

CITY OF VILLA GROVE
DOUGLAS COUNTY, ILLINOIS

ORDINANCE NO. 2022-MC10

**AN ORDINANCE AUTHORIZING EXECUTION OF DOCUMENTS PERTAINING TO THE
PAYOFF OF BONDS AND LOANS AFFILIATED WITH THE CITY WATER AND
WASTEWATER SYSTEMS**

PASSED BY THE CITY COUNCIL AND
APPROVED BY THE MAYOR OF THE
CITY OF VILLA GROVE, ILLINOIS
THIS THIRD DAY OF NOVEMBER, 2022

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE MAYOR AND CITY COUNCIL OF THE CITY
OF VILLA GROVE, DOUGLAS COUNTY, ILLINOIS, THIS THIRD DAY OF NOVEMBER, 2022

CITY OF VILLA GROVE
DOUGLAS COUNTY, ILLINOIS

ORDINANCE NO. 2022-MC10

November 3, 2022

**AN ORDINANCE AUTHORIZING EXECUTION OF DOCUMENTS PERTAINING TO THE
PAYOFF OF BONDS AND LOANS AFFILIATED WITH THE CITY WATER AND
WASTEWATER SYSTEMS**

WHEREAS, the City of Villa Grove, Douglas County, Illinois (the "City"), is a duly organized and existing City created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto with full powers to enact ordinances for the benefit of the residents of the City.

WHEREAS, the City had previously identified serious problems with its water system and sewer system and it had determined that it had insufficient capital and resources to upgrade its systems; and

WHEREAS, 65 ILCS 5/ Article 5 "Water Supply and Sewage Systems" authorizes the City to contract for a supply of water and for sanitary sewer service; and

WHEREAS, the Constitution of the State of Illinois and Illinois Compiled Statutes including but not limited to 65 ILCS 5/11-76-1, 65 ILCS 5/11-76-2, 65 ILCS 5/11-76-4, 220 ILCS 5/9 and applicable case law authorize the City to sell and/or transfer assets; and

WHEREAS, the City had considered input from the public from numerous public meetings held over the past two years, together with the advice of its engineers, and

engaged the consulting services of engineer Gerry Hartman and had determined that the sale of its water and wastewater systems would achieve upgrading the water and wastewater service to its citizens, releasing the City from the cost and burden of operating inefficient water and wastewater systems, and providing a more efficient manner of delivering water and collecting fees of same; and

WHEREAS, on December 13, 2021, the Mayor and City Council adopted an ordinance approving the execution of an agreement for the sale of the City-owned water and wastewater systems to Illinois American Water; and

WHEREAS, the City is authorized to enter into contracts, charge license fees, and levy utility taxes pursuant to the Illinois Revised Statutes; and

WHEREAS, the City previously financed improvements for the Water & Wastewater Systems including but not limited to Illinois Finance Authority Series 2017 Bonds, Series 2019 Bonds, and Series 2020 Bonds, collectively "Bonds"; and

WHEREAS, the City entered into a closing on its sale to Illinois American Water on September 22, 2022; and

WHEREAS, to facilitate closing, funds were escrowed with Chicago Title Insurance Company to cover the retirement/payoff of said Bonds; and

WHEREAS, the City has been working with the Illinois Environmental Protection Agency "IEPA" and the Illinois Finance Authority to pay for the Bonds through the escrowed funds; and

WHEREAS, the process of paying for the Bonds involves the establishment of Defeasance Escrows which are being coordinated through Special Counsel at Katten Muchin Rosenman LLP; and

WHEREAS, coordination of such payments requires execution of authorizing documents which are being authorized by the within Ordinance which the City hereby finds to be in its best interest; and

NOW THEREFORE, BE IT ORDAINED by the Mayor and the City Council of Villa Grove, Illinois as follows:

SECTION 1: Incorporation Clause. The Mayor and City Council members hereby find that all of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct and does hereby, by reference, incorporate and make them part of this Ordinance.

SECTION 2: Purpose. This ordinance is to allow for the retirement of Bonds and other debts associated with the City-owned water and wastewater systems sold to Illinois American Water Company and to authorized payment of costs associated with same.

