

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
1/9/2018

SUBJECT:	SUBMITTED BY:
Amendment to Loan Agreement with the Illinois Environmental Protection Agency (IEPA)	Judy Buttny Finance Director

SYNOPSIS

A resolution has been prepared authorizing execution of an Amendment to Loan Agreement with the Illinois Environmental Protection Agency.

STRATEGIC PLAN ALIGNMENT

The goals for 2017-2019 include *Steward of Financial, Environmental and Neighborhood Sustainability and Top Quality Infrastructure*.

FISCAL IMPACT

This amendment adds a Disbursement Schedule and a Repayment Schedule to the loan. No other terms of the agreement were changed.

RECOMMENDATION

Approval on the January 9, 2018 Consent Agenda.

BACKGROUND

On [June 6, 2017](#), the Village Council approved a Loan Agreement with the IEPA in the amount of \$1,871,921.48 for 2017 watermain projects. To date, the Village has paid the contractor and been reimbursed \$1,057,193.98 for this project.

In order to initiate repayment of this loan, the IEPA has sent a loan amendment to the Village, which includes an attachment for a Disbursement Schedule and a Repayment Schedule. The first repayment of \$19,161.71 will be due March 28, 2018. When the final payment is made to the contractor with the corresponding reimbursement from the IEPA, the agreement will be amended again with the final amounts and future loan payment amounts adjusted to include the total loan amount.

ATTACHMENTS

Resolution
Amendment to Loan Agreement

RESOLUTION NO. ____

**A RESOLUTION AUTHORIZING EXECUTION OF AN
AMENDMENT TO THE LOAN AGREEMENT BETWEEN
THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
AND THE VILLAGE OF DOWNERS GROVE**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Loan Amendment (the "Agreement"), between the Village of Downers Grove (the "Recipient") and the Illinois Environmental Protection Agency (the "Lender"), for replacement of an 8-inch diameter water main and all related appurtenances, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Mayor and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

LOAN AMENDMENT

ORIGINAL

DRINKING WATER PROJECT: L175336

LENDER:

Illinois Environmental Protection Agency
 Bureau of Water
 Infrastructure Financial Assistance Section
 P.O. Box 19276
 1021 North Grand Avenue, East
 Springfield, IL 62794-9276

RECIPIENT:

Village of Downers Grove
 801 Burlington Avenue
 Downers Grove, IL 60515

FEIN: 366005857

TERMS OF THE LOAN

		<u>Estimated Dates</u>	
Previous Loan Amount:	\$1,871,921.48	Construction start:	06/13/2017
This Action:	\$ 0.00	Construction complete:	09/29/2017
Loan amount:	\$1,871,921.48	Initiation of operation:	09/29/2017
Annual fixed loan rate:	1.6400%	Initiation of repayment period:	09/29/2017
Term:	20 years	First repayment due:	03/28/2018
Repayments:	Semi-Annual	Final repayment due:	09/28/2037

LOAN OFFER AND ACCEPTANCE***Offer by the State of Illinois Environmental Protection Agency***

Except as provided herein, and in the accompanying Letter of Transmittal, all terms and conditions of the original Loan Agreement, including prior amendments, remain unchanged and in full force and effect.



Agency Signature

Chief Financial Officer

Title

Courtney Bott

Name



Date

This offer must be accepted, if at all, on or before 01/09/2018.

Acceptance on behalf of the Borrower

Authorized Representative (Signature)

Date

Name and Title of Authorized Representative (Type or Print)

LOAN AMENDMENT

ORIGINAL

DRINKING WATER PROJECT: L175336

PROJECT DESCRIPTION

Installation of approximately 2,740 linear feet of 8-inch diameter water main and 80 linear feet of 6-inch diameter water main. Installation of approximately 20 linear feet of 12-inch diameter water main, 1,865 linear feet of 8-inch diameter water main, 40 linear feet of 6-inch diameter water main, and 40 linear feet of 4-inch diameter water main. This work is covered by IEPA Permit Numbers 0596-FY2017 and 0663-FY2017.

