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ORDINANCE NUMBER 2020-02

AN ORDINANCE AUTHORIZING THE VILLAGE OF PECATONICA, WINNEBAGO, COUNTY, ILLINOIS TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY LOAN PROGRAM

**WHEREAS**, the Village of Pecatonica, Winnebago, County, Illinois operates its public water supply system (“the System”) and in accordance with the provisions of 65 ILCS 5/11-139-1 *et seq.* and the Local Government Debt Reform Act, 30 ILCS 350/1 (collectively, “the Act”), and

**WHEREAS**, the VILLAGE PRESIDENT AND VILLAGE BOARD OF TRUSTEES of the Village (“the Corporate Authorities”) have determined that it is advisable, necessary and in the best interests of public health, safety, and welfare to improve the Water System, including the following:

**REPLACE AND UPSIZE AGING AND UNDERSIZED SPECIFIC WATER MAINS TO INCREASE WATER PRESSURE AND SUPPLY FOR FIRE PROTECTION; CONSTRUCT A NEW WELL AND WELL HOUSE FOR ADDITIONAL WATER SUPPLY; REHABILITATE THE INTERIOR AND EXTERIOR OF EXISTING 500,000 GALLON ELEVATED WATER TANK; UPDATE AND/OR ADD NEW EQUIPMENT**

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 consulting engineers of the Village; which Project has a 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 \$6,000,000.00, and there are insufficient funds on hand and lawfully available to pay these costs; and

**WHEREAS**, the loan shall bear an interest rate 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 Agency has determined that the Village has satisfied the requirements for the Small Community Rate, 35 Ill. Adm. Code 662.210(b); and

**WHEREAS**, the Agency has determined that the Village has satisfied the requirements for the Hardship Rate. 35 Ill. Adm. Code 662.210(c); and

**WHEREAS**, the principal and interest payment shall be payable semi-annually, and the loan shall mature in 30 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 Village from the Public Water Supply Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from operational and debt service revenues of the Water System, 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 Village is authorized to borrow funds from the Public Water Supply Loan Program in the aggregate principal amount of \$6,000,000.00 to provide funds to pay the costs of the Project;

**WHEREAS**, the loan to the Village shall be made pursuant to a Loan Agreement, including certain terms and conditions, between the Village and the Illinois Environmental Protection Agency;

NOW THEREFORE, be it ordained by the Corporate Authorities of the Village of Pecatonica, Winnebago 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 this Ordinance by this reference.

### **SECTION 2. DETERMINATION TO BORROW FUNDS**

It is necessary and in the best interests of the Village to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described; that the Water System continues to be operated in accordance with the provision of the Act; and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the Village in an

aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$6,000,000.00.

### **SECTION 3. PUBLICATION**

This Ordinance, together with a Notice in the statutory form (attached hereto as Exhibit A), shall be published once within ten days after passage in the *Gazette*, a newspaper published and of general circulation in the Village, and if no petition, signed by electors numbering 10% or more of the registered voters in the Village (i.e., 137 electors) asking that the question of improving the System as provided in this Ordinance and entering into the Loan Agreement therefore be submitted to the electors of the Village, is filed with the Village Clerk within 30 days after the date of publication of this Ordinance and notice, then this Ordinance shall be in full force and effect. A petition form shall be provided by the Village Clerk to any individual requesting one.

### **SECTION 4. ADDITIONAL ORDINANCES**

If no petition meeting the requirements of the Act and other applicable laws is filed during the 30-day petition period, then 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 operating and debt service revenues of the Water System, 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 law. 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 Village 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 Village 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 5. LOAN NOT INDEBTEDNESS OF Village**

Repayment of the loan to the Illinois Environmental Protection Agency by the Village pursuant to this Ordinance is to be solely from the revenue derived from operating and debt service revenues of the Water System, and the loan does not constitute an indebtedness of the Village within the meaning of any constitutional or statutory limitation.

#### **SECTION 6. APPLICATION FOR LOAN**

The Village President 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 7. 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 purposes of the project as approved by the Illinois Environmental Protection Agency in accordance with the terms and conditions of the Loan Agreement.

#### **SECTION 8. OUTSTANDING BONDS**

The Village has outstanding bonds, payable from revenues of the system, that are senior to the loan authorized by this Ordinance, and the Village establishes an account, coverage, and reserves equivalent to the account(s), coverage(s) and reserve(s) as the senior lien holders in accordance with 35 ILCS 662.350(a)(9)(C)(PWS).

