

ORDINANCE NO. 2022-28

AN ORDINANCE AUTHORIZING THE ISSUANCE OF WATERWORKS REVENUE BONDS OF THE VILLAGE OF CHERRY VALLEY, WINNEBAGO AND BOONE COUNTIES, ILLINOIS, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,100,000, FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING THE WATERWORKS SYSTEM OF THE VILLAGE.

WHEREAS, the Village of Cherry Valley, Winnebago and Boone Counties, Illinois (the “**Village**”), is a duly organized and existing municipality of the State of Illinois, is 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**”), and is a “governmental unit” as defined in Section 2(i) of the Local Government Debt Reform Act, as amended, 30 ILCS 350/1 *et seq.* (the “**Debt Reform Act**”); and

WHEREAS, the Village currently owns and operates a municipal waterworks system (the “**Waterworks System**”) under and pursuant to the provisions of Division 129 of Article 11 of the Municipal Code (the “**Waterworks Revenue Bond Act**”); and

WHEREAS, the President and Board of Trustees of the Village (the “**Village Board**”) has determined that it is advisable, necessary and in the best interests of the Village, its residents and the users of the Waterworks System, in order to promote and protect the public health, welfare, safety and convenience, to improve the Waterworks System by constructing and installing various capital improvements to the Waterworks System including but not limited to wells and well houses and water mains, valves, vaults and connections, and to make related improvements to the Waterworks System, including, in connection with those improvements, all mechanical, electrical and other facilities and services necessary, useful or advisable to the program of improvements and extensions and, incidental to those project costs, to pay bond discount, interest, bond reserve requirements, and legal, other financing and related administrative fees and costs (collectively, the “**Project**”), all in accordance with preliminary estimates of costs which have been prepared for the Village by CES Inc., the Village’s consulting engineers, and approved by the Village Board and are now on file in the office of the Village Clerk for public inspection; and

WHEREAS, the estimated costs of the Project, including all of the costs previously described, are now anticipated to be not more than \$5,100,000 plus estimated investment earnings on the borrowing provided for in this Ordinance during the time prior to the expenditure of such amount; and

WHEREAS, the Village Board has determined that there are insufficient funds on hand and lawfully available to pay all of the costs of the Project, and it is necessary to issue obligations of the Village to pay such costs; and

WHEREAS, the costs of the Project not paid from other sources are expected to be defrayed by up to \$5,100,000 of proceeds of bonds, and not by any cash on hand or expected to be on hand and lawfully available for such purpose; and

WHEREAS, the Village is authorized under the Waterworks Revenue Bond Act to issue its revenue bonds for the purpose of acquiring, constructing, extending or improving all or any part of the Waterworks System, and pursuant to such authority the Village is authorized to issue such bonds for the purpose of defraying the costs of the Project; and

WHEREAS, the Village Board has determined that it is necessary and in the best interests of the Village that the Project be undertaken, and in order to raise the funds required for such purpose it will be necessary for the Village to borrow an amount not to exceed \$5,100,000 and in evidence of such borrowing to issue waterworks revenue bonds to the payment of which shall be pledged the revenues of the Waterworks System (the “**Water Revenues**”) in an aggregate principal amount not to exceed \$5,100,000, all under and in accordance with the Waterworks Revenue Bond Act and the Debt Reform Act; and

WHEREAS, the Waterworks Revenue Bond Act requires that after an authorizing ordinance providing for the waterworks revenue bonds and specifying the information required by the Waterworks Revenue Bond Act has been adopted, the Village must publish the authorizing ordinance and, if required under the Waterworks Revenue Act, provide for a “backdoor referendum” (as that term is defined in the Debt Reform Act), and the Village Board desires to provide for publication of this Ordinance and for “backdoor referendum” procedures under the provisions of the Waterworks Revenue Bond Act and the Debt Reform Act; and

WHEREAS, the Village Board has determined that the period of usefulness of the Project is not less than forty years; and

WHEREAS, the *The Rock River Times* is a weekly newspaper that is (i) qualified to publish legal notices, (ii) published in the City of Rockford, Illinois, and (iii) of general circulation in the Village; and there is no such newspaper published in the Village;

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHERRY VALLEY, WINNEBAGO AND BOONE COUNTIES, ILLINOIS, as follows:

Section 1. Incorporation of Preambles. The Village Board finds and determines that all of the recitals contained in the preambles to this Ordinance are true, correct and complete and incorporates them into this Ordinance by this reference.

