

ORDINANCE NO. 2020-08

ORDINANCE TO APPROVE CHANGE IN TERMS AGREEMENT FOR \$280,000.00
LOAN FROM GERMAN AMERICAN STATE BANK

WHEREAS, on January 21, 2020, the Board of Trustees of Village of Pecatonica adopted, and the Village President approved, Ordinance 2020-01, which in part approved the borrowing of \$280,000.00 from German American State Bank pursuant to Exhibit "A" of said Ordinance and subject to Section 3 of said Ordinance; and

WHEREAS, the Village President executed Exhibit "A" of Ordinance 2020-01, a Promissory Note for Loan Number No. 154781; and

WHEREAS, the Village of Pecatonica and German American State Bank have negotiated a change in terms of Exhibit "A" of Ordinance 2020-01, Loan No. 154781, which change in terms is memorialized by the Change in Terms Agreement attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, Section 5/8-1-3.1 of the Illinois Municipal Code (65 ILCS 5/8-1-3.1) permits municipalities to borrow money from financial institutions subject to statutory limitations; and

WHEREAS, Section 5/8-1-3.1 of the Illinois Municipal Code requires such borrowing from financial institutions be approved by ordinance.

NOW, THEREFORE, be it ordained by the Village President and Board of Trustees of the Village of Pecatonica, Illinois:

Section 1. The above recitals are hereby incorporated as if set forth herein.

Section 2. The corporate authorities of the Village of Pecatonica hereby approve in the Change in Terms Agreement for Loan No. 154781, a true and accurate copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 3. The Village President is hereby authorized to sign any and all loan documents in support of Loan No. 154781 not in conflict with Ordinance 2020-01 and 2020-08, and in particular the Change in Terms Agreement substantially similar to "Exhibit A", or other similar debt instruments, but not a bond, to evidence the indebtedness incurred by the borrowing.

Section 4. The Board of Trustees shall annually appropriate sufficient funds to pay off the balance of the principal and interest of the loan.

Section 5. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED by the Village Board of Trustees this 18 day of February, 2020.

APPROVED by the Village President this _____ day of February, 2020.

By: _____
WILLIAM SMULL, Village President
Village of Pecatonica, Illinois

ATTEST:

GWENN SHIRLEY, Village Clerk
Village of Pecatonica, Illinois

MOTION BY: Determan _____

SECOND BY: Johnson _____

AYES: 6 _____

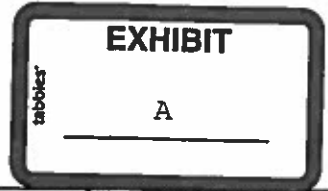
NAYS: 0 _____

ABSENT/
ABSTAIN: 0 _____



HLP1125

CHANGE IN TERMS AGREEMENT



Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$280,000.00	02-06-2020 ³	02-10-2030	154781	8 / 280	V0173750	JMS	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.

Borrower: VILLAGE OF PECATONICA
405 MAIN ST PO BOX 730
PECATONICA, IL 61063-0730

Lender: German American State Bank
German Valley Branch
100 Church Street
Post Office Box 89
German Valley, IL 61039

Principal Amount: \$280,000.00

Date of Agreement: February 6, 2020

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note dated January 21, 2020, as amended from time to time, in the original principal amount of \$280,000.00.

DESCRIPTION OF COLLATERAL. This loan is unsecured.

DESCRIPTION OF CHANGE IN TERMS. Effective February 6, 2020, Borrower and Lender mutually agree that the Note identified above is hereby modified as follows: Borrower shall pay the principal and interest on the Note according to the following schedule; monthly payments of principal and interest in the amount of \$2,808.86 beginning March 10, 2020, and all subsequent payments are due on the same day of each month thereafter. The entire unpaid balance of principal and interest will be due upon maturity. The term of the Note is extended to February 10, 2030.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

CHANGE IN TERMS PROVISIONS.

ADDITIONAL WAIVER. The undersigned, as a further inducement to Lender to extend credit to Borrower, hereby waives any and all defenses otherwise available under Section 1 of the Illinois Sureties Act.

CONSENT OF GUARANTOR. Each Guarantor expressly agrees to the terms, provisions and conditions of this Change in Terms Agreement, and acknowledges and ratifies all other terms of its Commercial Guaranty.