SECTION 3. Process Authorized. This Ordinance hereby authorizes the Mayor or the City Administrator to execute a "Written Direction of Illinois Environmental Protection Agency" a "Certificate of the City of Villa Grove, Douglas County, Illinois" and "Letter of Direction and Authorization to Escrow Settlement Agent" identified respectively as Exhibits A, B and C all of which are attached hereto and by reference incorporated herein, all under such terms and with such modifications as either deem appropriate. The Mayor and/or Administrator are further authorized to execute any and all documents on behalf of the City that either deems necessary to effectuate the satisfaction of said Bonds and/or any other debts associated with the Water and Wastewater System. Either the Mayor or Administrator may authorize the payment of any estimated and/or actual pay off amounts, the payment of any and all costs associated with the Bond payment process, the wiring/payment of related funds, the release of funds escrowed for that purpose, and any other payment and/or execution of documents necessary for the retirement/payment of said Bonds.

SECTION 4: Invocation of Authority. This ordinance is enacted pursuant to the authority granted to this City by the Constitution of the State of Illinois and Illinois Compiled Statutes including but not limited to 65 ILCS 5/11-76-1, 65 ILCS 5/11-76-2, 65 ILCS 5/11-76-4, 220 ILCS 5/9 and applicable case law.

SECTION 5: State Law Adopted. All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purposes of this ordinance are hereby incorporated herein by reference.

SECTION 6: Approval and Execution of Documents. The Mayor and City Clerk are hereby authorized and directed to execute the above referenced documents and the City Clerk is authorized and directed to attest, countersign and affix the seal of the City to such documents and any and all other documents necessary to carry out and give effect to the purpose and intent of this Ordinance.

SECTION 7: Other Actions Authorized. That the Mayor, City Clerk, and City Attorney are hereby authorized and directed to do all things necessary, essential, or convenient to carry out and give effect to the purpose and intent of this Ordinance. The within authorization shall include, but not limited to, adjustments to amounts, dates and other portions of such documents, payment of obligation(s), and other adjustments which they determine to be in the City's interest consistent with the intent of this Ordinance.

SECTION 8: Acts of Village Officials. That all acts and doings of the officials of the City, past, present, and future which are in conformity with the purpose and intent of this ordinance, are hereby in all respects, ratified, approved, authorized and confirmed.

SECTION 9. Headings. The headings for the articles, sections, paragraphs and sub-sections of this ordinance are inserted solely for the convenience of reference and form no substantive part of this ordinance nor should they be used in any interpretation or construction of any substantive provisions of this ordinance.

SECTION 10: Severability. The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, sub-paragraph, section, or part of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable, and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, sub-paragraph, section, or part thereof had not been included.

SECTION 11: Superseder and Publication. All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith, are to the extent of

such conflict hereby superseded. A full, true and complete copy of this Ordinance shall be published in pamphlet form as provided by the Illinois Municipal Code, as amended.

SECTION 12: Effective Date. This Ordinance shall be in full force and effect upon passage and approval, as provided by the Illinois Municipal Code, as amended.

PRESENTED, PASSED, APPROVED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VILLA GROVE, ILLINOIS, at its regular meeting on this third day of November, A.D., 2022, by a roll call vote as follows:

Blaney, Thelma I. yea

Hooker, Anthony L. yea

Eversole-Gunter, Cassandra A. _____

Johnson, Derek S. yea

Garrett, Ryan P. yea

Pangburn, Matthew M. yea

Cheely, Kerry S. absent

APPROVED:

Cassandra A. Eversole-Gunter

CASSANDRA A. EVERSOLE-GUNTER
Mayor

ATTEST:

Michelle L. Osborne

MICHELLE L. OSBORNE
City Clerk

SEAL



EXHIBIT A

WRITTEN DIRECTION OF ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

To: City of Villa Grove
Villa Grove, Illinois 61956

The Illinois Finance Authority (the "*Authority*") issued its Series 2017 Bonds, Series 2019 Bonds and Series 2020 Bonds (i) in part to provide funds to the Illinois Environmental Protection Agency (the "*Agency*") to make loans to certain Illinois local government entities, including the City of Villa Grove, Illinois (the "*City*") for the purpose of financing projects under the Illinois Environmental Protection Act (the "*Act*"), including the Clean Water Program and the Drinking Water Program (collectively, the "*Programs*").

