



**CITY OF URBANA, ILLINOIS
FINANCE DEPARTMENT**

MEMORANDUM

TO: Mayor Diane Wolfe Marlin and City Council Members
FROM: Elizabeth Hannan, Finance Director
DATE: May 24, 2019
SUBJECT: **Resolution Approving a Loan Agreement with the Urbana Free Library**

Introduction: Attached is a resolution authorizing the Mayor to execute an agreement for the loan of up to \$500,000 to the Library for a limited period due to an anticipated delay in receipt of property tax revenue.

Discussion: Champaign County has been delayed in sending property tax bills for the 2018 tax levy, which will result in a delay in revenues being available to taxing districts. The current plan is for the first tax bills to be mailed on May 28, which is nearly a month later than usual. This will delay collection of revenue and distributions to taxing districts by about one month.

Property taxes are about 79% of Library Operating Fund revenue. The Library expects to run short of cash to pay employees and vendors before the end of June. To avoid this situation, the City could provide a short-term loan to the Library.

The terms would be as follows –

- No interest charged
- Full repayment within 10 days of receipt of second property tax installment
- Maximum amount of \$500,000, funds drawn as needed
- Draws based on a review of cash balance and projected expenses, reviewed bi-weekly

Fiscal Impact: Any funds loaned to the Library will not be invested, which may result in a loss of interest income to the City of up to \$3,000.

Alternatives:

1. Forward the resolution authorizing the Mayor to execute a loan agreement with the Library to the City Council for approval on June 3.
2. Do not forward the resolution authorizing the Mayor to execute a loan agreement with the Library to the City Council.

Recommendation: Forward the resolution authorizing the Mayor to execute a loan agreement to City Council for approval on June 3, which will allow the Library to continue to pay employees and vendors.

RESOLUTION NO. 2019-05-013R

A RESOLUTION APPROVING A LOAN AGREEMENT WITH THE URBANA FREE LIBRARY

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, and the passage of this Resolution constitutes an exercise of the City’s home rule powers and functions as granted in the Illinois Constitution, 1970; and

WHEREAS, Section 2-2-12 of the Illinois Municipal Code (65 ILCS 5/2-2-12) authorizes incorporated cities to contract and be contracted with; and

WHEREAS, The Urbana Free Library (“Library”) and the City desire to execute an agreement to allow the Library to borrow money from the City; and

WHEREAS, the City Council, after due consideration, finds that approving an agreement with the Library as herein provided is in the best interests of the residents of the City and is desirable for the welfare of the City’s government and affairs.

NOW, THEREFORE, BE IT RESOLVED by the City Council, of the City of Urbana, Illinois, as follows:

Section 1.

A Loan Agreement between The Urbana Free Library and the City of Urbana, Illinois, in substantially the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2.

The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3.

From and after the execution and delivery of such Agreement, the Finance Director is hereby authorized and directed to perform all acts as may be necessary on behalf of the City of Urbana to carry out the purposes and intent of this Resolution.

PASSED BY THE CITY COUNCIL this Date day of Month, Year.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this Date day of Month, Year.

Diane Wolfe Marlin, Mayor

LOAN AGREEMENT

This loan agreement is made between The Urbana Free Library ("Library") and the City of Urbana, Illinois ("Urbana"), each a "party" and together the "parties," and is effective on the last date signed by a party hereto.

Background

This agreement authorizes the Library to borrow money from Urbana.

The Library's fiscal year begins on July 1 and ends on June 30. The Library derives most of its annual budget from the annual tax assessment on real estate. Champaign County generally distributes the revenue from each year's assessment in June and September, but a delay likely will occur this year. Because the Library receives almost half of its tax revenue after the close of its fiscal year, this delay may cause the Library's treasury to contain insufficient funds to defray the Library's necessary expenses and liabilities for general corporate and library purposes. Urbana will lend money to the Library to prevent such a deficit from interfering with the Library's ability to meet its financial obligations. Urbana's loan to the Library is intended to serve as short-term operating capital so that the Library may carry on its day-to-day fiscal, economic, financial, and business affairs. Although Urbana's loan will not be secured, this loan will be drawn against and in anticipation of the Library's receipt of future tax revenue.

Because the undue delay in receiving the loan from Urbana may prevent the Library from meeting its monetary obligations, this agreement authorizes Urbana's finance director to approve the loan and release funds to the Library. Therefore, the parties agree as follows:

1. **Loan authorized.** Subject to the terms of this agreement, Urbana may lend to the Library and the Library may borrow from Urbana a sum as the Library may require to defray its operating expenses in connection with its business. The Library may request the loan in an amount as it may choose, subject to the following conditions:

- A. The Library may request the loan only when the cash projection for the Library's general fund for the two-week period beginning on the Monday next following the request is less than the Library's projected expenses, as determined by the Library's executive director and Urbana's finance director.
- B. The request for the loan may be made orally or in writing only by the Library's executive director.
- C. The amount of the loan must not exceed \$500,000.
- D. The Library is not required to execute a promissory note to receive the loan under this agreement. Urbana's loan to the Library will be unsecured and will bear no interest.

