



# United City of Yorkville

800 Game Farm Road  
Yorkville, Illinois 60560  
Telephone: 630-553-4350  
www.yorkville.il.us

## NOTICE

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I, Mayor John Purcell, call a Special City Council meeting on Tuesday, May 19, 2020 at 5:30 p.m., pursuant to the Open Meetings Act (5 ILCS 120/). The agenda for this meeting shall include the following:

1. Call to Order
2. Roll Call
3. Establishment of Quorum
4. Citizen Comments
5. Business
  - a. Resolution Approving the Issuance of a Non-Recourse Promissory Note to Borrow \$400,000 from the Kendall County Revolving Loan Fund to Secure Emergency Working Capital Grant Funding, under the Downstate Small Business Stabilization Program, for Local Businesses facing Hardship due to the COVID-19 Pandemic
  - b. Letter to Governor on Reopen Illinois Plan
6. Adjournment

Dated this 15<sup>th</sup> day of May, 2020.



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Mayor John Purcell



# United City of Yorkville

800 Game Farm Road  
Yorkville, Illinois 60560  
Telephone: 630-553-4350  
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## AGENDA SPECIAL CITY COUNCIL MEETING

Tuesday, May 19, 2020

5:30 p.m.

City Hall Council Chambers  
800 Game Farm Road, Yorkville, IL

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1. Call to Order
2. Roll Call
3. Establishment of Quorum
4. Citizen Comments
5. Business
  - a. Resolution Approving the Issuance of a Non-Recourse Promissory Note to Borrow \$400,000 from the Kendall County Revolving Loan Fund to Secure Emergency Working Capital Grant Funding, under the Downstate Small Business Stabilization Program, for Local Businesses facing Hardship due to the COVID-19 Pandemic
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|                       |                                     |
|-----------------------|-------------------------------------|
| Reviewed By:          |                                     |
| Legal                 | <input type="checkbox"/>            |
| Finance               | <input type="checkbox"/>            |
| Engineer              | <input type="checkbox"/>            |
| City Administrator    | <input checked="" type="checkbox"/> |
| Human Resources       | <input type="checkbox"/>            |
| Community Development | <input type="checkbox"/>            |
| Police                | <input type="checkbox"/>            |
| Public Works          | <input type="checkbox"/>            |
| Parks and Recreation  | <input type="checkbox"/>            |

Agenda Item Number

Business - A

Tracking Number

**Agenda Item Summary Memo**

**Title:** Resolution Approving the Issuance of a Non-Recourse Promissory Note - DSBSP

**Meeting and Date:** Special City Council – May 19, 2020

**Synopsis:** Please see attached.

**Council Action Previously Taken:**

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

**Type of Vote Required:** Majority

**Council Action Requested:** Approval

**Submitted by:** Bart Olson Administration  
Name Department

**Agenda Item Notes:**

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# Memorandum

To: City Council  
From: Bart Olson, City Administrator  
CC:  
Date: May 15, 2020  
Subject: Kendall County Revolving Loan Fund for Downstate Grants

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## Summary

Consideration of a resolution and loan document for use of \$400,000 in Kendall County revolving loan funds for purposes of reducing City risk for the Downstate Small Business Stabilization Program.

## Background

This item was last discussed by the City Council at the May 12<sup>th</sup> City Council meeting, when the City Council conducted a public hearing on 18 downstate small business stabilization program grants and voted to support all 18 grants contingent upon approval of a future County intergovernmental agreement for use of revolving loan funds to backstop the grants. Since that meeting, City staff and County staff have been working together to finalize the form of the agreement. The attached resolution and promissory note is the semi-final product of that work.