A portion of the proceeds of the Series 2017 Bonds and the Series 2019 Bonds, together with other sources of funds, were loaned by the Agency to the City for the purpose of constructing a water treatment plant (the "*Water Treatment Plant*"). The Agency loan made for such purpose, which is Loan number L17- 5239 is referred to herein as the "*Water Treatment Plant Loan*," and the portion thereof funded by portions of the proceeds of the Series 2017 Bonds and the Series 2019 Bonds, the "*Bond-Funded Water Treatment Plant Loan*".

A portion of the proceeds of the Series 2020 Bonds, together with other sources of funds, were initially allocated to a loan by the Agency to the City for the purposes of replacing a water main, adding a scrubber to the Water Treatment Plant and demolishing the old water treatment plant (the "*Improvements*"). The Agency loan made for such purpose, which is Loan number L17- 5568 is referred to herein as the "*Improvements Loan*," and the portion thereof initially funded by portions of the proceeds of the Series 2017 Bonds and the Series 2019 Bonds, the "*Bond-Funded Improvements Loan*".

The City closed on the sale of its Water Treatment Plant and Water Distribution System to the Illinois-American Water Company (the "*Company*") on September 22, 2022. The Authority has been advised that this transaction results in the private use of the City's Water Treatment Plant and Water Distribution System.

In connection with the closing of the sale of its Water Treatment Plant and Water Distribution System, the City deposited \$6,000,000 of the sale proceeds in an escrow account (the "*Escrow Account*") with Chicago Title Insurance Company (the "*Title Company*") to be used in such amounts as needed to prepay the Water Treatment Plant Loan and the Improvements Loan and/or take such other actions as the Authority and the Agency determine to be necessary to preserve the tax-exempt status of interest on tax-exempt bonds issued by the Authority as one of the sources of funding of Loan 17-5239 and as an initial source of funding of a portion of the Improvements Loan.

IEPA Loan number L17-5239 to the City, i.e., the Water Treatment Plant Loan, was used to finance the construction of the Water Treatment Plant and is currently outstanding in the principal amount of \$3,809,710.26.

The portion of the proceeds of the Series 2022 Bonds initially allocated to funding IEPA Loan number L17-5568 has been reallocated to funding a loan made by Agency to a borrower other than the City. As a result of such reallocation, no proceeds of any tax-exempt bonds of the Authority are allocated to funding IEPA Loan number L17-5568.

In light of the Authority's concern regarding private use of the Water Treatment Plant and the Improvements, the Agency requires and directs the City to take the following actions:

a. to direct the Title Company to pay from the Escrow Account to Amalgamated Bank of Chicago, as trustee, on or before ____ A.M. November 7, 2022 \$418,400.82 via wire transfer pursuant to the payment instructions attached hereto as *Exhibit A*, to prepay in full the Improvements Loan, including accrued interest thereon to November 7, 2022;

b. to direct the Title Company to pay from the Escrow Account to Amalgamated Bank of Chicago, as trustee, on or before ____ A.M. November 7, 2022 \$[3,812,643.74 less sum of amounts in clauses (i) –(iii) in paragraph c] via wire transfer pursuant to the payment instructions attached hereto as *Exhibit A*, to partially prepay the Water Treatment Plant Loan, including accrued interest on the portion of the Water Treatment Plant Loan so prepaid to November 7, 2022;

c. to direct the Title Company to pay from the Escrow Account to Amalgamated Bank of Chicago, as trustee, on or before ____ A.M. November 7, 2022, via wire transfer pursuant to the payment instruction attached hereto as *Exhibit A*, \$_____, such sum to be used to make a partial prepayment of the Water Treatment Plant Loan consisting of (i) the amount needed to defease \$1,605,000 aggregate principal amount of the Series 2017 Bonds maturing July 1, 2037, to their date selected for optional redemption, January 1, 2027 (including all interest thereon to January 1, 2027), i.e., \$_____; (ii) the amount needed to defease \$15,000 aggregate principal amount of the Series 2019 Bonds maturing July 1, 2040, the mandatory sinking fund payment of \$230,000 due January 1, 2041 in respect of the Series 2019 Bonds maturing July 1, 2041 and the \$225,000 principal amount due at maturity of the Series 2019 Bonds maturing July 1, 2041, to their optional redemption date of July 1, 2029 (including all interest accrued thereon to July 1, 2029), i.e., \$_____; and (iii) pay the costs of the Authority associated with such defeasance in the amount of \$_____ in the aggregate, including its financial advisor, Bond Trustee, verification agent, bond counsel and the costs of obtaining new CUSIP numbers for the Series 2017 Bonds and the Series 2019 Bonds after the defeasance; and