Section 2. Determination To Issue Bonds. It is necessary and in the best interests of the Village to undertake the Project for the public health, welfare, safety and convenience of the residents of the Village. Accordingly, the Waterworks System shall continue to be operated under the provisions of the Waterworks Revenue Bond Act and the Project shall be undertaken. For the purpose of paying the costs of the Project, there are authorized to be issued and sold waterworks revenue bonds of the Village to be issued under the Waterworks Revenue Bond Act (the “**Bonds**”) in an aggregate principal amount not to exceed \$5,100,000, payable from the Water Revenues.

Section 3. Publication. This Ordinance, including the notice in statutory form set forth in Section 4 (the “**Notice**”), shall be published by the Village, *within ten days after its adoption*, one time in *The Rock River Times*, and if no petition, signed by electors equal to ten

percent (10.0%) of the registered voters in the Village (i.e., 205 electors), and asking that the question of constructing and improving the Waterworks System and issuing the Bonds be submitted to referendum, is filed with the Village Clerk within thirty (30) days after the date of the publication of this Ordinance and the Notice, then this Ordinance shall be in full force and effect, and the Bonds shall be authorized to be issued, except as provided in Section 6 below.

Section 4. Notice. The Village Board determines that the following Notice is in the proper statutory form and is made a part of this Ordinance and notice is given as follows:

NOTICE OF INTENT TO ISSUE WATERWORKS REVENUE BONDS AND RIGHT TO FILE PETITION

NOTICE IS GIVEN that pursuant to an Ordinance adopted on August 1, 2022 (the “**Ordinance**”), by the President and Board of Trustees of the Village of Cherry Valley, Winnebago and Boone Counties, Illinois (the “**Village**”), the Village intends to issue waterworks revenue bonds in an aggregate principal amount not to exceed \$5,100,000 (the “**Bonds**”), and bearing interest at a rate or rates per year not to exceed the maximum rate authorized by law at the time the Bonds are sold, for the purpose of improving and extending the Village’s Waterworks System by constructing and installing various capital improvements to the Waterworks System including but not limited to wells and well houses and water mains, valves, vaults and connections, and to make related improvements to the Waterworks System, including, in connection with those improvements and extensions, all mechanical, electrical and other facilities and services necessary, useful or advisable to the program of improvements and extensions and, incidental to those project costs, to pay bond discount, interest, bond reserve requirements, and legal, other financing and related administrative fees and costs. A complete copy of the Ordinance accompanies this Notice.

NOTICE IS FURTHER GIVEN that if a petition, signed by 205 or more registered voters of the Village, asking that the question of constructing and improving the Waterworks System and issuing the Bonds be submitted to referendum, is filed with the Village Clerk within thirty (30) days after the date of publication of the Ordinance and this notice, the question of the issuance of the Bonds shall be submitted to the electors of the Village at the consolidated election to be held on April 4, 2023, for the purpose of voting upon such question, unless (i) the electors of the Village are not scheduled to cast votes for any candidates for nomination for, election to or retention to public office at such election, in which case the question shall be submitted to the electors of the Village at the next succeeding election at which electors of the Village are scheduled to cast votes for candidates for nomination for, election to or retention in public office, or (ii) the Circuit Court of Winnebago County, Illinois, and the Circuit Court of Boone County, Illinois, on the petition of the Village, each declares that an emergency referendum shall be held prior to that date pursuant to the provisions of Section 2A-1.4 of the Election Code, as amended. A form of petition for such purpose is available to any individual requesting one from the office of the Village Clerk.

Notice dated August 1, 2022.

