

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
_____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: David A. Hulseberg, Village Manager *DAH*
DATE: April 13, 2011 (B of T) DATE: March 23, 2011
TITLE: Intergovernmental Agreement with the Village of Glen Ellyn
Regarding the Glenbard Wastewater Authority
SUBMITTED BY: Carl Goldsmith, Director of Public Works *CG*

BACKGROUND/POLICY IMPLICATIONS:

This agreement is subject to approval by the Village of Glen Ellyn at their July 25, 2011, Board meeting.

FISCAL IMPACT/FUNDING SOURCE

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *David A. Hulseberg* _____ Date 4/13/11

Note: All requests for Board action must be approved by the Village Manager's Office by 12:00 pm, Wednesday, prior to the Board meeting.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10.



April 13, 2011

TO: Village President and Board of Trustees
THROUGH: David A. Hulseberg, Village Manager
FROM: Carl Goldsmith, Director of Public Works *CG*
SUBJECT: Glenbard Wastewater Authority Intergovernmental Agreement

The Villages of Glen Ellyn and Lombard jointly established the Glenbard Wastewater Authority (GWA) with through an intergovernmental agreement in 1977. The basic structure and content of the Agreement have remained in tact since the formation of the Authority. The GWA is managed by the Operating Agency (Glen Ellyn), with direct oversight by the Executive Oversight Committee (EOC), which is comprised of the Village Presidents, an elected official from each community, the Village Managers and the Public Works Directors. The GWA Board is comprised of the full Corporate Authorities from each community and meets annually to adopt the annual budget, or as called upon to discuss matters related to the GWA.

Beginning in 2008, the two staffs began to review the IGA. To ensure that the GWA was operating in accordance with the executed IGA and to make sure that the financial contributions by the member communities were appropriate based upon benefit derived. Through the review process, Lombard staff discovered several areas where practice did not match the language contained in the agreement.

The significant modifications to the IGA are identified below:

BUDGET & FUNDING

Section I.G., I.K. and VI.C. identify all facilities covered by the GWA. Each facility that is operated by the GWA is assigned a cost center from both Operating & Maintenance and Capital budgeting purposes. The IGA identifies the breakdown of funding of operating and capital items based upon the benefiting member. The cost centers are broken down in accordance with the schedule below:

- Glenbard Treatment Plant (split based upon flow)
- Lombard Stormwater Plant (100% Lombard)
- North Regional Interceptor (split based upon flow)

- South Regional Interceptor (100% Glen Ellyn)
- St. Charles Road Lift Station (100% Glen Ellyn)
- Valley View Lift Station (100% Glen Ellyn)
- SRI Lift Station (100% Glen Ellyn)
- Sunnyside Lift Station (100% Glen Ellyn)

Section VI.A. defines the separation of funds for Operation & Maintenance and Capital Replacements, which shall follow the cost center allocation formulas.

Section VI.D. provides that a Member may adjust their contribution to a Division on an annual basis, provided the Member fully funds the debt service and capital expenses for each Division on an annual basis. This may only be done for Divisions funded 100% by the Member.

ORGANIZATIONAL STRUCTURE

Section II.C. of the revised IGA clarifies the composition of the EOC, as well as identifying the assignment of the presiding officer function for the EOC. Language has been provided to clarify the composition of the EOC, which includes both Village Presidents, a Trustee from each member, both Village Managers and both Public Works Directors.

PERSONNEL

Section IV.A. provides that the evaluation and discipline of the GWA Executive Director shall be conducted by the Operating Agency, but the appointment and dismissal is made by the Executive Oversight Committee.

Section IV.E. gives greater clarity to the benefits afforded to employees of the GWA, which shall be consistent with those afforded to Glen Ellyn employees not covered by a collective bargaining agreement.

OPERATIONAL ISSUES

Section IX. Has been amended to provide greater clarity on the use of Authority property. As a result of past discussions on the placement of cellular communication towers, the EOC desired to incorporate language on the matter into the amended IGA. Due to the fact that the GWA does not hold title to property, the Lombard staff felt it important to make sure to define the approval process and benefit (financially).

Section X. amends the Overhead Fees charged by the Village of Glen Ellyn. Exhibit "A" sets forth the initial fee, which will be adjusted annually by the equivalent amount of the most recent Consumer Price Index. Any additional or extraordinary costs that are incurred by the Operating Agency (Glen Ellyn) shall be reviewed by the EOC prior to reimbursement. The EOC shall review the indirect costs contained in the Overhead Fee every 3 years and has the authority to make revisions to Exhibit "A" without amending the IGA.

The overall goal was to guarantee a greater level of accountability for the operation of the GWA. The process to approve the revised IGA requires that the EOC approve the document and recommend approval to the GWA Board. The GWA Board is required to take action to approve the agreement and then each member community must approve the IGA.

The staff recommends that the Village Board approve the attached intergovernmental agreement subject to approval of the same IGA by the Glen Ellyn Village Board of Trustees at their April 25, 2011 meeting.