PROJECT BUDGET

	TOTAL	ELIGIBLE
Construction - Swallow Construction Corporation (A)	\$1,052,739.25	\$1,052,739.25
Construction - Swallow Construction Corporation (B)	\$764,660.25	\$764,660.25
Original Contingency	\$54,521.98	\$54,521.98
TOTAL	\$1,871,921.48	\$1,871,921.48

The loan amount is \$1,871,921.48.

OTHER FUNDING SOURCES/COSTS EXCLUDED

None

FINANCIAL SUMMARY

Total Disbursements	\$1,057,193.98
Construction Period Interest Financed	\$3,293.32
Total Amount Financed	\$1,060,487.30

STANDARD CONDITIONS

Please see Attachment A.

Attachment A

Loan Recipient: Village of Downers Grove
L175336

Loan Agreement – Standard Conditions Illinois EPA Public Water Supply Loan Program

1. PROJECT SCHEDULE

For the purposes of this agreement, the start date will be the date the agreement is executed by the Agency and the complete date will be the date of final repayment. Any obligation of the State of Illinois and the Agency to make any disbursement of loan funds shall terminate unless this project work is initiated and completed in accordance with the schedule contained in the Loan Agreement.

2. AVAILABILITY OF APPROPRIATIONS; SUFFICIENCY OF FUNDS

This Loan Agreement is contingent upon and subject to the availability of sufficient funds. The Agency may terminate or suspend this Loan Agreement, in whole or in part, without penalty or further disbursements being required, if (i) sufficient State funds have not been appropriated to the Agency or sufficient Federal funds have not been made available to the Agency by the Federal funding source, (ii) the Governor or the Agency reserves appropriated funds, or (iii) the Governor or the Agency determines that appropriated funds or Federal funds may not be available for payment. The Agency shall provide notice, in writing, to the loan recipient of any such funding failure and its election to terminate or suspend this Loan Agreement as soon as practicable. Any suspension or termination pursuant to this Section will be effective upon the loan recipient's receipt of notice. Should the Agency terminate or suspend this Loan Agreement as described above, the loan recipient shall still be required to repay to the Agency in accordance with this Loan Agreement the total amount of loan disbursements made by the Agency.

3. DISBURSEMENTS

Disbursement requests for project work will be processed based on costs incurred, subject to the appropriation of funds by the Illinois General Assembly. Such disbursement requests shall be submitted quarterly and will be monitored for compliance with applicable state and federal laws and regulations, including Section 705/4(b)(2) of the Illinois Grant Funds Recovery Act (30 ILCS 705), and shall constitute quarterly reports as required therein by describing the progress of the project and the expenditure of the loan funds related thereto. Any loan funds remaining unexpended in the project account after all application loan conditions have been satisfied and a final loan amendment has been executed shall be returned to the State within forty-five (45) days of the execution date on the final loan amendment. If the loan recipient reimburses their contractor(s) prior to requesting funds from Illinois EPA, the Loan Recipient shall request as quickly as possible, but in no event later than dictated by Section 5 of the submitted Tax Compliance Certificate and Agreement, reimbursement from the Agency.

4. REPAYMENT SCHEDULE – Nature of Obligations, Fixed Loan Rate, Interest, Loan Support and Principal Payments.

a) In accordance with Ill. Adm. Code 662.210, the fixed rate is comprised of interest and loan support, both of which are established annually. The term "interest" is used in this Loan Agreement as well as future correspondence, repayment schedules, etc. to reflect both interest and loan support.

b) This Loan Agreement has been issued and entered into pursuant to an authorizing ordinance of the loan recipient. The recipient recites that it has taken all required actions to enter into the Loan Agreement and has complied with all provisions of law in that regard.

c) By this Loan Agreement, the loan recipient agrees to repay to the Agency (or, upon notice by the Agency to the loan recipient, the Agency's assignee) the principal amount of the loan with interest on the outstanding and unpaid principal amount of the loan from time to time until repaid in full, all as provided in this Loan Agreement.

