

ORDINANCE NO. 3015

AN ORDINANCE AUTHORIZING THE VILLAGE OF FRANKFORT, WILL & COOK COUNTIES, ILLINOIS TO BORROW FUNDS FROM THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY WATER POLLUTION CONTROL LOAN PROGRAM FOR THE CONSOLIDATION OF THE VILLAGE'S NORTH AND WEST WASTEWATER TREATMENT PLANT TO AN EXPANDED REGIONAL WASTEWATER TREATMENT FACILITY (DEBT AUTHORIZATION ORDINANCE)

WHEREAS, the Village of Frankfort, a non-home rule Illinois municipal corporation, Will & Cook Counties, Illinois, ("Village") operates a combined water supply and sewage system (the "System") in accordance with the provisions of the Division 139 of the Municipal Code, 65 ILCS 5/11-139, *et. seq.* and, as applicable, the Local Government Debt Reform Act (30 ILCS 350/1 *et. seq.*) (for convenience, collectively called the "Act"); and

WHEREAS, the Village's wastewater treatment facilities are not compliant with certain current Federal and State environmental laws and regulations and the Village is required to bring its System's wastewater treatment facilities into compliance; and

WHEREAS, the Village retained the engineering firm of Baxter & Woodman, Inc. to study and evaluate the Village's existing wastewater treatment system ("Wastewater Facilities") and prepare a Facilities Planning Report ("Baxter Report") which consider both the future needs of the Village and the system's compliance with current and anticipated environmental regulations and requirements; and

WHEREAS, after receipt of the Baxter Report dated March, 2015, the appropriate Committee of the Village of Frankfort Village Board held public meetings to consider and discuss the Baxter Report, the current operation of the Village's existing Wastewater Facilities, the current and anticipated environmental law and regulation compliance requirements for those facilities, engineering and facilities design, recommendations and required improvements, and Project funding alternatives; and

WHEREAS, to bring the wastewater facilities into environmental compliance, the President and Board of Trustees of the Village of Frankfort find and determine that it is advisable, necessary and in the best interests of public health, safety and welfare of the residents of the Village to improve the System's Wastewater Facilities, which include the following:

1. Implementation of the recommendations of the Baxter Report dated March, 2015, which in substance provides for the consolidation of the functions and operations of the Village of Frankfort's west wastewater facility generally located at 460 Ohio, Frankfort, IL and its north wastewater facility generally located at 422 Spruce, Frankfort, IL in an expanded regional wastewater treatment facility generally located at 20531 S. LaGrange Road, Frankfort, IL; and

2. The acquisition of any land or rights in land and all electrical, mechanical or any other equipment, facilities or services necessary, useful or advisable for the design, planning, engineering, construction, project monitoring and operation of an expanded regional wastewater treatment plant, all in general conformance with the plans and specifications to be prepared by the Village's engineering firm, reviewed by the Illinois Environmental Protection Agency and approved by the Village; and

3. The decommissioning of the Village's west and north wastewater facilities.

(all of which are collectively sometimes referred to for convenience as "Expanded Regional Wastewater Treatment Facility" or the "Project").

WHEREAS, anticipated useful life of the Project is 30-40 years; and

WHEREAS, the estimated cost of the Project, including planning, design, engineering, preparation of plans and specifications, construction, project monitoring, legal, financing, and all other related and anticipated costs and expenses is projected to be \$60,493,625.00; and

WHEREAS, the Village has insufficient funds to pay for the Project; and

WHEREAS, pursuant to applicable law, including, but not restricted to, its police powers to provide for the health, safety and welfare of its residents, compliance with applicable environmental laws, Division 139 of the Illinois Municipal Code (65 ILCS 5/11-139-1, *et. seq.*), and Intergovernmental Cooperation Act, the Village is authorized to undertake the Project, including to construct, maintain and operate wastewater facilities and pay for those Project obligations from enterprise revenue from the System; and