d. execute the Certificate of the City of Villa Grove, Douglas County, Illinois, attached hereto as *Exhibit B*, as well as the acceptance to this Written Direction, and deliver the executed Certificate and accepted Written Direction to the Agency and the Authority no later than November 7, 2022.

Dated this 7th day of November, 2022.

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY**

By: _____
Name: John J. Kim
Title: Director

Accepted and agreed to this 7th day of November, 2022.

THE CITY OF VILLA GROVE

By: _____
Name:
Title:

Exhibit A

Payment Instructions - Wire Transfer to Amalgamated Bank of Chicago

Amalgamated Bank of Chicago

Prepayment of Loan No. L17-5568
[Account Information]

Partial Prepayment of Loan No. L17-5239
[Account Information]

Defeasance Escrow Series 2017

Amalgamated Bank of Chicago

ABA: 071003405

DDA: 150002305

Account Name: Corporate Trust

FFC: 1857940005 IFA Escrow Series 2017

Attn: Felipe Mendoza

Cost of issuance

FFC: 1857940014 IFA COI Series 2017

Defeasance Escrow Series 2019

Amalgamated Bank of Chicago

ABA: 071003405

DDA: 150002305

Account Name: Corporate Trust

FFC: 1857941004 IFA Escrow Series 2019

Attn: Felipe Mendoza

Cost of issuance

FFC: 1857941013 IFA COI Series 2019

Exhibit B

Certificate of the City of Villa Grove, Douglas County, Illinois

EXHIBIT B

CERTIFICATE OF THE CITY OF VILLA GROVE,
DOUGLAS COUNTY, ILLINOIS

Re: Illinois Environmental Protection Agency Loans 17-5239 and 17-5568

The City of Villa Grove (the "City") hereby makes the following acknowledgements and representations in respect of the above-referenced loans (the "Loans") to the City:

1. The sole purpose of the Loan 17-5239 was to construct a new water treatment plant ("WTP") for the City. The sole purpose of Loan 17-5568 was to replace a water main ("Water Main Project") to the City's water distribution system ("WDS"), add a scrubber (the "Scrubber Project") to the WTP and demolish the old water treatment plant ("Demolition Project") of the City.

2. The Loans are the only loans received from the Illinois Environmental Protection Agency ("Agency") for the WTP and the WDS.

3. The aggregate amount of funding provided by the Loan 17-5239 is \$4,631,575.08. The City is informed by the Illinois Finance Authority (the "Authority") and the Agency that \$2,735,484.41 of the foregoing amount was derived from the proceeds of tax-exempt bonds issued by the Authority. The City has no basis for verifying the accuracy of this information, but the City is not aware of any facts or circumstances that would lead it to believe that the information is incorrect.

4. The aggregate amount of funding provided by Loan 17-5568 is \$817,424.64. The City is informed by the Authority and the Agency that \$571,341.82 of the foregoing amount was initially allocated to proceeds of tax-exempt bonds issued by the Authority. The City is further informed by the Authority and the Agency that Authority and the Agency have reallocated the \$571,341.82 funding loan amount from the proceeds of tax-exempt bonds to sources of funds other than the proceeds of tax-exempt bonds. The City has no basis for verifying the accuracy of this information, but the City is not aware of any facts or circumstances that would lead it to believe that the information is incorrect.

5. The dates of completion of each of the three projects financed by Loan 17-5586 is May 31, 2022 in the case of the Water Main Project, July 30, 2022 in the case of the Scrubber Project and August 20, 2021 in the case of the Demolition Project. The completion dates of each of these three projects is within 18 months of the date of this certificate.