Kendall County has advised the City that the proper way to backstop the downstate grants is through a loan from the Kendall County revolving loan fund. These loans are typically authorized through a promissory note, instead of an intergovernmental agreement. The County has been working to finalize the exact language of this promissory note in advance of the Tuesday, May 19<sup>th</sup> County Board meeting at 9am. As of 2pm Friday, May 15<sup>th</sup>, the document is still in draft form. The current draft of the note is attached, and the summary of the content is as follows:

### 1) Introduction

- a. The loan amount is \$400,000. This is the maximum amount available to Yorkville since the remainder of the County's revolving loan fund is being split between all municipalities in the County. This amount is less than the total potential value of all of the 18 first round grants and 8 second round grants (\$400,000 vs ~\$630,000). While City staff thinks it is unlikely that more than a handful of Yorkville businesses will receive state grants, the ~\$230,000 gap between the loan and potential grant awards represents the City's risk in the program.

### 2) Section 2 – Holding of Loan Amount

- a. The loan funds must be in their own bank account.

### 3) Section 3 – Promise to Pay

- a. The City has to return unused grant funds to the County, with any interest the City has accrued on the funds, as soon as grant decisions are made or the City stops pursuing future grants.
- b. The City has to return used/held funds for successful businesses, until the end of the grant period (generally 6 months or 1 year, depending on the business).

- c. The County is responsible for pursuing recovery of funds from businesses that violate the grant program. In the event that recovery is not possible, the City is not responsible for repaying the County.
- 4) Section 8 – Record Keeping and Reporting
- a. The City has to give the County notice of any successful grant applications. At time of award, the City is supposed to send the County a copy of the participation agreement between the City and the business a notice setting the last date of the grant program.
  - b. The City has to give the County quarterly update about the grant applications.
  - c. The City has to give the County any notice of grant defaults by a business.
- 5) Section 9 – Pursuit of DSBSP Repayment from Benefitting Business
- a. The City has to include an assignment clause in the participation agreement between the City and the business. This assignment clause gives the County authority to pursue recovery of funds from business who has defaulted under the grant.
  - b. The City has to assist with County recovery efforts.
- 6) Sections not in the agreement that may need to be added, depending on final review by the County Board and the Kendall County State’s Attorney
- a. The County has various revolving loan fund recovery policies, which are not referenced in this document. There is currently a discussion among parties within the County organization as to whether these policies have to be referenced in the City-County promissory note. If this discussion is finalized before the City Council meeting, a supplemental packet may be issued. If not, an update will be given at the meeting.

Attorney Orr has opined that the proper vehicle to approve this promissory note is a resolution. A draft resolution is attached to this memo.

**Recommendation**

Staff recommends approval of the resolution and promissory note document, as currently included in the City Council packet.

**A RESOLUTION APPROVING THE ISSUANCE OF A NON-RECOURSE  
PROMISSORY NOTE**

**WHEREAS**, the United City of Yorkville, Kendall County, Illinois (the “City”) is a duly organized and validly existing municipality of the State of Illinois pursuant to the 1970 Illinois Constitution and the Illinois Municipal Code, as from time to time amended (the “*Municipal Code*”) (65 ILCS 5/65-1-1-2, *et seq.*); and,

**WHEREAS**, the City has been advised that it is eligible to participate in the “Downstate Small Business Stabilization Program” (the “DSBSP”), a program of the Illinois Department of Commerce and Economic Opportunity (“DCEO”) that provides up to \$25,000 for small businesses impacted by the COVID-19 pandemic; and,

**WHEREAS**, the City is prepared to participate in the DSBSP on behalf of all of the small businesses within the City who have experienced catastrophic losses due to COVID-19 and the closure of all but those businesses deemed “essential”; and,

**WHEREAS**, pursuant to the guidelines issued by DCEO, the City is the applicant to the program on behalf of the City’s small businesses and is required to enter into an agreement with each business participating in the grant program (the “*Participation Agreement*”) agreeing to enforce the terms of the Participation Agreement and pursue repayment of any funds received by any of the businesses which defaults in its obligations, and, if not repaid by such business, the City is deemed liable to DCEO for any amount owing; and,