- E. The Library shall submit to Urbana such financial statements and other financial information as Urbana's finance director deems necessary to properly evaluate the Library's request for the loan.
- F. Urbana's finance director has sole and absolute discretion to approve or disapprove the request for the loan and do all things necessary, essential, or convenient to carry out and give effect to the purpose and intent of this agreement. The finance director shall notify the Library of her decision to approve or deny the request for a loan no later than 5:00 p.m. on the fifth business day following her receipt of the request.
- G. Urbana's financial books and records will evidence the loan made by Urbana to the Library and the Library's repayment of the loan. Such financial books and records will be presumptive evidence of the amount due and owing to Urbana by the Library under this agreement, absent manifest error or omission. The Library will have the burden of proof to show manifest error or omission.

2. **Repayment.** The outstanding balance of the loan made under this agreement, if not sooner paid, is due and payable no later than 5:00 p.m. on the tenth day after the Library receives this year's second regular property tax installment. Notwithstanding the foregoing, the entire unpaid balance will become immediately due and payable upon the occurrence of an event of default, as defined in this agreement.

3. **Setoff.** The Library hereby gives Urbana a lien and a right of setoff for the loan made to the Library under this agreement upon and against all the deposits, credits, collateral, and property of the Library now or hereafter in the possession, custody, safekeeping, or control of Urbana or in transit to it, including without limitation future tax distributions to the Library.

4. **Termination.** This agreement will remain in effect until October 1, 2019, unless sooner terminated by either party. Either party may terminate this agreement at any time, with or without cause, upon giving written notice of termination at least 10 days before the termination is to become effective. The Library's obligation to make full and final payment of all amounts due under this agreement will survive the termination of this agreement until fulfilled.

5. **Default.**

A. Events of default. The occurrence of any of the following by the Library will constitute an event of default under this agreement:

- (1) Failure to repay the loan by the due date specified in this agreement or failure to observe or perform any covenant, obligation, or condition contained in this agreement.

- (2) Making any representation or warranty in connection with the request for the loan under this agreement that is untrue in any material respect at the time when made.
- (3) Furnishing any financial statement or other record to Urbana that is untrue in any material respect at the time when made.

B. Remedies. Upon the occurrence of an event of default as defined above, and at any time thereafter during the continuance of such event of default, Urbana may, by written notice to the Library, declare the outstanding loan made under this agreement to be immediately due and payable without presentment, demand, protest, or other notice of any kind, all of which the Library expressly waives. In addition, Urbana may exercise any other right, power, or remedy granted to it hereunder or pursuant to applicable law, including without limitation the right of setoff as provided in this agreement.

6. **Entire agreement.** This agreement constitutes the entire agreement between the parties, supersedes all other agreements or understandings between them pertaining to the matter of this agreement, and may not be amended except by a writing signed by both parties.

7. **Notices.** Except where the terms of this agreement expressly provide otherwise, the parties shall give all notices required or permitted by this agreement in writing. All notices will be deemed given when personally delivered or deposited in the U.S. mail, postage prepaid, first class. A notice delivered by email will be deemed given when the recipient acknowledges having received the email by an email sent to the sender’s email address, as stated in this section, or by a notice delivered by another method in accordance with this section. An automatic “read receipt” will not constitute acknowledgment of an email for purposes of this section. Each party’s address is stated below and may be changed to such other address as the party may hereafter designate by notice.

The Urbana Free Library:

Celeste Choate, Executive Director
 The Urbana Free Library
 210 W. Green Street
 Urbana, Illinois 61801
 217-367-4058
 cchoate@urbanafree.org

City of Urbana:

Elizabeth Hannan, Finance Director
 City of Urbana
 400 S. Vine Street
 Urbana, Illinois 61801
 217-384-2368
 eahannan@urbanaininois.us

8. **Waiver.** Either party’s failure to enforce any provision of this agreement will not be deemed a waiver of future enforcement of that or any other provision. A waiver of any provision of this agreement is valid only if in writing and signed by the parties.

9. **Counterparts.** The parties may sign this agreement in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the

same instrument. Signatures delivered by email in Adobe Portable Document Format (PDF) will be deemed original signatures for all purposes.

The parties are signing this agreement on the dates indicated below their signatures.

The Urbana Free Library

City of Urbana, Illinois

By: _____
Christian Scherer
President, Board of Library Trustees

By: _____
Diane Wolfe Marlin
Mayor

Date: _____, 2019

Date: _____, 2019

By: _____
Barbara Bennett
Secretary, Board of Library Trustees

Attest:

Date: _____, 2019

Charles A. Smyth City Clerk

Resolution No. 2019-06

Resolution No. 2019-