6. The City acknowledges that on December 20, 2021, the City entered into an Asset Purchase Agreement (the "APA") providing for the sale, among other things, of the assets of the City's water treatment and distribution system (the "Water Assets") to the Illinois-American Water Company (the "Company") subject to the terms and conditions therein (the "Sale"). A copy of such agreement has been provided to the Authority and such copy conforms in all respects to the original of such agreement, as executed. The City further acknowledges that the Illinois

Commerce Commission on September 15, 2022 approved the Sale and that such approval was one of the conditions for the closing of the Sale. The City acknowledges that the Sale closed on September 22, 2022.

7. On the date of the initial funding of Loan 17-5239, the City delivered a Tax-Exemption Certificate and Agreement (the "City Loan Tax Certificate"), which contained at sections 12 and 13 thereof, certain covenants concerning the use and sale of the facilities and improvements financed by the Loan 17-5239. On the date of initial funding of the Loan 17-5239, the City reasonably expected that the use of the WTP would comply with such covenants at all times during the term of Loan 17-5239. On the date of initial funding of Loan 17-5239, the term to final maturity of Loan 17-5239, which was April 16, 2049, did not exceed 120% of the reasonably expected economic life of the WTP. The City is not aware of any facts or circumstances that would cause it to doubt that the terms of the Sale are an arm's length transaction providing fair market value consideration to the City.

8. In connection with the closing of the Sale, the City has deposited \$6,000,000 in an escrow account (the "Escrow Account") with Chicago Title Insurance Company to be used in such amounts as needed to prepay the Loans and/or take such other actions as the Authority and the Agency determine to be necessary to preserve the tax-exempt status of interest on tax-exempt bonds issued by the Authority as one of the sources of funding of Loan 17-5239 and as one of the temporary sources of funding of Loan 17-5568. The \$6,000,000 in the Escrow Account is derived from a portion of the proceeds of the Sale.

9. The City has agreed to provide to, or at the direction of, the Agency, and is providing on this day from the Escrow Account, the amount of \$_____ for the purpose of prepaying Loan 17-5568. The prepayment amount consists of the outstanding principal balance of the Loan 17-5568 (\$817,424.64), unpaid interest on the outstanding balance of Loan 17-5568 accrued to the date of prepayment (\$_____) and administrative costs of the Authority and the Agency of \$_____.

10. The City has agreed to provide to, or at the direction of, the Agency, and is providing on this day from the Escrow Account, the amount of \$_____ for the purpose of prepaying no less than \$4,631,575.00 of the principal of the Loan 17-5239. The City understands that \$_____ of such amount will be used by the Authority to defease a principal amount of the Authority's tax-exempt bonds determined under applicable regulations of the Internal Revenue Service to be allocable to Loan 17-5239, including interest on the bonds to be defeased to the date of maturity or earlier redemption, with the remainder of said \$_____ to be applied to pay closing costs of the defeasance.

11. The Authority and its bond counsel are relying on the above information for purposes of determining and taking the actions they believe are required in light of the APA to preserve the tax-exempt status of interest on the bonds issued by the Authority to initially fund Loan 17-5568 and to fund Loan 17-5239. The City consents to the use of this certificate for such purpose.

THE CITY OF VILLA GROVE

By: _____
Name:
Title:

Date: [November 15, 2022]

EXHIBIT C

City of Villa Grove

Letter of Direction and Authorization to Escrow Settlement Agent

November __, 2022

To: Chicago Title Insurance Company
[Address]

Re: Escrow established in connection with Settlement of Sale of City Water System
("Escrow")

The undersigned, _____ of the City of Villa Grove, Illinois (the "City"), in accordance with the terms of the [Agreement] under which the Escrow is established, hereby authorizes and directs you, as settlement agent, to disburse on or before ____ A.M. on November 7, 2022 from the Escrow the following amount to Amalgamated Bank of Chicago, as trustee (the "Master Trustee") under that certain Master Trust Agreement dated as of November 1, 2013, between the Master Trustee and the Illinois Finance Authority:

Disbursement Amount	Name of Recipient	Account Information
\$	Corporate Trust FFC: IFA-IEPA Villa Grove Attn: Felipe Mendoza	ABA: 071003405 DDA: 150002305

City of Villa Grove

[Title]