#### **SECTION 9. AUTHORIZATION OF PRESIDENT TO EXECUTE LOAN AGREEMENT**

The PRESIDENT 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 PRESIDENT 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 10. 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 11. REPEALER

All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

PASSED by the Corporate Authorities

on February 6, 2020

APPROVED February 10, 2020

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WILLIAM SMULL, PRESIDENT  
Village of Pecatonica  
Winnebago, County, Illinois

AYES:                5      
NAYS:                0      
ABSENT:            1    

PUBLISHED in the *Gazette* on February 20 2020.

RECORDED in the Village Records on February 10, 2020.

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Village Clerk  
Village of Pecatonica,  
Winnebago County, Illinois

Exhibit A

**NOTICE OF INTENT TO BORROW FUNDS  
AND RIGHT TO FILE PETITION**

NOTICE IS HEREBY GIVEN that, pursuant to Ordinance Number 2020-02, adopted on \_\_\_\_\_, 2020, the Village of Pecatonica, Winnebago County, Illinois (the "Village"), intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed \$6,000,000 and bearing annual interest at an amount not to exceed the maximum rate authorized by law at the time of execution of the Loan Agreement, for the purpose of paying the cost of certain improvement to the public water supply system of the Village. A complete copy of the Ordinance accompanies this notice.

NOTICE IS HEREBY FURTHER GIVEN that if a petition signed by 137 or more electors of the Village (being equal to 10% of the registered voters in the Village), requesting that the question of improving the public water supply system and entering into the Loan Agreement is submitted to the Village Clerk within 30 days after the publication of this Notice, the question of improving the public water supply system of the Village as provided in the Ordinance and Loan Agreement shall be submitted to the electors of the Village at the next election to be held under general election law on \_\_\_\_\_, 2020. A petition form is available from the office of the Village Clerk.

\_\_\_\_\_  
Village Clerk  
Village of Pecatonica,  
Winnebago County, Illinois



## CERTIFICATION

I, Gwenn Shirley, do hereby certify that I am the duly appointed, qualified and acting Clerk of the Village of Pecatonica. I do further certify that the above and foregoing, identified as Ordinance Number 2020-02, is a true, complete and correct copy of an ordinance otherwise identified as "*An Ordinance Authorizing the Village of Pecatonica, Winnebago County, Illinois, to Borrow Funds from the Public Water Supply Program*", passed by the Board of Trustees of the Village of Pecatonica on the 6th day of February, 2020, and approved by the President of the Village of Pecatonica on the February 10, 2020 the original of which is part of the books and records within my control as Clerk of the Village of Pecatonica.

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Gwenn Shirley, Village Clerk

Dated this 11<sup>th</sup> day of February, 2020

## NO REFERENDUM CERTIFICATE

I, the undersigned, do hereby certify that I am the duly qualified, and acting Village Clerk of the Village of Pecatonica, Winnebago County, Illinois (the "Village"), and as such officer I am the keeper of the books, records, files and journal of proceedings of the Village and of the PRESIDENT and BOARD OF TRUSTEES of the Village.

I do further certify that Ordinance Number 2020-02, being the Ordinance entitled: AN ORDINANCE AUTHORIZING THE VILLAGE OF PECATONICA, WINNEBAGO COUNTY, ILLINOIS TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY PROGRAM (the "Ordinance") was presented to and passed by the PRESIDENT and BOARD OF TRUSTEES of the Village at its legally convened meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2020 and signed by the PRESIDENT of the Village on said day.

I do further certify that the Ordinance was duly and properly published in the *Gazette*, a newspaper published and of general circulation within the Village, on the \_\_\_\_ day of \_\_\_\_\_, 2020, being a date within ten days from the date of passage of the Ordinance.

I do further certify that publication of the Ordinance was accompanied by a separate publication of notice of (1) the specific number of voters required to sign the petition requesting the question of constructing improvements to the public water supply system as provided in the Ordinance; (2) the time in which such petition must have been filed; and (3) the date of the prospective referendum.

I do further certify that I did make available and provide to any individual so requesting a petition form, which petition form provided for submission to the electors of the Village of the question as set forth therein. Such petition forms were available from me continuously from \_\_\_\_\_, \_\_\_\_\_, 2020, up to and including \_\_\_\_\_, \_\_\_\_\_, 2020.

I do further certify that no Petition has been filed in my office within \_\_\_\_ days after publication of the Ordinance or as of the time of the signing hereof as provided by statute asking that the question of improving the public water supply system as provided in the Ordinance and the Loan Agreement therefore be submitted to the electors of the Village.

IN WITNESS WHEREOF I have hereunto affixed my official signature and the corporate seal of the Village of Pecatonica, Winnebago County, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2020.

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Village Clerk  
Village of Pecatonica,  
Winnebago County, Illinois

(SEAL)