d) For purposes of determining the repayment amount, the principal amount of the loan shall be the total amount of loan disbursements made by the Agency under this Loan Agreement, plus interest treated as principal as provided in paragraph (g) below. The amount financed shall not exceed the amount identified in the approved authorizing ordinance.

e) The final principal amount will be determined by the Agency after a final disbursement request and project review have been made to ensure all applicable loan conditions have been satisfied.

f) Simple interest on each loan disbursement will begin on the day after the date of the issuance of a warrant by the Comptroller of the State of Illinois.

g) Interest and principal on the loan will be due on the dates and in the amounts as set forth in repayment schedules provided for in this paragraph. Upon the initiation of the loan repayment period, the Agency shall establish and notify the loan recipient of an interim repayment schedule in accordance with the terms of this loan. After the Agency conducts the final review of the costs of the project to establish the final principal amount, the Agency shall establish and notify the loan recipient of a final repayment schedule. For purposes of calculating the repayment schedules, the Agency shall consider principal of the loan to consist of all unrepaid disbursements plus all unrepaid interest accrued on these disbursements at the time the schedule period begins. Each of these repayment schedules shall provide for repayment installments consisting of principal plus simple interest on the unpaid principal balance. The installment repayment amount may change when the interim repayment schedule is replaced by the final repayment schedule.

h) Interest on each loan disbursement shall be calculated on the basis of the total number of days from the date the interest begins to accrue to the beginning of the repayment period and will be calculated on a daily basis using a 365 day year. All interest due on the principal of the loan during the repayment period is calculated on a periodic basis.

i) The Loan Agreement shall be subject to prepayment at any time in whole or in part, at the option of the loan recipient, by payment of the outstanding principal plus accrued and unrepaid interest on that principal accrued to the date of prepayment.

5. MODIFIED OR SUBSEQUENT ORDINANCES

The ordinance authorizing entry into this Loan Agreement or dedicating the source of revenue shall not be amended or superseded substantively or materially without the prior written consent of the Agency.

6. DBE REPORTING REQUIREMENTS

The loan recipient is required to comply with the Disadvantaged Business Enterprise (DBE) reporting requirements as established and mandated by federal law and implemented in federal code: 40 CFR Part 33. Compliance with the code will necessarily involve satisfaction of the six (6) good faith efforts as set forth in the federal DBE program, and will require the use of the particular contract specifications and language for advertising of the project. More information and guidance on the DBE requirements is available on the IEPA web site.

7. COMPLIANCE WITH ACT AND REGULATIONS

The Agency shall not make any payments under this loan offer if the construction project has been completed and is being operated in violation of any of the provisions of the Safe Drinking Water Act, Environmental Protection Act (415 ILCS 5/1 et seq.) or Public Water Supply Regulations of Illinois (Title 35: Subtitle F: Chapter I: Pollution Control Board Regulations and Chapter II: Agency Regulations) adopted thereunder.

8. FINAL INSPECTION

The loan recipient shall notify the Agency's Infrastructure Financial Assistance Section's (IFAS) Post Construction Unit in writing within 30 days from the construction completion date and shall submit the final change order, along with the contractor's final costs. Within 90 days from the construction completion date the loan recipient shall forward one (1) copy of the final plans of record to the appropriate Agency regional field office and one (1) copy to the Agency's IFAS Post Construction Unit. In addition, a completed "Certificate Regarding O & M" (available on the Agency website) shall be sent to the Agency's IFAS Post Construction Unit. The regional field office may contact the loan recipient to schedule a final following submittal of the final plans of record.

9. OPERATION AND MAINTENANCE OF THE PROJECT

The Agency shall not approve the final loan closing for the project unless the loan recipient has certified that the training and operation and maintenance documents have been provided in accordance with 35 Ill. Adm. Code 662.460.