WHEREAS, to assist local governments in financing the construction of wastewater treatment facilities, the Illinois General Assembly established its Water Pollution Control Loan Program administered by the Illinois Environmental Protection Agency as authorized in Title IV-A of the Illinois Environmental Protection Act (415 ILCS 5/19.1, *et. seq.*); and

WHEREAS, applicable Illinois law authorizes the Village of Frankfort to borrow funds from the Illinois Environmental Protection Agency Water Pollution Control Loan Program (415 ILCS 5/19.3) to provide funds to pay the costs of the Project; and

WHEREAS, on March 8, 2016 at 6:45 p.m., and after Notice published and posted as required by law, the President and Village Board of the Village of Frankfort held a public hearing in the Village of Frankfort Administrative Center Board Room pursuant to the Bond Issue Notification Act, 30 ILCS 352/1, *et. seq.*, on this Loan; and

WHEREAS, the Village has applied for and has received approval from the Illinois Environmental Protection Agency to borrow \$60,493,625.00 from the Water Pollution Control Loan Program to fund the Project ("Loan"); and

WHEREAS, recognizing the scope of the Project and the significant cost to bring the System's Wastewater Facilities into compliance with Federal and State environmental laws and regulations, the Village has determined funding the Project through the IEPA Water Pollution Control Loan Program provides a very favorable interest rate for the Loan which benefits the users of the System; and

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, 30 ILCS 305/0.01 *et. seq.* at the time of the issuance of the loan; and

WHEREAS, the principle and interest payment shall be payable semi-annually from dedicated enterprise revenue from the Village's System, and the Loan shall mature in 20 years, which is within the period of useful life of the Project; and

WHEREAS, the Loan to the Village of Frankfort shall be made pursuant to the terms, conditions and provisions of a Loan Agreement, which includes all other loan, security and related loan documents necessary or convenient to facilitate the Loan between the Village of Frankfort and the Illinois Environmental Protection Agency's administered Water Pollution Control Loan; and

WHEREAS, the President and Board of Trustees of the Village of Frankfort find it is in the best interest of the Village to finance the Project by a Loan from the Illinois Environmental Protection Agency administered Water Pollution Control Loan Program.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF FRANKFORT, WILL & COOK COUNTIES, ILLINOIS AS FOLLOWS:

SECTION 1. INCORPORATION OF PREAMBLES

The Village of Frankfort hereby finds that the recitals contained in the preambles are true, correct and integral to this Ordinance, and incorporate them into this Ordinance by reference.

SECTION 2. DETERMINATION TO BORROW FUNDS

To implement the Project, the Village of Frankfort is hereby authorized to borrow from the Illinois Environmental Protection administered Water Pollution Control Loan Program the aggregate principal amount (which includes construction period interest financed over the term of the Loan) not to exceed \$60,493,625.00.

SECTION 3. PUBLICATION OF NOTICE

This Ordinance, together with a Notice of Intent to Borrow Funds and Right of Electors to File Petition for Referendum which is attached as Exhibit A, shall be published once within ten days after its passage in the *Frankfort Station* and the *Daily Southtown*, newspapers published and of general circulation in the Village of Frankfort. If no Petition for Referendum,

signed by 10% or more of the registered voters in the Village of Frankfort, Will and Cook Counties, Illinois (i.e., not less than 1,259 registered voter signatures) asking that the question of “Shall the Village of Frankfort, in order to pay the costs of a Project to bring its wastewater treatment facilities into compliance with Federal and State environmental laws and regulations, enter into a Loan Agreement with the Illinois Environmental Protection Agency through its Water Pollution Control Loan Program to borrow, not to exceed \$60,493,625.00, with interest as provided by law?” be submitted to the voters of the Village of Frankfort at the General Election to be held November 8, 2016 is filed with the Village Clerk of the Village of Frankfort within 30 days after the date of publication of this Ordinance and the Notice of Intent, then this Ordinance shall be in full force and effect. The Village Clerk shall provide Petition for Referendum forms during normal business hours at the Office of the Village of Frankfort Clerk, Frankfort Village Administrative Center, 432 W. Nebraska Street, Frankfort, IL 60423 to any individual requesting one.

