BILL 2016-43

****** First Reading ******

Agenda Item

TO: Mayor and City Council

FROM: Mark S. Gaugh, City Manager

DATE: September 19, 2016

RE: Ordinance for Certificates of Participation

Issues

The attached ordinance authorizes a lease purchase transaction for the funding of wastewater plant, system capital improvements. The project's original lease began in 2014, and the second phase was delayed until the financing would actually be needed.

These capital improvements are designed to make operational improvements at the wastewater plant, including biosolids (waste sludge) handling. The system improvements make some structural repairs, new line additions and work to reduce the amount of infiltration and inflow (I/I) to the sanitary sewer system. These improvements do not represent the entire system, but go a long way toward I/I reduction and system maintenance.

Recommendation

Staff recommends that the Council approve the ordinance for funding through Certificates of Participation for capital improvements.

Bill 2016-43

AN ORDINANCE AUTHORIZING THE CITY OF CAMERON, CLINTON AND DEKALB COUNTIES, MISSOURI TO ENTER INTO A LEASE PURCHASE TRANSACTION TO PAY COSTS OF WATER AND SEWER SYSTEM IMPROVEMENTS AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the City of Cameron, Clinton and DeKalb Counties, Missouri (the "City"), has previously entered into a Lease Purchase Agreement dated as of October 1, 2014 (the "Original Lease"), between UMB Bank, N.A., as trustee and lessor (the "Trustee"), and the City, as lessee, pursuant to which the Trustee has leased to the City, with an option to purchase, all equipment, apparatus and materials acquired and installed in connection with the construction and installation of water system improvements and equipment, the construction of improvements and extensions to the City's sewerage collection system and the engineering and design work for sewerage collection system improvements, including the engineering and design work associated with the planned construction and installation of major upgrades to the City's wastewater treatment plant (collectively, the "2014 Project"), to the extent that costs of such equipment, apparatus and materials acquired and installed in connection with the 2014 Project were paid for with proceeds of the hereinafter defined Series 2014 Certificates (the "2014 Leased Property"); and

WHEREAS, in order to pay the costs of such 2014 Project, the Trustee has previously delivered Certificates of Participation (Water and Sewer Improvements), Series 2014 (the "Series 2014 Certificates"), in the original principal amount of $5,075,000, pursuant to a Declaration of Trust dated as of October 1, 2014 (the "Original Declaration of Trust"), made by the Trustee; and

WHEREAS, the City now proposes to enter into a First Supplemental Lease Purchase Agreement dated as of October 1, 2016 (the "First Supplemental Lease"), which amends and supplements the Original Lease (as supplemented and amended by the First Supplemental Lease, the "Lease"), pursuant to which the Trustee will lease to the City, with an option to purchase, all equipment, apparatus and materials acquired and installed in connection with the construction and installation of major upgrades to the City's wastewater treatment plant and other sewerage collection system improvements (collectively, the "2016 Project") to the extent that costs of such equipment, apparatus and materials are acquired and installed in connection with the 2016 Project are paid for with proceeds of the hereinafter defined Series 2016 Certificates (the "2016 Leased Property," and, together with the 2014 Leased Property, the "Leased Property"); and

WHEREAS, in order to facilitate the foregoing and to pay the costs thereof, it is necessary and desirable for the City to take the following actions:

1. Enter into the First Supplemental Lease, pursuant to which the City, as lessee, will lease on a year-to-year basis from the Trustee, with an option to purchase, the Leased Property, the form of which is attached hereto as **Exhibit A**;

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2. Approve a First Supplemental Declaration of Trust (the "First Declaration of Trust"), which amends and supplements the Original Declaration of Trust (as supplemented and amended by the First Supplemental Declaration of Trust, the "Declaration of Trust") to be made and delivered by the Trustee, pursuant to which the Trustee will execute and deliver $3,850,000 principal amount of Certificates of Participation (Water and Sewer Improvements), Series 2016 (the "Series 2016 Certificates"), evidencing proportionate interests in the right to receive Basic Rent Payments payable pursuant to the Lease, the sale proceeds of which will be held in trust by the Trustee under the Declaration of Trust for use in paying costs of the 2016 Project and paying costs of issuing the Series 2016 Certificates, the form of which is attached hereto as **Exhibit B**;

3. Enter into a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") with the Trustee pursuant to which the City agrees to provide certain financial and other information with respect to the Series 2016 Certificates, the form of which is attached hereto as **Exhibit C**;

4. Enter into a Tax Compliance Agreement (the "Tax Compliance Agreement") with the Trustee pursuant to which the City makes certain representations and covenants related to the exclusion of the interest portions of Basic Rent under the Lease from gross income for purposes of federal income taxation, the form of which is attached hereto as **Exhibit D**;

5. Approve an Official Statement relating to the Lease and the Series 2016 Certificates, to be in substantially the same form as the Preliminary Official Statement (the "Official Statement"), the form of which is attached hereto as **Exhibit E**; and

6. Approve a Certificate Purchase Agreement (the "Certificate Purchase Agreement"), among the City, Piper Jaffray & Co., as the initial purchaser of the Series 2016 Certificates (the "Purchaser"), and the Trustee, the form of which is attached hereto as **Exhibit F**.

The Lease, the Continuing Disclosure Agreement, the Tax Compliance Agreement, the Official Statement and the Certificate Purchase Agreement are referred to together herein as the "City Documents."

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMERON, CLINTON AND DEKALB COUNTIES, MISSOURI, AS FOLLOWS:

Section 1. Authorization and Approval of City Documents and Declaration of Trust. The City Documents and the Declaration of Trust are hereby approved in substantially the forms submitted to and reviewed by the City Council on the date hereof, with such changes therein as are approved by the Mayor. The Mayor's execution of the City Documents will be conclusive evidence of such approval.

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The obligation of the City to pay Basic Rent Payments (as defined in the Lease) under the Lease is subject to annual appropriation and will constitute a current expense of the City and will not in any way be construed to be an indebtedness or liability of the City in contravention of any applicable constitutional, charter or statutory limitation or requirement concerning the creation of indebtedness or liability by the City, nor will anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the Lease will be construed so as to give effect to such intent.

The Mayor is hereby authorized and directed to execute and deliver the City Documents and to approve changes to the Declaration of Trust on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to affix the City's seal to the City Documents and attest said seal.

Section 2. Approval of Official Statement. The final Official Statement is hereby authorized and approved, supplementing, amending and completing the preliminary Official Statement, with such changes therein and additions thereto as are approved by the officer of the City executing the final Official Statement, said officer's execution thereof to be conclusive evidence of said officer's approval thereof, and the public distribution of the final Official Statement by the Purchaser are in all respects hereby authorized and approved. The Mayor of the City is hereby authorized to execute and deliver the final Official Statement on behalf of and as the act and deed of the City.

For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission, the City hereby deems the information regarding the City contained in the preliminary Official Statement to be "final" as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1), and the appropriate officers of the City are hereby authorized, if requested, to provide the Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirement of such Rule.

Section 3. Further Authority. The City will, and the officials and agents of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the City Documents and the other documents authorized or approved hereby and the Project. Without limiting the foregoing, the Mayor or the City Manager is hereby authorized, if required, to execute any certificate or agreement to allow the Purchaser to comply with Rule 15c2-12 of the Securities and Exchange Commission.

Section 4. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval.

Read and passed on first reading only the 19th day of September 2016.
Read and passed on second reading this _____ day of _____ 2016.

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Read and passed on third reading by roll call this _____ day of _____ 2016.

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(SEAL)

Mayor Jerri Ann Eddins

ATTEST:

_____
City Clerk/Finance Clerk

First Reading