**WHEREAS**, Kendall County has come forward to serve as a “grantor” of any amounts which must be repaid in the event default by any of the City’s small business which have received a grant through a loan to the City of \$400,000 from its revolving loan fund on the condition that the City assigns its rights under the Participation Agreement thereby authorizing the County to

undertake any action required for repayment of funds received through the grant program by any defaulting small business in the City, all as set out in the *Promissory Note for Yorkville, Illinois, to Borrow \$400,000 from the Kendall County Revolving Loan Fund to Secure Emergency Working Capital Grant Funding, under the Downstate Small Business Stabilization Program, for Local Businesses facing Hardship due to the COVID-19 Pandemic*, attached hereto.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and City Council of the United City of Yorkville, Kendall County, Illinois, that the *Promissory Note for Yorkville, Illinois, to Borrow \$400,000 from the Kendall County Revolving Loan Fund to Secure Emergency Working Capital Grant Funding, under the Downstate Small Business Stabilization Program, for Local Businesses facing Hardship due to the COVID-19 Pandemic*, attached hereto and made a part hereof, is hereby approved and the Mayor and City Clerk are hereby authorized to execute same.

This Resolution shall be in full force and effect upon its passage and approval as provided by law.

Passed by the City Council of the United City of Yorkville, Kendall County, Illinois this \_\_\_\_ day of \_\_\_\_\_, A.D. 2020.

\_\_\_\_\_  
CITY CLERK

KEN KOCH \_\_\_\_\_

DAN TRANSIER \_\_\_\_\_

JACKIE MILSCHEWSKI \_\_\_\_\_

ARDEN JOE PLOCHER \_\_\_\_\_

CHRIS FUNKHOUSER \_\_\_\_\_

JOEL FRIEDERS \_\_\_\_\_

SEAVER TARULIS \_\_\_\_\_

JASON PETERSON \_\_\_\_\_

**APPROVED** by me, as Mayor of the United City of Yorkville, Kendall County, Illinois  
this \_\_\_\_ day of \_\_\_\_\_, A.D. 2020.

\_\_\_\_\_  
MAYOR

*Attest:*

\_\_\_\_\_  
CITY CLERK



**PROMISSORY NOTE FOR YORKVILLE, ILLINOIS, TO BORROW \$400,000 FROM THE KENDALL COUNTY REVOLVING LOAN FUND TO SECURE EMERGENCY WORKING CAPITAL GRANT FUNDING, UNDER THE DOWNSTATE SMALL BUSINESS STABILIZATION PROGRAM, FOR LOCAL BUSINESSES FACING HARDSHIP DUE TO THE COVID-19 PANDEMIC**

Yorkville, Illinois, (“Borrower”) will borrow a total amount of \$400,000 (“Loan Amount”) from the Kendall County Revolving Loan Fund, held and managed by Kendall County, Illinois, (“Lender”) for the sole purpose of repaying Downstate Small Business Stabilization Program (“DSBSP”) Grant Funds to the State of Illinois (“State”). This loan is subject to the following terms and conditions contained in this Promissory Note (“Note”):

1. **INCORPORATION:** Kendall County Resolution 20-\_\_ and the recitals set forth therein are incorporated as if fully set forth herein.
2. **HOLDING OF LOAN AMOUNT:** Within 7 calendar days of receiving the Loan Amount, Borrower shall place the Loan Amount in a separate, interest-bearing account with an FDIC-insured commercial banking institution. No other funds shall be placed in the account holding the Loan Amount, and the Loan Amount shall not be intermingled with any others funds owned, controlled, or distributed by Borrower. All interest that accrues on the Loan Amount shall be paid to the Lender; Borrower shall not use said interest to repay DSBSP grant funds to the State or for any other purpose.
3. **PROMISE TO PAY:** In return for receiving the Loan Amount, Borrower agrees to the following repayment terms:
  - 3.1 ***Early Repayment of Unused Amount:*** Within 30 calendar days of, (1) receiving notice that the State will not be distributing any additional funds under the DSBSP or (2) Borrower’s determination that it will no longer seek additional grant funds on behalf of Benefitting Businesses, whichever is sooner, Borrower shall notify Lender of same and must return any portion of the Loan Amount, in addition to any interest accrued thereon, which exceeds the total amount of grant funding secured by the Borrower on behalf of Benefitting Businesses.
  - 3.2 ***Repayment Due Date:*** The Borrower shall return the full remaining Loan Amount, in addition to any interest accrued, less any amount paid to the State under the DSBSP, to Lender within 30 calendar days of the last day the State can assert its right to have the DSBSP grant funding repaid by Borrower (“Repayment Due Date”).
  - 3.3 ***Recovery of Amounts Paid to State:*** If Lender is unable, after reasonable efforts, to recover any portion of the Loan Amount paid to the State on behalf of a Benefitting Business (“DSBSP Repayment”) from that Benefitting Business on whose behalf that payment was made to the State, Borrower shall not be required to reimburse Lender for the DSBSP Repayment. Lender need not pursue collection efforts against a Benefitting Business that is dissolved,