SECTION 4. ADDITIONAL ORDINANCES

If no Petition for Referendum meeting the requirements of the Act and other applicable law is filed as required by law during the 30-day petition filing period, then the President and Board of Trustees of the Village of Frankfort may enter into the Loan Agreement and pass any additional ordinances as may be necessary or convenient to facilitate this Project and Loan, so long as the maximum amount of the Loan as set forth in this Ordinance is not exceeded and there is no material change in the Project or its purposes. Any additional Ordinances or proceedings shall in all instances become effective in accordance with the Act or other applicable law.

However, notwithstanding the above, the Village of Frankfort 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 Frankfort 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 THE VILLAGE OF FRANKFORT

The Village’s repayment of the Loan administered by the Illinois Environmental Protection Agency pursuant to this Ordinance is to be solely from designated enterprise revenues of the System. The Loan does not constitute an indebtedness of the Village of Frankfort within the meaning of any constitutional or statutory limitation.

SECTION 6. AUTHORIZATION TO EXECUTE DOCUMENTS

The Village President, or in the President’s absence, such other elected Village official designated by its Corporate Authorities, is hereby authorized and directed on behalf of the Village of Frankfort, an Illinois municipal corporation, to execute the Loan Agreement which includes, but is not limited to, applications, promissory notes and all other documents necessary,

convenient or required to facilitate a loan in the principal sum of \$60,493,625.00 through the Illinois Environmental Protection Agency Water Pollution Supply Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 662 and Illinois law. The Village Clerk is authorized and directed to attest to the signature of the Village President or other designated authorized Village official. The loan funds 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 7. RESERVE ACCOUNTS

So long as the Village of Frankfort does not issue a revenue bond ordinance in support of this loan, then the Village of Frankfort shall establish and provide coverage(s) and reserve account(s) for this loan identical to the coverage(s) and reserve account(s) in the Village of Frankfort's previous outstanding revenue bond issue(s) previously paid from the enterprise revenues of the System, but in no event, more than required under the Bond Authorization Act (30 ILCS 305.01, *et. seq.*) and applicable law.

SECTION 8. PUBLICATION OF ORDINANCE AND NOTICE OF INTENT

The Village Clerk of the Village of Frankfort shall cause this Ordinance and the attached Exhibit A Notice of Intent of the Village of Frankfort to Borrow Funds and Right of Electors to File Petition for Referendum to be published as provided by this Ordinance and as required by law.

SECTION 9. REPEALER

That all other ordinances, or parts or provisions of ordinances of the Village of Frankfort, which are inconsistent with this Ordinance, are hereby expressly repealed.

SECTION 10. SEVERABILITY

In the event any word, phrase, clause, sentence, paragraph, provision, or section of this Ordinance or any portion thereof shall be held to be unconstitutional, unenforceable, or void, the same shall not affect the validity or enforceability of any remaining words, phrases, clauses, sentences, paragraphs, provisions or sections thereof.

SECTION 11. EFFECTIVE DATE

The Ordinance shall take effect after its passage, approval and publication as required by law.