AGREEMENTS CONTINUE. All the terms, provisions, stipulations, powers and covenants in the Related Documents (as defined below) shall stand and remain unchanged and in full force and effect and shall be binding upon all parties thereto, except as changed or modified in express terms by this Change in Terms Agreement.

a) The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

RELEASE. Borrower and each Guarantor hereby remises, releases, acquits, satisfies and forever discharges Lender of and from any and all manner of action and actions, cause and causes of action, suits, losses, collection costs, expenses (including without limitation attorneys' fees and expenses), covenants, controversies, promises, damages, whatsoever in law or in equity which Borrower or Guarantor have ever had or now have to their knowledge, or which any personal representative, successor, assignee or beneficiary thereof ever had or now has to its knowledge arising under or in connection with this Change in Terms Agreement, any action taken or actions not taken by Lender in connection with the Note, or any other documents related thereto. Lender represents that it does not know of any claim by Lender against Borrower under the Note or Related Documents.

LOAN BALANCE. Borrower hereby acknowledges that as of February 6, 2020, the current principal balance of the Loan is \$280,000.00, not including any accrued unpaid interest, late charges, expenses, attorneys' fees or default rate interest.

COVENANTS AND WARRANTIES. Borrower and each Guarantor, as applicable, hereby represent to, covenant with Lender, and acknowledge that:

- a) At the date hereof, the Note and Related Documents as amended hereby are in full force and effect as originally executed and delivered by the parties, except as expressly modified and amended herein.
- b) Neither Borrower nor Guarantor is in default in the payment of any sums, charges or obligations under the Note or Related Documents or in the payment or performance of any covenants, agreements or conditions of Borrower or Guarantor, as applicable, contained in the Note or Related Documents.
- c) Borrower and Guarantor hereby confirm and reaffirm all of their obligations under the Note and Related Documents, as modified and amended herein, and confirm and reaffirm that the Related Documents secure the Note.
- d) As of the date hereof, neither Borrower nor Guarantor have any right or claim of set-off, discount, deduction, defense or counterclaim which could be asserted in any action brought to enforce the Note or Related Documents.
- e) As of the date hereof, neither Borrower or Guarantor have any actual or potential actions, claims, suit or defenses arising from any letters of intent, correspondence or other communications (oral or written) between Borrower, Guarantor, or Lender.
- f) There are no actions, suits or proceedings, (including, without limitation, proceedings before any court, arbitrator or governmental authority or agency) pending or threatened against Borrower or Guarantor, as applicable (or to the knowledge of Borrower or Guarantor, as applicable, any basis for any such action, suit or proceeding), which if adversely determined, might individually, or in the aggregate, materially adversely:
 - i) impair the ability of Borrower or Guarantor to pay or perform its obligations under the Note or Related Documents; or
 - ii) affect the assets pledged as collateral under the Related Documents;
- g) There is no presently known fact which affects, or may affect in the future (so far as the undersigned can foresee), materially and adversely the condition (financial or other) of Borrower or Guarantor to pay or perform its obligations under the Note or Related Documents.
- h) Borrower represents and warrants that the liens of the Related Documents shall secure the Note as hereby amended to the same extent as if the amendments made herein were set forth and described in the Note and Related Documents.

CERTIFICATIONS, REPRESENTATIONS AND WARRANTIES. To induce Lender to enter into this Change in Terms Agreement, Borrower and

**CHANGE IN TERMS AGREEMENT
(Continued)**

Loan No: 154781

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each Guarantor hereby certify, represent and warrant to Lender that all certifications, representation and warranties contained in the Note and the Related Documents and in all certifications, representations and warranties are hereby remade and made to speak as of the date of this Change in Terms Agreement.

REAFFIRMATION OF GUARANTY. Each Guarantor hereby reaffirms each and every obligation for payment and performance as set forth in its Commercial Guaranty and acknowledges that it remains unconditionally and absolutely liable for the due and punctual payment of the outstanding principal balance of the Note plus interest thereon and any other monies due or which may come due thereon, as set forth in the Commercial Guaranty.