/s/ Kathy Trimble
Village Clerk,
Village of Cherry Valley,
Winnebago and Boone Counties, Illinois

Section 5. Petition Form. A petition form in substantially the form attached to this Ordinance as *Exhibit A* shall be provided by the Village Clerk to any individual requesting one prior to the expiration of the 30 day petition period specified in Section 3 above.

Section 6. Additional Ordinances. If no petition meeting the requirements of applicable law is filed during the petition period referred to in Section 3, then the Village Board may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for the issuance and sale of the Bonds, prescribing all the details of the Bonds, so long as (a) the maximum aggregate principal amount of the Bonds as set forth in this Ordinance is not exceeded, and (b) there is no material change in the Project or purposes described in this Ordinance. Such additional ordinances or proceedings shall in all instances become effective in accordance with law. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for the Village to issue the Bonds in accordance with applicable law.

Section 7. Severability. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 8. Repealer and Effective Date. All ordinances, resolutions or orders, or parts of ordinances, resolutions or orders, in conflict with the provisions of this Ordinance are repealed to the extent of such conflict. This Ordinance shall be in full force and effect after its adoption, approval and publication, as provided by law.

PASSED by the President and Board of Trustees on August 1, 2022.

VOTING AYE: NANCY BELT, JEFF FUSTIN, SALLY HOLLEMBEAK, MIKE NEVILLE,
BRANDI PEARSE, CARL WEDIG.

Voting NAY: NONE.

Abstaining: NONE.

Absent: NONE.

APPROVED by the Village President, Pro Tem on August 1, 2022.

Jeffrey B. Fuster
Village President, Pro Tem
Village of Cherry Valley,
Winnebago and Boone Counties, Illinois

[SEAL]

Attest:

Kathy Inbe
Village Clerk,
Village of Cherry Valley,
Winnebago and Boone Counties, Illinois

STATE OF ILLINOIS)
) SS
COUNTY OF BOONE)

CERTIFICATION OF ORDINANCE

I, the undersigned, certify that I am the duly qualified and acting Village Clerk of the Village of Cherry Valley, Winnebago and Boone Counties, Illinois (the “**Village**”), and that as such official I am the keeper of the records and files of the Village and of the Village Board of the Village (the “**Village Board**”).

I further certify that the foregoing is a full, true and complete copy of Ordinance No. 2022-28 adopted at the regular meeting of the Village Board held on August 1, 2022, entitled:

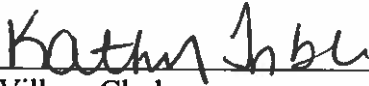
AN ORDINANCE AUTHORIZING THE ISSUANCE OF WATERWORKS REVENUE BONDS OF THE VILLAGE OF CHERRY VALLEY, WINNEBAGO AND BOONE COUNTIES, ILLINOIS, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,100,000, FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING THE WATERWORKS SYSTEM OF THE VILLAGE.

which ordinance was duly adopted at said meeting by a roll call vote of **6** in favor and **0** against, with **0** abstentions and **0** absent. At said meeting a quorum was present and acting throughout the meeting. Said ordinance has not been amended or repealed and remains in full force and effect.

I further certify that the deliberations of the Village Board on the adoption of said ordinance were conducted openly, that the vote on the adoption of said ordinance was taken openly, that said meeting was held at a specified time and place convenient to the public, that notice of said meeting was duly given to all of the news media requesting such notice, that a copy of public notice of and the agenda for said meeting was posted at least 48 hours prior to the convening of the meeting at the meeting place and at my offices at Village Hall, that said meeting was called and held in strict compliance with the provisions of the Illinois Open Meetings Act, as amended, and the Illinois Municipal Code, as amended, and that in the adoption of said ordinance the Village Board has complied with all of the provisions of said Act and said Code and with all of the procedural rules of the Village Board.

IN WITNESS WHEREOF, I hereunto affix my official signature and the official seal of said Village as of this 1st day of August, 2022.

[SEAL]



Village Clerk,
Village of Cherry Valley,
Winnebago and Boone Counties, Illinois