10. FLOOD INSURANCE

Evidence must be provided that flood insurance has been acquired on eligible structures constructed under this Loan Agreement as soon as structures are insurable.

11. DELINQUENT LOAN REPAYMENTS

a) In the event that a repayment is not made by a loan recipient according to the loan schedule of repayment, the loan recipient shall notify the Agency in writing within 15 days after the repayment due date in accordance with 35 Ill. Adm. Code 662.510 Delinquent Loan Repayments.

b) After the receipt of this notification, the Agency shall confirm in writing the acceptability of the loan recipient's response or take appropriate action.

c) In the event that the loan recipient fails to comply with the above requirements, the Agency shall promptly issue a notice of delinquency which requires a written response within 15 days.

d) Failure to take appropriate action shall cause the Agency to pursue the collection of the amounts past due, the outstanding loan balance and the costs thereby incurred, either pursuant to the Illinois State Collection Act of 1986 (30 ILCS 210) or by any other reasonable means as may be provided by law.

12. SINGLE AUDIT ACT

Federal funds from Capitalization Grants for the Drinking Water State Revolving Fund (i.e. see Catalogue of Federal and Domestic Assistance number 66.468), which the Agency receives from the U.S. Environmental Protection Agency, may be used for this loan. Receipt of federal funds may require an annual audit which conforms to the Single Audit Act and O.M.B. Circular A-133. If a Single Audit is required, all loans from both the Drinking Water and Wastewater State Revolving Fund receiving federal funds must be audited and included in the audit report. The Agency will notify the recipient of any federal funds disbursed during the recipient's fiscal year.

13. SUBCONTRACTS UNDER CONSTRUCTION CONTRACTS

The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by such prime contractor in awarding or executing such subcontracts shall comply with:

- a) All provisions of federal, State and local law.
- b) All provisions of 35 Ill. Adm. Code 662 with respect to fraud and other unlawful or corrupt practices.
- c) All provisions of 35 Ill. Adm. Code 662 with respect to access to facilities, records and audit of records.

14. REQUIREMENTS OF BOND ORDINANCE

If the dedicated source of revenue is pledged in a subordinate position to an existing revenue bond ordinance, the covenants regarding coverage and reserve shall be in accordance with 35 Ill. Adm. Code 662.350(a)(9)(C).

15. RECORDS RETENTION

The loan recipient agrees to establish and maintain the books and other financial records pertaining to this project in accordance with Generally Accepted Accounting Principles as issued by the Governmental Accounting Standards Board (GASB), including standards relating to the reporting of infrastructure assets per GASB Statement No. 34. The loan recipient shall maintain all books and records pertaining to this project for a period not less than 3 years from the date of the final loan closing. All records pertaining to the issuance of bonds and the repayment of this loan shall be maintained for a period not less than 3 years from the final repayment date.

The loan recipient agrees to permit the Agency or its designated representatives, including the Illinois Auditor General and the Illinois Attorney General, to inspect and audit the books and financial records pertaining to the project and the expenditure of the loan funds related thereto.

16. CONTINUING DISCLOSURE

The recipient covenants and agrees that, if at any time the Agency shall notify the recipient that the recipient is deemed to be an "obligated person" for purposes of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), the recipient shall promptly execute an undertaking in form acceptable to the Agency in compliance with the Rule in which the recipient shall agree, among other things, to provide annual financial information (as defined in the Rule) with respect to the recipient to all required information repositories for so long as the recipient shall be deemed an obligated person. The recipient shall be deemed to be an obligated person at any time the aggregate principal amount of one or more of the recipient's outstanding loans with the Agency, which are pledged to secure bonds issued on behalf of the Agency, exceeds a percentage (currently 20%) of the aggregate principal amount of all loans of the Agency pledged to secure such bonds.