NO WAIVER. Notwithstanding anything contained in this Change in Terms Agreement to the contrary or any prior act of Lender or any procedure established by Lender with regard to the Loan, Borrower and each Guarantor acknowledge and agree that Lender has not heretofore waived any of its rights or remedies under the Note or Related Documents nor has Lender waived any of the duties or obligations of Borrower or Guarantor thereunder. No waiver by Lender of any covenant or condition under the Note, or Related Documents shall be deemed a subsequent waiver of the same or any other covenant or condition. No covenant, term or condition of the Note or Related Documents shall be deemed waived by Lender unless waived in writing.

GOVERNING LAW. This agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Illinois without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of Illinois.

MISCELLANEOUS.

a) This Change in Terms Agreement may be executed by facsimile and/or in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute and be taken as one and the same instrument.

b) None of the covenants, terms or conditions of this Change in Terms Agreement shall in any manner be altered, waived, modified, changed or abandoned, except by written instrument, duly signed and delivered by all the parties hereto.

c) This Change in Terms Agreement contains the entire agreement between the parties hereto as to the subject matter hereof and there are no other terms, obligations, covenants, representations, warranties, statements or conditions, oral or otherwise, of any kind.

d) The recitals to the Change in Terms Agreement are hereby incorporated into and made a part of this Change in Terms Agreement, and shall constitute covenants and representations of Borrower and shall be binding upon and enforceable against Borrower.

e) Any defined terms contained in this Change in Terms Agreement not otherwise defined in the Change in Terms Agreement shall have the meaning as set forth in the Note or Related Documents.

JURY WAIVER. ALL OF THE PARTIES HERETO EACH WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (I) UNDER THIS CHANGE IN TERMS AGREEMENT OR ANY OF THE NOTE OR RELATED DOCUMENTS OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith, WITH THE NOTE, OR ANY RELATED DOCUMENT OR (II) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION HERewith, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AND THE GUARANTORS AGREE THAT THEY WILL NOT ASSERT ANY CLAIM AGAINST LENDER OR ANY OTHER PERSON INDEMNIFIED OR RELEASED UNDER THIS CHANGE IN TERMS AGREEMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER:



VILLAGE OF PECATONICA



By: WILLIAM H SMULL JR, President of VILLAGE OF PECATONICA

By: GWENN M SHIRLEY, Clerk of VILLAGE OF PECATONICA



HLP0921

DISBURSEMENT REQUEST AND AUTHORIZATION

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$280,000.00	02-06-2020	02-10-2030	154781	8 / 280	V0173750	JMS	

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Borrower: VILLAGE OF PECATONICA
405 MAIN ST PO BOX 730
PECATONICA, IL 61063-0730

Lender: German American State Bank
German Valley Branch
100 Church Street
Post Office Box 89
German Valley, IL 61039

LOAN TYPE. This is a Fixed Rate (3.750%) Nondisclosable Loan to a Government Entity for \$280,000.00 due on February 10, 2030.

PRIMARY PURPOSE OF LOAN. The primary purpose of this loan is for:

- Personal, Family, or Household Purposes or Personal Investment.
- Business.

SPECIFIC PURPOSE. The specific purpose of this loan is: PURCHASE 13 ACRES ON SOUTH SIDE OF VILLAGE FOR FUTURE NEEDS OR COMMERCIAL DEVELOPMENT.

DISBURSEMENT INSTRUCTIONS. Borrower understands that no loan proceeds will be disbursed until all of Lender's conditions for making the loan have been satisfied. Please disburse the loan proceeds of \$280,000.00 as follows:

Other Disbursements:	\$280,000.00
\$280,000.00 Loan Balance	
Note Principal:	\$280,000.00

FINANCIAL CONDITION. BY SIGNING THIS AUTHORIZATION, BORROWER REPRESENTS AND WARRANTS TO LENDER THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT AND THAT THERE HAS BEEN NO MATERIAL ADVERSE CHANGE IN BORROWER'S FINANCIAL CONDITION AS DISCLOSED IN BORROWER'S MOST RECENT FINANCIAL STATEMENT TO LENDER. THIS AUTHORIZATION IS DATED FEBRUARY 6, 2020.

