

ORDINANCE NO 2010-18

AN ORDINANCE AUTHORIZING THE VILLAGE OF PECATONICA, WINNEBAGO COUNTY, ILLINOIS TO BORROW FUNDS FROM THE WATER POLLUTION CONTROL LOAN PROGRAM FOR THE PURPOSE OF CONSTRUCTING A NEW MUNICIPAL WASTEWATER TREATMENT PLANT

WHEREAS, the Village of Pecatonica, Winnebago County, Illinois operates its sewerage system ("the System"), 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");

WHEREAS, the Village President and Board of Trustees of the Village of Pecatonica ("the Corporate Authorities") have determined that it is advisable, necessary and in the best interests of public health, safety and welfare to improve the System, including the following:

CONSTRUCTION OF A NEW MUNICIPAL WASTEWATER TREATMENT PLAN

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 of Pecatonica; which Project has a useful life of twenty-one (21) years;

WHEREAS, the cost of construction and installation of the Project, including engineering, legal, financial, and other related expenses was originally estimated at \$6,200,000.00 but is now estimated to be approximately \$9,200,000.00, and there are insufficient funds on hand and lawfully available to pay these costs;

WHEREAS, the loan shall bear an interest rate as defined by 35 Ill. Adm. Code 365, 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;

WHEREAS, the principal and interest payment shall be payable semi- annually, and the loan shall mature in 20 years, which is within the period of useful life of the Project;

WHEREAS, the costs are expected to be paid for with a loan to the Village of Pecatonica from the Water Pollution Control Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from revenues of the System, and the loan is authorized to be accepted at this time pursuant to the Act;

WHEREAS, in accordance with the provisions of the Act, the Village of Pecatonica is authorized to borrow funds from the Water Pollution Control Loan Program in the aggregate principal amount of up to \$9,200,000 00 to provide funds to pay the costs of the Project;

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

NOW THEREFORE, be it ordained by the Corporate Authorities of the Village of Pecatonica of 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 of Pecatonica to complete construction of the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described; that the 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 of Pecatonica in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$9,200,000.00.

Section 3. Publication.

This Ordinance, together with a Notice in the statutory form (attached hereto as Exhibit A), shall be published once within ten (10) days after passage in the *News Gazette*, a newspaper published and of general circulation in the Village of Pecatonica, and if no petition, signed by electors numbering 10% or more of the registered voters in the Village of Pecatonica, or at least 134 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 of Pecatonica, is filed with the Village of Pecatonica Clerk within thirty (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 of Pecatonica 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 revenues of the 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 of Pecatonica 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 of Pecatonica to pay the principal and interest due to the Water Pollution Control Loan Program without the written consent of the Illinois Environmental Protection Agency.

Section 5. Loan not Indebtedness of Village of Pecatonica.

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

Section 6. Application for Loan.

The Village President, through the Village Engineer, is hereby authorized to make application to the Illinois Environmental Protection Agency for a loan through the Water Pollution Control Loan Program, in accordance with the loan requirements set out in 35 111 Adm. Code 365.

Section 7. Acceptance of Loan Agreement.

The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Water Pollution Control 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. Reserve Accounts.

As long as the Village of Pecatonica has outstanding revenue bonds payable from the revenues of the System that are senior to the revenue bond authorized by this Ordinance, the Village of Pecatonica shall maintain an account, coverage and reserves

equivalent to the accounts, coverage's and reserves required by the senior outstanding revenue bond ordinances.

Section 9. Authorization of the Village President to Execute Loan Agreement.

The Village 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 Village 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.

ADOPTED this 16th day of March, 2010.

APPROVED Shawn Connors
Shawn Connors, Village President

ATTEST:

Ginger Binger
Ginger Binger, Village Clerk

Ayes: 6 Nays: 0 Absent: 0

Tarbert: Aye Howard: Aye Eytalis: Aye
Moyer: Aye Doty: Aye Sager: Aye

Published in the News Gazette on March 25, 2010

Recorded in the Village of Pecatonica Records on March 18, 2010

“EXHIBIT A”

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

NOTICE IS HEREBY GIVEN that, pursuant to Ordinance Number 2010-18, adopted on March 16, 2010, the Village of Pecatonica, Winnebago County, Illinois, intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed \$9,200,000 00 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 sewerage system of the Village of Pecatonica. A complete copy of the Ordinance accompanies this notice.

NOTICE IS HEREBY FURTHER GIVEN that if a petition signed by 134 or more electors of the Village of Pecatonica (being equal to 10% of the registered voters in the Village of Pecatonica), requesting that the question of improving the sewerage system and entering into the Loan Agreement is submitted to the Village of Pecatonica Clerk within 30 days after the publication of this Notice, the question of improving the sewerage system of the Village of Pecatonica as provided in the Ordinance and Loan Agreement shall be submitted to the electors of the Village of Pecatonica at the next Consolidated Election to be held on April 5, 2011. A petition form is available from the office of the Village of Pecatonica Clerk.

Ginger Binger
Village Clerk
Village of Pecatonica
Winnebago County, Illinois