

ORDINANCE NO. 4411

AN ORDINANCE AUTHORIZING THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS TO BORROW FUNDS IN AN AMOUNT NOT TO EXCEED \$57,348,000 FROM THE WATER POLLUTION CONTROL LOAN PROGRAM FOR THE CITY'S SANITARY SEWER SYSTEM UPGRADE PROJECT

WHEREAS, the City of East Peoria, Tazewell County, Illinois (the "City") operates a combined waterworks and sewerage system ("the System") in accordance with the provisions of Division 139 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-139-1 *et seq.*, and the Local Government Debt Reform Act, 30 ILCS 350/1 *et seq.* (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 interests of public health, safety, and welfare to improve the sewerage system portion of the System, which improvements shall include the following:

Phase A: Wastewater Treatment Plant #1 headworks, grit, influent PS storm flow holding, effluent force main improvements, blower/chlorination building, and lab administration building;

Phase B: Route 8 pump station, Route 8 storm flow holding, and force main improvements;

Phase C: Wastewater Treatment Plant #3 influent interceptor, headworks, grit, influent distribution, storm flow holding improvements, blower building, and sludge dewatering; and

Phase D: Wastewater Treatment Plant #1 secondary treatment conversion, effluent pump station, chlorination, anaerobic digester, aerobic digester, sludge dewatering and storage, and underflow recycle 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 of these improvements (the "Project"), all in accordance with the plans and specifications for the Project prepared by The Farnsworth Group, the consulting engineers to the City for this Project, which Project has a useful life of at least twenty-five (25) years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial, and other related expenses will not exceed \$57,348,000, and there are insufficient funds on hand or 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 making of the loan; and

WHEREAS, the principal and interest payments on the loan 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 of the Project are expected to be paid through a loan to the City from the Water Pollution Control Loan Program operated by the Illinois Environmental Protection Agency (“IEPA”), which loan shall be repaid from revenues of the System and 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 Water Pollution Control Loan Program in the aggregate principal amount of \$57,348,000 to provide funds to pay for 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 IEPA (the “Loan Agreement”);

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. Incorporation of Preambles. The Corporate Authorities hereby find that the recitals contained in the preambles above 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 to construct the Project for the public health, safety, and welfare in accordance with the plans and specifications as described above; that the System continues to be operated in accordance with the provisions of the Act; and that for the purpose of constructing the Project, the City is hereby authorized to borrow funds in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$57,348,000.

Section 3. Publication. This Ordinance, together with a Notice in the statutory form (attached hereto as Exhibit A), shall be published once within ten (10) days after its passage in the *Peoria Journal Star*, a newspaper of general circulation in the City. If no petition, signed by electors numbering ten percent (10%) or more of the registered voters in the City (*i.e.*, 1,624 electors) and asking that the question of improving the System as provided in this Ordinance and entering into the Loan Agreement therefore be submitted to the electors of the City, is filed with the City Clerk within thirty (30) days after the date of publication of this Ordinance and Notice, then this Ordinance shall be in full force and effect. A form of petition shall be provided by the City Clerk to any individual requesting one (attached hereto as Exhibit B).

Section 4. Additional Ordinances. If no petition meeting the requirements of the Act and other applicable law is filed during the 30-day petition period, then the Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance authorizing the City's entry into the Loan Agreement with the IEPA, prescribing all the details of the Loan Agreement, and providing for the collection, segregation, and distribution of all 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 law. 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 Water Pollution Control Loan Program without the written consent of the IEPA.

Section 5. Loan Not Indebtedness of City. Repayment of the loan to the IEPA by the City pursuant to this Ordinance is to be solely from the revenue derived from charges imposed on users of the System, and the loan does not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

Section 6. Application for Loan. The City's Director of Public Works is hereby authorized to make application to the IEPA for a loan through the Water Pollution Control Loan Program for the Project, in accordance with the loan requirements set out in 35 Ill. Adm. Code 365.

Section 7. 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 solely for the purposes of the Project as approved by the IEPA in accordance with the terms and conditions of the Loan Agreement.

Section 8. Reserve Accounts. As long as the City has outstanding senior bonds that are payable from revenues of the System, the City shall also maintain an account, coverage, and reserves equivalent to the account(s), coverage(s) and reserve(s) required by the outstanding ordinance(s).

EXHIBIT A

**NOTICE OF INTENT TO BORROW FUNDS
AND RIGHT TO FILE PETITION**

NOTICE IS HEREBY GIVEN that, pursuant to Ordinance No. 4411 adopted September 4, 2018, the City of East Peoria, Tazewell County, Illinois (the "City") intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency to borrow funds in an aggregate principal amount not to exceed \$57,348,000 and bearing interest per annum not to exceed the maximum rate authorized by law at the time of execution of the Loan Agreement, for the purpose of paying the costs of certain improvements to the sewerage system of the City. A complete copy of said Ordinance accompanies this notice.

NOTICE IS HEREBY FURTHER GIVEN that if a petition signed by 1,624 or more electors of the City (being equal to ten percent (10%) of the registered voters in the City), requesting that the question of improving the City's sewerage system and entering into the Loan Agreement therefore is submitted to the City Clerk within thirty (30) days after publication of this Notice, the question of improving the sewerage system of the City as provided in the Ordinance and the Loan Agreement shall be submitted to the electors of the City at the next election to be held under general election law on April 2, 2019. A form of petition is available from the City Clerk at the East Peoria City Hall, 401 W. Washington, East Peoria, Illinois.

/s/ Morgan R. Cadwalader
Morgan R. Cadwalader, City Clerk
City of East Peoria, Tazewell County, Illinois

EXHIBIT B

PETITION

To the City Clerk of the City of East Peoria, Tazewell County, Illinois:

We, the undersigned, being registered voters of the City of East Peoria, Tazewell County, Illinois, do hereby petition you to cause the question of improving the sewerage system of said City, as provided in Ordinance No. 4411 of said City, and entering into the Loan Agreement as provided in said Ordinance, to be certified to the County Clerk of the County of Tazewell, Illinois, and submitted to the electors of said City at the General Election to be held on April 2, 2019.

<u>Name</u>	<u>Address</u>	
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
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_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois

I, _____, of _____ (insert residence address), _____, Illinois, do hereby certify that the signatures on this petition were signed in my presence and are genuine, and, to the best of my knowledge and belief, the persons so signing were at the time of signing this petition registered voters of said City of East Peoria and that their respective addresses are correctly stated herein.

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public