BORROWER:



VILLAGE OF PECATONICA

By: WILLIAM H SMULL JR, President of VILLAGE OF PECATONICA



By: GWENN M SHIRLEY, Clerk of VILLAGE OF PECATONICA



HLP0927

ERRORS AND OMISSIONS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$280,000.00	02-06-2020	02-10-2030	154781	8 / 280	V0173750	JMS	

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Borrower: VILLAGE OF PECATONICA
405 MAIN ST PO BOX 730
PECATONICA, IL 61063-0730

Lender: German American State Bank
German Valley Branch
100 Church Street
Post Office Box 89
German Valley, IL 61039

LOAN NO.: 154781

The undersigned Borrower for and in consideration of the above-referenced Lender funding the closing of this loan agrees, if requested by Lender or Closing Agent for Lender, to fully cooperate and adjust for clerical errors, any or all loan closing documentation if deemed necessary or desirable in the reasonable discretion of Lender to enable Lender to sell, convey, seek guaranty or market said loan to any entity, including but not limited to an investor, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Government National Mortgage Association, Federal Housing Authority or the Department of Veterans Affairs.

The undersigned Borrower does hereby so agree and covenant in order to assure that this loan documentation executed this date will conform and be acceptable in the marketplace in the instance of transfer, sale or conveyance by Lender of its interest in and to said loan documentation.

DATED effective this February 6, 2020

BORROWER:

PLEASE SIGN

PLEASE SIGN



VILLAGE OF PECATONICA

By: WILLIAM H SMULL JR, President of VILLAGE OF PECATONICA

By: GWENN M SHIRLEY, Clerk of VILLAGE OF PECATONICA

GOVERNMENTAL CERTIFICATE

Principal \$280,000.00	Loan Date 02-06-2020	Maturity 02-10-2030	Loan No 154781	Call / Coll 8 / 280	Account V0173750	Officer JMS	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

Entity: VILLAGE OF PECATONICA
405 MAIN ST PO BOX 730
PECATONICA, IL 61063-0730

Lender: German American State Bank
German Valley Branch
100 Church Street
Post Office Box 89
German Valley, IL 61039

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT:

THE ENTITY'S EXISTENCE. The complete and correct name of the governmental entity is VILLAGE OF PECATONICA ("Entity"). The Entity is a governmental entity which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws and regulations of the State of Illinois. The Entity has the full power and authority to own its properties and to transact the business and activities in which it is presently engaged or presently proposes to engage. The Entity maintains an office at 405 MAIN ST, PECATONICA, IL 61063-0730. The Entity shall do all things necessary to preserve and to keep in full force and effect its existence, rights and privileges, and shall comply with all regulations, rules, ordinances, statutes, orders and decrees of the Entity and any other governmental or quasi-governmental authority or court applicable to the Entity and the Entity's business activities.

CERTIFICATES ADOPTED. At a meeting of the appropriate governing body of the Entity, duly called and held on January 21, 2020, at which a quorum was present and voting, or by other duly authorized action in lieu of a meeting, the resolutions set forth in this Certificate were adopted.

OFFICIALS. The following named persons and entities is an Officials of VILLAGE OF PECATONICA:

<u>NAMES</u>	<u>TITLES</u>	<u>AUTHORIZED</u>	<u>ACTUAL SIGNATURES</u>
AGENTS. The agents of the Entity are:			
<u>NAMES</u>	<u>TITLES</u>	<u>AUTHORIZED</u>	<u>ACTUAL SIGNATURES</u>
WILLIAM H SMULL JR	President	X	
GWENN M SHIRLEY	Clerk	X	

ACTIONS AUTHORIZED. Any two (2) of the authorized persons listed above may enter into any agreements of any nature with Lender, and those agreements will bind the Entity. Specifically, but without limitation, any two (2) of such authorized persons are authorized, empowered, and directed to do the following for and on behalf of the Entity:

Borrow Money. To borrow, as a cosigner or otherwise, from time to time from Lender, on such terms as may be agreed upon between the Entity and Lender, such sum or sums of money as in their judgment should be borrowed, without limitation.

Execute Notes. To execute and deliver to Lender the promissory note or notes, or other evidence of the Entity's credit accommodations, on Lender's forms, at such rates of interest and on such terms as may be agreed upon, evidencing the sums of money so borrowed or any of the Entity's indebtedness to Lender, and also to execute and deliver to Lender one or more renewals, extensions, modifications, refinancings, consolidations, or substitutions for one or more of the notes, any portion of the notes, or any other evidence of credit accommodations.