17. WAGE RATE REQUIREMENTS

The loan recipient is required to comply with Wage Rate requirements established in rules issued by the U.S. Department of Labor to implement the Davis-Bacon Wage Act and other related acts (29 CFR Parts 1, 3 and 5). These rules require a number of specific actions by the federal funding recipient (the IEPA), the sub-recipient (the loan recipient) and the contractor, including payroll record certification and reporting as required. More information and guidance on the Davis-Bacon Wage Act requirements are available on the IEPA web site.

18. USE OF AMERICAN IRON AND STEEL

The loan recipient will be required to comply with the "Use of American Iron and Steel" requirements as contained in Section 436 (a) – (f) of H.R. 3547, the "Consolidated Appropriations Act, 2014". This requirement is only applicable if federal American Iron and Steel requirements were a condition of the original loan agreement.

19. REPORTING REQUIREMENTS

The loan recipient will be required to comply with the volume and frequency of reporting requirements that may be required by the federal or State funding authority.

20. ADDITIONAL COMPLIANCE ITEMS

The loan recipient, prime contractor(s) and subcontractor(s) shall comply with applicable federal funding certifications, non-discrimination statutes, regulations and environmental standards, including but not limited to the following:

- a) The Americans with Disabilities Act of 1990, as amended, and 42 USC 12101
- b) New Restrictions on Lobbying at 40 CFR, Part 34
- c) Immigration and Naturalization Service Employment Eligibility Rules, (I-9 Forms)
- d) False Claims Act – Prompt referral to USEPA's Inspector General of any credible evidence of a false claim or criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds under this loan (Loan Recipient Only)
- e) The Coastal Zone Management Act of 1972, 16 U.S.C. 1451 (Loan Recipient Only)

21. CERTIFICATION

By accepting this loan offer, the loan recipient certifies under oath that all information in the loan agreement and the related loan application is true and correct to the best of the loan recipient's knowledge, information and belief, and that the loan funds shall be used only for the purposes described in the loan agreement. This offer of loan funds is conditioned upon such certification.

22. FISCAL SUSTAINABILITY PLAN REQUIREMENTS

The loan recipient shall comply with the Fiscal Sustainability Plan (FSP) requirement contained in Section 603(d)(1)(E) of the Federal Water Pollution Control Act by submitting a certification that they have developed and implemented a FSP. This provision applies to all loans for which the borrower submitted a loan application on or after October 1, 2014. The Agency will send the loan recipient a FSP Development Certification form prior to final loan closing which shall be submitted and returned as directed. This requirement is only applicable if fiscal sustainability plan requirements were a condition of the original loan agreement. This condition only applies to loans issued from the Water Pollution Control Loan Program. This condition does not apply to Public Water Supply loans.

23. SIGNAGE REQUIREMENT

The loan recipient shall meet a signage requirement by posting a sign at the project site or making an equivalent public notification such as a newspaper or newsletter publication; utility bill insert; or online posting for the project duration. After the signage requirement is met, documentation must be submitted to the IEPA using the Public Notification/Signage Requirement Certificate of Completion. Guidance is available on the IEPA website.

Attachment A

Illinois Environmental Protection Agency
 Infrastructure Financial Assistance Section
 Disbursement Schedule
 For Village of Downers Grove L17-5336

Invoice Date	Warrant Issued	Interest Beginning	Interest Ending	Days in Period	Invoice Amount	Construction Interest
08/11/2017	09/06/2017	09/07/2017	09/29/2017	22	468,000.20	462.61
09/18/2017	09/28/2017	09/29/2017	09/29/2017	0	182,738.07	0.00
10/16/2017	10/23/2017	10/24/2017	03/28/2018	155	406,455.71	2,830.71
				TOTAL:	1,057,193.98	3,293.32

Disbursement Amount: 1,057,193.98
 Interest on Disbursements: 3,293.32
 Current Amount Borrowed: 1,060,487.30

For the purpose of this schedule, the interest periods begin on the Interest Beginning date and ends on the Interest Ending date.

The annual interest rate is 1.6400%. The daily interest rate is the annual interest rate divided by 365 days.

