

**ORDINANCE NO. 2021-17**

**AN ORDINANCE APPROVING AN AGREEMENT WITH WINNEBAGO COUNTY AUTHORIZING THE BORROWING OF \$525,000.00 FOR DEVELOPMENT UNDER THE WINNEBAGO COUNTY HOST FEES FUND PROGRAM**

WHEREAS, Section 5/8-1-2.5 of the Illinois Municipal Code (65 ILCS 5/8-1-2.5) vests corporate authorities with the authority to appropriate and expend funds for economic development purposes; and

WHEREAS, the Section 5/8-1-3 of the Illinois Municipal Code vests corporate authorities with the authority to borrow money the repayment of which shall be made over a period of no more than 20 years; and

WHEREAS, pursuant to Article 7, Section 10 of the Constitution of the State of Illinois, counties and municipalities have the authority to enter into intergovernmental cooperation agreements; and

WHEREAS, 5 ILCS 22/1 et seq., the Village of Pecatonica ("Village"), as a unit of local government, is authorized to enter into intergovernmental cooperation agreements; and

WHEREAS, the corporate authorities of the Village have determined it is in the best interests of the Village and its residents to enter into an intergovernmental cooperation agreement with Winnebago County("County") whereby the Village will borrow \$525,000.00 from County under its Hosts Fees Fund Program at zero percent (0%) interest and repay said amount in 20 years as more fully described in "Exhibit A" a true and accurate copy of which is attached hereto and incorporated herein by reference.

BE IT ORDAINED, by the Village President and Board of Trustees of the Village of Pecatonica, Illinois.

Section 1. The above recitals are incorporated as though fully set forth herein.

Section 2. The Redevelopment Agreement ("Agreement"), a true and accurate copy of which is attached hereto as Exhibit "A", by and between the Village and the County is hereby approved, and the Village agrees to be bound by its terms.

Section 3. The Village President is hereby authorized to the Agreement.

Section 4. This ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law.

PASSED by the President and Board of Trustees of the Village of Pecatonica this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED by the President of the Village of Pecatonica, Illinois, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

BY: \_\_\_\_\_  
WILLIAM SMULL, Village President  
Village of Pecatonica, Illinois

ATTEST:

BY: \_\_\_\_\_  
GWENN SHIRLEY, Village Clerk  
Village of Pecatonica, Illinois

MOTION BY: \_\_\_\_\_

SECOND BY: \_\_\_\_\_

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT/  
ABSTAIN: \_\_\_\_\_

## EXHIBIT A

### REDEVELOPMENT AGREEMENT

This Redevelopment Agreement (“Agreement”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the County of Winnebago, Illinois, an Illinois body politic and corporate, having its principal offices located at 404 Elm Street, Rockford, Illinois (hereinafter “County”) and the Village of Pecatonica, an Illinois municipal corporation, having its principal offices located at 405 Main Street, Pecatonica, Illinois (hereinafter “Village”). The County and Village are collectively referred to herein as “Parties” or individually as a “Party”.

### RECITALS

**WHEREAS**, the County is a duly organized and existing county created under the provisions of the laws of the State of Illinois, and is now operating under and pursuant to the provisions of the Counties Code, as amended, 55 ILCS 5/1 *et seq.* (the “Counties Code”), is a “unit of local government” as defined in Article 7, Section 1 of the Constitution of the State of Illinois; and

**WHEREAS**, the Village is a duly organized and existing municipal corporation and body politic of the State of Illinois now operating under and pursuant to the provisions of the Illinois Municipal Code, as amended, 65 ILCS 5/1-1-1 *et seq.* (the “Municipal Code”), is a “unit of local government” as defined in Article 7, Section 1 of the Constitution of the State of Illinois; and is a “public agency” as defined in Section 2 of the Intergovernmental Cooperation Act, as amended, 5 ILCS 220/1 *et seq.* (the “Intergovernmental Cooperation Act”); and

**WHEREAS**, Article VII, Section 5 of the Intergovernmental Cooperation Act, 5 ILCS 220/5, provides that “[a]ny one or more public agencies may contract with any one or more other public agencies to perform any governmental services, activity or undertaking or to combine, transfer, or exercise any powers, functions, privileges, or authority which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be approved by the governing bodies of each party to the contract and except where specifically and expressly prohibited by law. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.”