insolvent, in receivership, or the subject of proceeding under Title 11 of the United States Code.

4. **METHOD OF PAYMENT:** All payments shall be sent to Lender in accordance with the Notice provision of this Note.
5. **PREPAYMENT:** Borrower has the right to repay the Loan Amount, or any portion thereof, at any time prior to the Repayment Due Date, without charge or penalty, except that Lender is entitled to any interest amount accrued at the time of prepayment.
6. **INTEREST:** Borrower shall not be required to pay interest on the Loan Amount, beyond any interest incidentally accrued, until the Repayment Due Date has passed. After that date, Borrower will be required to pay interest at a rate of 0.25% per year on any amount not returned to Lender.
7. **LIMITED USE:** Borrower may use the Loan Amount for the sole purpose of paying to the State any 2020 DSBSP grant funds the State demands be repaid as a result of a Benefitting Business's failure to comply with the conditions of the DSBSP. Borrower is prohibited from using any of the Loan Amount for any purpose other than repayment of any 2020 DSBSP grant funds the State demands be repaid to the State as result of a Benefitting Business failing to comply with the conditions of the DSBSP. Further, Borrower shall only use the Loan Amount in relation to Benefitting Business within Kendall County. Any contract, note, obligation, loan, or other appropriation to utilize the Loan Amount for any other purpose is and shall be void. Any attempt by Borrower to use any of the Loan Amount for any purpose beyond repayment of any 2020 DSBSP grant funds to the State shall be a default under this Note and shall entitle Lender to demand the immediate return of the entire Loan Amount from Borrower.
8. **RECORD KEEPING AND REPORTING:**
  - 8.1 ***Notice of DSBSP Grant Funds Obtained:*** Within 7 calendar days of obtaining DSBSP grant funds on behalf of a Benefitting Business, Borrower shall provide Lender a copy of the Participation Agreement with the Benefitting Business, and documentation identifying the last date upon which the State can seek return of the DSBSP grant funds.
  - 8.2 ***Quarterly Reporting:*** Borrower shall provide quarterly reports to Lender which must include, (1) a complete account statement for the Loan Amount, showing interest earned and any transactions, (2) an updated list of all Benefitting Businesses that have received DSBSP grant funds through Borrower, including the last date upon which the State can seek return of the DSBSP grant funds for each Benefitting Business, and (3) a list of any DSBSP Repayments made to the State, identifying the Benefitting Business on behalf of which it was paid.