NOTE: Interest begins to accrue on the first day of each interest period. No interest is accrued on the last day of the interest period. The Interest Beginning date is the day after the warrant was actually issued.

Attachment B
Illinois Environmental Protection Agency
Infrastructure Financial Assistance Section
Repayment Schedule
For Village of Downers Grove L17-5336

#	Due Date	Repayment	Interest	Principal	Balance
1	03/28/2018	19,161.71	5,310.18	13,851.53	1,046,635.77
2	09/28/2018	31,465.31	8,582.41	22,882.90	1,023,752.87
3	03/28/2019	31,465.31	8,394.77	23,070.54	1,000,682.33
4	09/28/2019	31,465.31	8,205.60	23,259.71	977,422.62
5	03/28/2020	31,465.31	8,014.87	23,450.44	953,972.18
6	09/28/2020	31,465.31	7,822.57	23,642.74	930,329.44
7	03/28/2021	31,465.31	7,628.70	23,836.61	906,492.83
8	09/28/2021	31,465.31	7,433.24	24,032.07	882,460.76
9	03/28/2022	31,465.31	7,236.18	24,229.13	858,231.63
10	09/28/2022	31,465.31	7,037.50	24,427.81	833,803.82
11	03/28/2023	31,465.31	6,837.19	24,628.12	809,175.70
12	09/28/2023	31,465.31	6,635.24	24,830.07	784,345.63
13	03/28/2024	31,465.31	6,431.63	25,033.68	759,311.95
14	09/28/2024	31,465.31	6,226.36	25,238.95	734,073.00
15	03/28/2025	31,465.31	6,019.40	25,445.91	708,627.09
16	09/28/2025	31,465.31	5,810.74	25,654.57	682,972.52
17	03/28/2026	31,465.31	5,600.37	25,864.94	657,107.58
18	09/28/2026	31,465.31	5,388.28	26,077.03	631,030.55
19	03/28/2027	31,465.31	5,174.45	26,290.86	604,739.69
20	09/28/2027	31,465.31	4,958.87	26,506.44	578,233.25
21	03/28/2028	31,465.31	4,741.51	26,723.80	551,509.45
22	09/28/2028	31,465.31	4,522.38	26,942.93	524,566.52
23	03/28/2029	31,465.31	4,301.45	27,163.86	497,402.66
24	09/28/2029	31,465.31	4,078.70	27,386.61	470,016.05
25	03/28/2030	31,465.31	3,854.13	27,611.18	442,404.87
26	09/28/2030	31,465.31	3,627.72	27,837.59	414,567.28
27	03/28/2031	31,465.31	3,399.45	28,065.86	386,501.42
28	09/28/2031	31,465.31	3,169.31	28,296.00	358,205.42
29	03/28/2032	31,465.31	2,937.28	28,528.03	329,677.39
30	09/28/2032	31,465.31	2,703.35	28,761.96	300,915.43
31	03/28/2033	31,465.31	2,467.51	28,997.80	271,917.63
32	09/28/2033	31,465.31	2,229.72	29,235.59	242,682.04
33	03/28/2034	31,465.31	1,989.99	29,475.32	213,206.72
34	09/28/2034	31,465.31	1,748.30	29,717.01	183,489.71
35	03/28/2035	31,465.31	1,504.62	29,960.69	153,529.02
36	09/28/2035	31,465.31	1,258.94	30,206.37	123,322.65
37	03/28/2036	31,465.31	1,011.25	30,454.06	92,868.59
38	09/28/2036	31,465.31	761.52	30,703.79	62,164.80
39	03/28/2037	31,465.31	509.75	30,955.56	31,209.24
40	09/28/2037	31,465.31	256.07	31,209.24	0.00
TOTAL:		1,246,308.80	185,821.50	1,060,487.30	

For the purpose of this schedule, the interest period begins on 9/29/2017.

The annual interest rate is 1.6400% which makes the periodic interest rate .820000%.

NOTE: Interest begins to accrue on the first day of each interest period. No interest is accrued on the last day of the interest period.