**WHEREAS**, the County Board of the County of Winnebago, Illinois approved a “Resolution Adopting The Winnebago County Economic Development, Business Incentive And Host Fee Program Policy” (2019-CR-093) (hereinafter “Program”), to facilitate other local units of government in Winnebago County to grow the economy by establishing a zero percent (0%) host fee loan program as set forth within the Program and Agreement; and

**WHEREAS**, this Agreement, identified as “Exhibit A”, establishes the contractual agreement between the County and the Village; and

**WHEREAS**, the County, in cooperation with the Village, has determined that it is in the best interests of the County as a whole, including the Village, to develop certain real property located within the jurisdictional bounds of Winnebago County and for the County to assist with project gap financing, pursuant to the terms and provisions of this Agreement; and

**WHEREAS**, pursuant to the Program, a unit of local government, as defined by Article 7, Section 1 of the Constitution of the State of Illinois may request host fee funds from the County, which shall be subject to certain criteria being met and the funds shall only be used for TIF eligible expenses, as defined by state law, 65 ILCS 55/11-74.4-3(q); and

**WHEREAS**, all host fee fund requests and redevelopment agreements under the Program shall be dependent upon the availability of funds and also require the approval of the County Board of the County of Winnebago, Illinois; and

**WHEREAS**, the Village has submitted an application under the Program and is requesting a zero percent (0%) interest loan in the amount of Five Hundred and Twenty-Five Thousand Dollars (\$525,000.00), that will be paid back to the County in whole at the end of a twenty (20) year term, the first five (5) years the County will distribute the funds to the Village, and Years 6 through 20, the Village will make annual equal payments to the County; and

**WHEREAS**, the County, after due and careful consideration of the application, has concluded that this Agreement with the Village, will further the growth of the County, facilitate development, increase the assessed valuation of real estate, increase economic activity within the County as a whole, provide a substantial number of jobs to residents of the County, and otherwise be in the best interest of the County by furthering the health, safety, morals, and welfare of its citizens.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the County and the Village agree as follows:

**I. HOST FEE FUNDS UNDER THE PROGRAM**

- a. **DISBURSEMENT OF HOST FEE FUNDS**. Subject to the Program criteria, the County will disburse the total amount of Five Hundred and Twenty-Five Thousand Dollars (\$525,000.00) in host fee funds to the Village over a five (5) year period, as set forth in section I (c) below. Year (1) in the amount of One Hundred and Twenty-Five Thousand Dollars (\$125,000.00) and then Year Two (2) through Year Five (5) in the amount of One Hundred Thousand Dollars (\$100,000.00).
  - i. The County shall disburse each annual payment to the Village within one (1) year of all parties' approval and follow the schedule as provided in section I (c). Any extension of the disbursement timeframe shall be mutually agreed upon by the parties.
- b. **REPAYMENT OF HOST FEE FUNDS**. Within one (1) year of the last payment received from the County to the Village, the Village shall begin repaying the County annually in equal payments in the amount of Thirty-Five Thousand Dollars (\$35,000.00), at a zero percent (0%) interest rate as set forth in section I

(c) below over a fifteen (15) year period, until the loan is paid in full. Any extension of the repayment timeframe shall be mutually agreed upon by the parties.

- i. However, prior to the end of the initial five (5) year period as set forth in section I (c) below, the Village may request in writing to the County to cease the remaining disbursements of the host fee funds. Upon the County receiving the written request from the Village, the Village shall begin making equal annual payments to the County within one (1) year of the last payment received by the Village, with a payment each year thereafter until the loan is paid in full. Equal annual payments shall be defined by the total funds received by the Village divided by the prescribed fifteen (15) year repayment period.

