

TOWN BOARD RESOLUTION NO. 2013-01

**TOWN OF MERRIMAC
SAUK COUNTY, WISCONSIN
APPROVING FORM OF BOND FOR ANTICIPATED FILING OF PETITION**

Adopted at a Town Board Meeting
Duly Noticed and Held on February 6, 2013

WHEREAS, the Town Clerk of the Town of Merrimac has been advised that the U.S. Army ("Army") may be filing a Verified Petition with the Town pursuant to Wis. Stats. § 60.71, which statute requires the filing of a bond to assure that the petitioner will pay for the costs incurred by the Town in reviewing said Petition, as required by State statute, if the Town refuses to organize the district; and

WHEREAS, the Army is unable to provide such a bond but wishes to provide adequate assurance to the Town that all such costs will be fully paid by the Army and that the taxpayers of the Town will not be responsible for any such costs; and

WHEREAS, the Town Board has duly considered the public interest in assuring that all such costs are paid by the Army and not by Town taxpayers, and wishes to confirm its position by resolution of the Town Board and execution of an agreement between the Town and the Army.

RESOLUTION

NOW, THEREFORE, following consideration of the above recitals, the Town Board of the Town of Merrimac hereby resolves as follows:

1. The Army's obligation to provide security satisfying the bond requirement in Wis. Stat. § 60.71(3) shall be fully and completely satisfied as follows:

a. At or before the Army files its Verified Petition for the establishment of a Town sanitary district, the Army shall provide a check to the Town in the amount of \$25,000 (Twenty-Five Thousand Dollars), which check may be deposited by the Town and accounted for in a separate fund, to be used solely for payment of the Town's expenses incurred in review of the above-referenced Verified Petition, all in accordance with State statutes.

b. The Town agrees to coordinate with the Army before incurring expenses in excess of \$25,000. If the Town refuses to organize the sanitary district and the Town's expenses exceed the amount of \$25,000, the Army agrees that it shall pay such additional amounts to the Town as are reasonable and necessary.

c. The Army and the Town shall enter into an Agreement, in the form of Exhibit A, attached hereto, that describes the parties' respective obligations regarding how the payment of the Town's expenses shall be accomplished.

2. The Town hereby approves the security offered by the Army, on the terms set forth above, and as further set forth in the Agreement attached as Exhibit A, as satisfying the bond requirement in Wis. Stat. § 60.71(3).

3. The Town Chairperson is hereby authorized to enter into an agreement with the Army in the form of Exhibit A.

By signing below, we certify that the information in this Resolution is accurate and complete, and that this Resolution was unanimously approved by the Town Board on February 6, 2013.

TOWN OF MERRIMAC



BY: STEVE PEETZ, TOWN CHAIRPERSON

ATTESTED BY:

TOWN OF MERRIMAC



BY: TIM MCCUMBER, TOWN CLERK

AGREEMENT REGARDING CASH DEPOSIT IN LIEU OF BOND

This Agreement is made this 6th day of February, 2013 by and between the U.S. Army (“the Army”) and the Town of Merrimac, Wisconsin (“the Town”).

WHEREAS, the Army desires to file a Verified Petition with the Town pursuant to Wis. Stat. § 60.71 to establish a sanitary district to supply public water to portions of the Towns of Merrimac, Sumpter and Prairie du Sac; and

WHEREAS, Wis. Stat. § 60.71(3) requires a petitioner to provide security, in the form of a bond, for the payment of all expenses connected with the proceedings if the Town Board refuses to organize a sanitary district; and

WHEREAS, the Army is unable to provide a bond but has proposed to provide to the Town a cash payment in the amount of \$25,000 to secure the payment of the Town’s expenses if the Town refuses to organize the district; and

WHEREAS, the Army has agreed to pay any expenses incurred by the Town in excess of \$25,000 upon the receipt of proper documentation; and

WHEREAS, the Town Board has resolved to accept the Army’s cash payment and assurance of additional payment in lieu of a bond;

NOW, THEREFORE, in consideration of the mutual promises contained herein,

IT IS AGREED as follows:

1. If and when the Army files a Verified Petition for the creation of a sanitary district pursuant to section 60.71, the Army shall accompany the Petition with a check in the amount of \$25,000, made payable to the Town of Merrimac.

2. The Town may deposit the check, but shall account for the proceeds in a fund to be used solely in accordance with this Agreement.
3. If the Town decides to organize the sanitary district, the Town shall return the \$25,000 to the Army within ten days of the issuance of the Town's decision.
4. If the Town refuses to organize the sanitary district, the Town shall present to the Army, within ten days after the Town's decision, a list of the expenses incurred by the Town in connection with consideration of the Army's Verified Petition.
5. The Army shall have five days in which to object to the inclusion of any item which it believes is not properly chargeable to the Army pursuant to Wis. Stat. § 60.71(3). The parties agree to work in good faith to resolve any issues concerning what should and should not be included as part of the Town's expenses.
6. After the parties reach agreement on the amount of the expenses properly chargeable to the Army, the Town shall disburse funds from the segregated account, keeping for the benefit of the Town the amount necessary to pay the agreed-upon expenses and refunding to the Army the balance. Said refund shall be made within ten business days of the date on which the parties reach agreement as to expenses.
7. The Town agrees to coordinate with the Army before incurring expenses in excess of \$25,000. If the Town refuses to organize the sanitary district and the Town's expenses exceed the amount of \$25,000, the Army agrees that it shall pay such additional amounts to the Town as are reasonable and necessary. Said payment

shall be made within five business days of the date on which the parties agree upon the amount of such additional expenses.

8. The Town hereby certifies that the Town Chairperson is authorized to sign this Agreement on the Town's behalf.

U.S. DEPARTMENT OF THE ARMY

2/6/13
Date

By
Its COM / PA

TOWN OF MERRIMAC

2/6/13
Date

By
Town Chairperson

Attested by:

2/6/13
Date

By
Town Clerk