PASSED this 21st day of March, 2016; with five members vote AYE; no members voting NAY; and one member absent; the President not voting; with no members abstaining and said vote being:

CYNTHIA CORSO HEATH AYE ROBERT J. KENNEDY AYE
KEITH OGLE AYE MIKE STEVENS AYE
RICHARD TREVARTHAN ABSENT R. DOUGLAS WALKER AYE



ADAM BORRELLI
VILLAGE CLERK

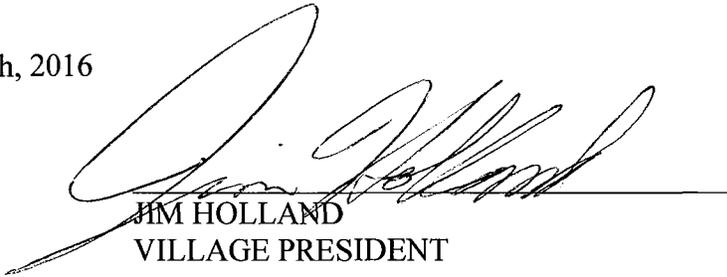
APPROVED this 21st day of March, 2016



ATTEST:



ADAM BORRELLI
VILLAGE CLERK



JIM HOLLAND
VILLAGE PRESIDENT

EXHIBIT A

NOTICE OF INTENT OF THE VILLAGE OF FRANKFORT TO BORROW FUNDS AND RIGHT OF ELECTORS TO FILE PETITION FOR REFERENDUM

NOTICE IS HEREBY GIVEN to you that, pursuant to Village of Frankfort Ordinance Number 3015, passed on the 21st day of March, 2016, that the Village of Frankfort, Will and Cook Counties, Illinois intends to enter into a Loan Agreement through the Illinois Environmental Protection Agency's Water Pollution Control Loan Program to borrow in an aggregate principal amount not to exceed \$60,493,625.00 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. The Loan is to fund a Project to bring the Village's wastewater treatment facilities into compliance with Federal and State environmental laws and regulations and includes:

1. Implementation of the Baxter and Woodman, Inc. Facilities Planning Report dated March, 2015, which provides for the consolidation of the functions and operations of the Village of Frankfort's west wastewater facility generally located at 460 Ohio, Frankfort, IL and its north wastewater facility generally located at 422 Spruce, Frankfort, IL in an expanded regional wastewater treatment facility generally located at 20531 S. LaGrange Road, Frankfort, IL; and

2. The acquisition of any land or rights in land and all electrical, mechanical or any other equipment, facilities or services necessary, useful or advisable for the design, planning, engineering, construction, project monitoring and operation of an expanded regional wastewater treatment plant (the "Project"), all in general conformance with the plans and specifications to be prepared by the Village's engineering firm, reviewed by the Illinois Environmental Protection Agency and approved by the Village; and

3. The decommissioning of the Village's west and north wastewater facilities.

(all of which are sometimes collectively referred to for convenience as "Expanded Regional Wastewater Treatment Facility" or the "Project").

A complete copy of the Ordinance No. 3015 is published in conjunction with this Notice.

NOTICE IS HEREBY GIVEN that if a petition signed by 1,259 or more of the registered voters of the Village of Frankfort, Will and Cook Counties, Illinois (being equal to 10% of the registered voters in the Village), requesting that the question of implementing the Project as generally described in the Ordinance to improve the Village's wastewater treatment facilities and entering into the Loan Agreement through the Illinois Environmental Protection Agency's Water Pollution Control Program Loan is filed with the Village Clerk of the Village of Frankfort within 30 days after the publication of this Notice, the question of the Village entering into this Loan Agreement Program in an amount not to exceed \$60,493,625.00 to fund the Project as provided

in Ordinance 3015 shall be submitted to the registered voters of the Village of Frankfort at the General Election to be held on November 8, 2016. A petition for referendum form is available at the Office of the Village Clerk of the Village of Frankfort, 432 W. Nebraska Street, Frankfort, IL during normal business hours.

Dated at Frankfort, Will & Cook Counties, Illinois this 21st day of March, 2016.

A handwritten signature in black ink, appearing to read 'Adam Borrelli', written over a horizontal line.

Adam Borrelli, Village Clerk of the
Village of Frankfort

Adam Borrelli
Village Clerk
Village of Frankfort
432 W. Nebraska Street
Frankfort, IL 60423