**c. HOST FEE FUNDS PAYMENT SCHEDULE.**

Winnebago County loan \$525,000 to the Village of Pecatonica				
Loan Year	Year	Payment Structure	County Disbursements	County Receivables
1	2021	Winnebago County Disbursement to the Village of Pecatonica	\$ (125,000.00)	\$ -
2	2022		\$ (100,000.00)	\$ -
3	2023		\$ (100,000.00)	\$ -
4	2024		\$ (100,000.00)	\$ -
5	2025		\$ (100,000.00)	\$ -
6	2026	Village of Pecatonica Payments back to Winnebago County	\$ -	\$ 35,000.00
7	2027		\$ -	\$ 35,000.00
8	2028		\$ -	\$ 35,000.00
9	2029		\$ -	\$ 35,000.00
10	2030		\$ -	\$ 35,000.00
11	2031		\$ -	\$ 35,000.00
12	2032		\$ -	\$ 35,000.00
13	2033		\$ -	\$ 35,000.00
14	2034		\$ -	\$ 35,000.00
15	2035		\$ -	\$ 35,000.00
16	2036		\$ -	\$ 35,000.00
17	2037		\$ -	\$ 35,000.00
18	2038		\$ -	\$ 35,000.00
19	2039		\$ -	\$ 35,000.00
20	2040		\$ -	\$ 35,000.00
			<b>\$ (525,000.00)</b>	<b>\$ 525,000.00</b>

- II. **DEFAULT.** Should the Village fail to make any payment to the County as set forth in section I (b) (i), it will constitute a default of this Agreement and may result in the County instituting proceedings to collect the amount owed.
- III. **EFFECTIVE DATE AND TERM.** This Agreement will take effect as soon as it is signed by all authorized representatives of the parties. The term of the loan will be for a twenty (20) year period.
- IV. **NOTICE.** Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier, or (c) registered or certified mail, return receipt requested.

**If to the County:**

County of Winnebago  
 Attn: Chairman Joseph Chiarelli  
 404 Elm Street, Room 533  
 Rockford, Illinois 61101

**If to the Village:**

Village of Pecatonica  
 Attn: President William Smull  
 405 Main Street  
 Pecatonica, Illinois 61063

**With Copies to:**

Office of the Winnebago County State's  
 Attorney Civil Bureau  
 Courthouse Building  
 400 W. State Street, Suite 804  
 Rockford, Illinois 61101

**With Copies to:**

Village of Pecatonica Legal Counsel  
 Barrick, Switzer, Long, Balsley & Van  
 Evera, LLP  
 6833 Stalter Drive  
 Rockford, Illinois 61108

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to this Section shall be effective upon receipt or refusal of delivery.

- V. **WAIVER.** The failure of either party hereto at any time or times to enforce any provision of this Agreement shall in no way be construed to be a waiver of such provisions or to affect the validity of this Agreement or any part hereof, or the right of either party thereafter to enforce each and every provision in accordance with the terms of this Agreement.

- VI. **ASSIGNMENT.** Neither party shall ~~not~~ assign this Agreement without the prior written approval of the other party.
- VII. **AMENDMENTS.** Any amendments shall be by written instrument executed by the parties hereto, acting therein by their duly authorized representatives.
- VIII. **GOVERNING LAW.** The parties agree this Agreement has been executed and delivered in Illinois and that their relationship and any and all disputes, controversies or claims arising under this Agreement shall be governed by the laws of the State of Illinois. The parties further agree that the exclusive venue for all such disputes shall be the Circuit Court of the 17<sup>th</sup> Judicial Circuit of Winnebago County, Illinois.
- IX. **HEADINGS.** Sections and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.
- X. **SEVERABILITY.** If any provisions, covenants, agreements or portions of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not invalidate any other portion of this Agreement. The parties intend to be bound to this agreement even in the event that a portion of the agreement is declared invalid, in accordance with law.
- XI. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- XII. **AUTHORITY.** The County and Village each warrant to the other that they have the authority to enter into this Agreement and that the person or persons executing this Agreement on their behalf has been duly authorized to act as the representative or officer of each respective party in affixing their signatures to the Agreement. The County and Village hereto agree to sign such documents, enact such ordinances or resolutions, or perform such further obligations as may be necessary to effectuate the purposes of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date.

**Village of Pecatonica, an Illinois municipal corporation**

**County of Winnebago, an Illinois body politic and corporate**

By: \_\_\_\_\_  
**William Smull**  
**Village President**

By: \_\_\_\_\_  
**Joseph Chiarelli**  
**Chairman of the County Board of the**  
**County of Winnebago, Illinois**

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
**Gwenn Shirley, Clerk of the**  
**Village of Pecatonica, Illinois**

\_\_\_\_\_  
**Lori Gummow, Clerk of the**  
**County Board of the**  
**County of Winnebago, Illinois**