- 8.3 ***Notice of Demand from State:*** Within 7 calendar days of receiving notice from the State that it is seeking return of any DSBSBSP grant funds, Borrower must forward a copy of that notice to Lender.
9. **PURSUIT OF DSBSBSP REPAYMENT FROM BENEFITTING BUSINESS:**
- 9.1 ***Assignment of Rights:*** Borrower must include language in all Participation Agreements with Benefitting Businesses preserving its authority to assign its rights under the Participation Agreement to Lender. By executing this Note, Borrower assigns to Lender Borrower's rights under all of Borrower's Participation Agreements with Benefitting Businesses located within Kendall County to recover any amounts, including any DSBSBSP Repayment paid to the State, from the Benefitting Business in default under the Participation Agreement, attorney fees and court costs.
- 9.2 ***Assist in Recovery of DSBSBSP Repayment:*** Borrower must take all necessary and appropriate action to assist Lender in recovering the DSBSBSP Repayment from the Benefitting Businesses. This includes all actions permitted by law and as set forth in the DSBSBSP and the Participation Agreements with the Benefitting Businesses. Any amount recovered from the Benefitting Businesses shall be retained by the Lender.
10. **DEFAULT:** If Borrower defaults by failing to comply with the terms of this Note, Lender may, to the extent permitted by law, demand immediate return of the full Loan Amount, including interest accrued thereon, or pursue any other lawful remedies.
11. **REMEDIES:** In any action with respect to this Note, the parties are free to pursue any legal remedies at law or in equity. If Lender is required to take legal action to enforce performance of any of the terms, provisions, covenants and conditions of this Note, including payment of the Loan Amount, Lender shall be entitled to reasonable attorneys' fees, court costs, expenses and expert witness fees incurred by Lender pertaining thereto and in enforcement of any remedy, including costs and fees relating to any appeal.
12. **WAIVERS:** Borrower and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor, "Presentment" means the right to require Lender to demand payment of amounts due. "Notice of dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid. Lender's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.
13. **SEVERABILITY:** This Note shall be construed in accordance with the law and Constitution of the State of Illinois and if any provision is invalid for any reason such invalidations shall not render invalid other provisions which can be given effect without the invalid provision.

14. **NOTICE:** Any notice required or permitted to be given pursuant to this Agreement shall be duly given if sent by fax, certified mail, or courier service and received, at the addresses set forth below or such other address as the party to be served may from time to time designate in a Notice to the other party.

If to the Lender: Kendall County  
Attn: County Administrator  
111 W. Fox Street  
Yorkville, IL 60560

With Copy to: Kendall County State's Attorney's Office  
807 W. John Street  
Yorkville, IL 60560

If to the Borrower: \_\_\_\_\_  
800 Game Farm Rd  
Yorkville, IL 60560

15. **NON-DISCRIMINATION:** Borrower, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations.

16. **AUTHORITY TO EXECUTE AGREEMENT:** Borrower hereby warrants and represents that its signature set forth below has been and is on the date of this Note duly authorized by all necessary and appropriate governmental action to execute this Note.

Yorkville, Illinois, hereby accepts and agrees to the terms and conditions set forth herein, and this Promissory Note is approved and adopted this \_\_\_ day of \_\_\_\_\_, 2020.

United City of Yorkville, Illinois:

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



| Reviewed By:          |                                     |
|-----------------------|-------------------------------------|
| Legal                 | <input type="checkbox"/>            |
| Finance               | <input type="checkbox"/>            |
| Engineer              | <input type="checkbox"/>            |
| City Administrator    | <input checked="" type="checkbox"/> |
| Human Resources       | <input type="checkbox"/>            |
| Community Development | <input type="checkbox"/>            |
| Police                | <input type="checkbox"/>            |
| Public Works          | <input type="checkbox"/>            |
| Parks and Recreation  | <input type="checkbox"/>            |

Agenda Item Number

Business - B

Tracking Number

### Agenda Item Summary Memo

**Title:** Letter to Governor on Reopen Illinois Plan

**Meeting and Date:** Special City Council – May 19, 2020

**Synopsis:** A discussion will take place at the meeting.

#### Council Action Previously Taken:

Date of Action: \_\_\_\_\_ Action Taken: \_\_\_\_\_

Item Number: \_\_\_\_\_

Type of Vote Required: \_\_\_\_\_

Council Action Requested: \_\_\_\_\_

Submitted by: Bart Olson Administration  
Name Department

#### Agenda Item Notes:

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