Grant Security. To mortgage, pledge, transfer, endorse, hypothecate, or otherwise encumber and deliver to Lender any property now or hereafter belonging to the Entity or in which the Entity now or hereafter may have an interest, including without limitation all of the Entity's real property and all of the Entity's personal property (tangible or intangible), as security for the payment of any loans or credit accommodations so obtained, any promissory notes so executed (including any amendments to or modifications, renewals, and extensions of such promissory notes), or any other or further indebtedness of the Entity to Lender at any time owing, however the same may be evidenced. Such property may be mortgaged, pledged, transferred, endorsed, hypothecated or encumbered at the time such loans are obtained or such indebtedness is incurred, or at any other time or times, and may be either in addition to or in lieu of any property theretofore mortgaged, pledged, transferred, endorsed, hypothecated or encumbered.

Execute Security Documents. To execute and deliver to Lender the forms of mortgage, deed of trust, pledge agreement, hypothecation agreement, and other security agreements and financing statements which Lender may require and which shall evidence the terms and conditions under and pursuant to which such liens and encumbrances, or any of them, are given; and also to execute and deliver to Lender any other written instruments, any chattel paper, or any other collateral, of any kind or nature, which Lender may deem necessary or proper in connection with or pertaining to the giving of the liens and encumbrances.

Negotiate Items. To draw, endorse, and discount with Lender all drafts, trade acceptances, promissory notes, or other evidences of indebtedness payable to or belonging to the Entity or in which the Entity may have an interest, and either to receive cash for the same or to cause such proceeds to be credited to the Entity's account with Lender, or to cause such other disposition of the proceeds derived therefrom as they may deem advisable.

Further Acts. In the case of lines of credit, to designate additional or alternate individuals as being authorized to request advances under such lines, and in all cases, to do and perform such other acts and things, to pay any and all fees and costs, and to execute and deliver such other documents and agreements, including agreements waiving the right to a trial by jury and confessing judgment against the Entity, as the Officials may in their discretion deem reasonably necessary or proper in order to carry into effect the provisions of this Certificate.

ASSUMED BUSINESS NAMES. The Entity has filed or recorded all documents or filings required by law relating to all assumed business names used by the Entity. Excluding the name of the Entity, the following is a complete list of all assumed business names under which the Entity does business: None.

NOTICES TO LENDER. The Entity will promptly notify Lender in writing at Lender's address shown above (or such other addresses as Lender may designate from time to time) prior to any (A) change in the Entity's name; (B) change in the Entity's assumed business name(s); (C) change in the structure of the Entity; (D) change in the authorized signer(s); (E) change in the Entity's principal office address; (F) change in the Entity's principal residence; or (G) change in any other aspect of the Entity that directly or indirectly relates to any agreements between the Entity and Lender.

**GOVERNMENTAL CERTIFICATE
(Continued)**

CERTIFICATION CONCERNING OFFICIALS AND CERTIFICATES. The Officials and agents named above is duly elected, appointed, or employed by or for the Entity, as the case may be, and occupy the positions set opposite their respective names. This Certificate now stands of record on the books of the Entity, is in full force and effect, and has not been modified or revoked in any manner whatsoever.

CONTINUING VALIDITY. Any and all acts authorized pursuant to this Certificate and performed prior to the passage of this Certificate are hereby ratified and approved. This Certificate shall be continuing, shall remain in full force and effect and Lender may rely on it until written notice of its revocation shall have been delivered to and received by Lender at Lender's address shown above (or such addresses as Lender may designate from time to time). Any such notice shall not affect any of the Entity's agreements or commitments in effect at the time notice is given.

IN TESTIMONY WHEREOF, we have hereunto set our hand and attest that the signatures set opposite the names listed above is their genuine signatures.

We each have read all the provisions of this Certificate, and we each personally and on behalf of the Entity certify that all statements and representations made in this Certificate are true and correct. This Governmental Certificate is dated February 6, 2020.

CERTIFIED TO AND ATTESTED BY:

PLEASE SIGN == >

X _____
WILLIAM H SMULT JR, President of VILLAGE OF
PECATONICA

PLEASE SIGN == >

X _____
GWENN M SHIRLEY, Clerk of VILLAGE OF
PECATONICA



NOTE: If the Officials signing this Certificate is designated by the foregoing document as one of the officials authorized to act on the Entity's behalf, it is advisable to have this Certificate signed by at least one non-authorized official of the Entity.