

City of O’Fallon

ORDINANCE No. _____

**AN ORDINANCE AMENDING
ORD. 3568, AUTHORIZING
THE CITY OF O’FALLON,
ST. CLAIR COUNTY, ILLINOIS
TO BORROW FUNDS FROM THE
PUBLIC WATER SUPPLY LOAN
PROGRAM**

WHEREAS, the City of O’Fallon, St. Clair County, Illinois, operates its public water supply system (“the System”) and in accordance with the provisions of the 65 ILCS 5/1-7-2 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 O’Fallon (“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:

Elevated Water Storage Tanks and French Village Pump Station

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 O’Fallon, which Project has useful life of 40 years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$6,905,246.20, and there are insufficient funds on hand and lawfully available to pay these costs; and

WHEREAS, the loan shall bear an interest rate of 2.5%, 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 City of O'Fallon from the Public Water Supply Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from the sale of water to our 15,000 customers 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 O'Fallon is authorized to borrow funds from the Public Water Supply Loan Program in the aggregate principal amount of \$6,905,246.20 to provide funds to pay the costs of the project; and

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

NOW THEREFORE, be it ordained by the Corporate Authorities of the City of O'Fallon, St. Clair County, 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 the Ordinance by this reference.

SECTION 2. DETERMINATION TO BORROW FUNDS

It is necessary and in the best interests of the City of O'Fallon 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 O'Fallon in the aggregate principal amount not to exceed \$6,905,246.20.

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 sale of water to our 15,000 customers, 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 O'Fallon 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 O'Fallon 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 O'FALLON

Repayment of the loan to the Illinois Environmental Protection Agency by the City of O'Fallon pursuant to this Ordinance is to be solely from the revenue derived from the sale of water to our 15,000 customers, and the loan does not constitute an indebtedness of the City of O'Fallon within the meaning of any constitutional or statutory limitation.

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 purpose of the project as approved by the Illinois Environmental Protection Agency in accordance with the terms and conditions of the Loan Agreement.

SECTION 7. RESERVE ACCOUNTS

As long as the City of O'Fallon has outstanding revenue bonds payable from revenues of the system that are senior to the revenue bond authorized by this ordinance, the City of O'Fallon shall maintain an account, coverage and reserves equivalent to the accounts, coverage and reserves required by the outstanding ordinances.

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

Ordinance No. 3568 are hereby repealed, and all ordinances, resolutions, orders, or parts thereof, which conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed.

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CERTIFICATION

I, _____, do hereby certify that I am the duly elected, qualified and acting Clerk of the City of O'Fallon, St. Clair County. 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 Public Water Supply Loan, passed by the City Council of the City of O'Fallon, St. Clair County on the _____ day of _____, 20____, and approved by the Mayor of the City of O'Fallon, St. Clair County 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 O'Fallon, St. Clair County.

Dated this _____ day of _____, 20____.

Clerk of the City of O'Fallon, St. Clair County