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:

Drilling of two water wells and construction of a potable water treatment facility on Village owner property within the Prairie lakes Industrial Park 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 Village of East Dundee which Project has a useful life of a minimum of 25 years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$ 2,567,000.00 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 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 Village of East Dundee 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 Village of East Dundee is authorized to borrow funds from the Public Water Supply Loan Program (415 ILCS 5/19.3) in the aggregate principal amount of \$ 2,567,000 to provide funds to pay the costs of the Project; and

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

NOW THEREFORE, be it ordained by the Corporate Authorities of the Village of East Dundee of East Dundee, Kane County, Illinois, as follows:

NOW THEREFORE BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

Section One. 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 Two. Determination to Borrow Funds. It is necessary and in the best interests of the Village of East Dundee 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 Village of East Dundee in the aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$ 2,567,000.

Section Three. 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 Village of East Dundee 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 Village of East Dundee 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 Four. Loan not Indebtedness of Village of East Dundee. Repayment of the loan to the Illinois Environmental Protection Agency by the Village of East Dundee 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 Village of East Dundee within the meaning of any constitutional or statutory limitation.

Section Five. Application for Loan. The Village Administrator of the Village of East Dundee 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 Six. 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 Seven. Authorization of President to Execute Loan Agreement. The President of the Village of East Dundee 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 President 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 Eight. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

Section Nine. Repeal. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section Ten. Publication. This resolution shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 20 day of July, 2009, pursuant to a roll call vote as follows:

AYES: Trustees Ruffalo, Gorman, Cichawski, Lynam, Miller, VanOstenbridge & Pres Bartels

NAYES: Ø

ABSENT: Ø