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGES OF
GLEN ELLYN AND LOMBARD IN REGARD TO THE GLENBARD
WASTEWATER AUTHORITY AGREEMENT**

(As amended on November 28, 1997; March 21, 1985; March 31, 1986; April 13, 1987;
April 7, 1988; May 9, 1994; May 7, 1998; and _____, 2010)

This Intergovernmental Agreement Between the Villages of Glen Ellyn and Lombard in
Regard to the Glenbard Wastewater Authority (hereinafter referred to as the "Agreement"
is made this _____ day of _____, 2010 by and between the Village of
Lombard, Du Page County, (hereinafter referred to as "LOMBARD"), an Illinois
municipal corporation, and the Village of Glen Ellyn, Du Page County, (hereinafter
referred to as "GLEN ELLYN"), an Illinois municipal corporation, and is intended to
provide for the joint and cooperative establishment and operation of a wastewater
treatment system under, and pursuant to the Illinois Intergovernmental Cooperation Act
(5 ILCS 220/1 et seq). (LOMBARD and GLEN ELLYN are sometimes referred to
herein individually as a "Party" and collectively as the "Parties.");

WITNESSETH:

WHEREAS, the Parties hereto have been jointly involved in wastewater treatment
under the terms and conditions of an agreement dated April 1, 1968, and amendments
thereto; and

WHEREAS, the Federal and Illinois Environmental Protection Agencies have
adopted certain wastewater collection and treatment standards requiring major
improvements to the Glenbard Wastewater Treatment Plant (as defined below), the
construction of an interceptor trunk line transporting wastewater from unincorporated
areas and the LOMBARD stormwater plant to the Glenbard Treatment Plant and
conversion of the LOMBARD stormwater plant for primary treatment of combined sewer
overflows only (hereinafter referred to as the "PROJECTS"); and

WHEREAS, facility planning and engineering design (Step I and Step II) have
been completed for the PROJECTS; and

WHEREAS, the Parties hereto have determined that joint action is the most
effective way to accomplish the above described purposes; and

WHEREAS, units of local government have had conferred upon them the
following powers by Article VII, Section 10 of the Constitution of the State of Illinois:

Units of local government and school districts may contract or otherwise associate among
themselves, with the State, with other states and their units of local government and
school districts, and with the United States to obtain or share services and to exercise,
combine or transfer any power or function, in any manner not prohibited by law or by
ordinance. Units of local government and school districts may contract and otherwise

associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, 5 Illinois Compiled Statutes 220/1 et seq., formerly Chapter 127, Illinois Revised Statutes, Sections 741 et sequitur, provides as follows:

Section 220/3. Intergovernmental Agreements

Any power of powers, privileges or authority exercised or which may be exercised by a public agency of this State may be exercised and enjoyed jointly with any other public agency of this State and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States do not prohibit joint exercise of enjoyment.

Section 220/5. Intergovernmental Contracts

Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties; and

WHEREAS, the Parties hereto have authorized the execution of this Agreement, as an exercise of their respective governmental authority, and as an exercise of their Intergovernmental Cooperation authority under the Constitution and laws of the State of Illinois; and their purposes, powers, rights, objectives, and responsibilities hereunder are fully set forth herein;

NOW, THEREFORE, in consideration of the foregoing, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties hereto, it is hereby agreed by, between and among the Parties hereto, as follows:

I. **Definitions**

- A. "Members" means LOMBARD and GLEN ELLYN.
- B. "Authority" means the Glenbard Wastewater Authority.
- C. "Board" means the Board of Directors of the Glenbard Wastewater Authority.

- D. "Budget" means the Annual Operating Budget and Capital Improvements Plan for the Glenbard Wastewater Authority.
- E. "Division" means the budgetary costs centers for Waterwater Treatment Facilities for the Glenbard Wastewater Authority.
- F. "Executive Oversight Committee" means the executive oversight committee of the Glenbard Wastewater Authority, as provided for in Section II. C. of this Agreement.
- G. "Wastewater Treatment Facilities" means:
- (i) Glenbard Treatment Plant – Main operating facility for all wastewater flows located at 21 W 551 Bemis Road, Glen Ellyn, Illinois 60137;
 - (ii) LOMBARD Stormwater Plant – Combined sewerage treatment facility utilized by LOMBARD during high flow events. The LOMBARD Stormwater Plant also includes the Hill Avenue Lift Station that is utilized during high flow events;
 - (iii) North Regional Interceptor (NRI) – Trunk sewer pipe that conveys flow from the St. Charles Road Lift Station to the Glenbard Treatment Plant. It has multiple connection points from each Party;
 - (iv) South Regional Interceptor (SRI) – Trunk sewer pipe that conveys wastewater from the Valley View Lift Station to the Glenbard Treatment Plant. It has multiple connection points from GLEN ELLYN;
 - (v) St. Charles Road Lift Station – Pumping station responsible for conveying flow from the Glen Ellyn Heights subdivision (Du Page County managed) and North Glen Ellyn Subdivision;
 - (vi) Valley View Lift Station – Pumping station responsible for conveying flows from the Valley View Subdivision currently serviced and managed by Illinois American Water Company;
 - (vii) SRI Lift Station – Pumping station built to provide a level of protection on the SRI during high flow conditions;
 - (viii) Sunnyside Lift Station – Pumping station responsible for conveying flow from the Sunnybrook Subdivision. (homes along the east side of Sunnybrook Drive).

The term "Wastewater Treatment Facilities" shall not include the sewer collection system of each individual Member

- H. "Operating Agency" means GLEN ELLYN. The authority of the Operating Agency shall be only as defined or detailed herein, subject to the restrictions and limitation of applicable federal, state, and local laws or regulations. In general, the Operating Agency shall provide the Authority with support services, including accounts receivable, accounts payable, payroll, bookkeeping and accounting services, human resources services, legal services and overall management supervision to oversee the day-to-day operations of the "Wastewater Treatment Facilities" in accordance with the general direction and policy as provided by the Executive Oversight Committee. The Operating Agency shall be paid an Overhead Fee (as defined below) as compensation for these services.
- I. "Participating Agency" shall be defined as public agencies contributing wastewater to the Glenbard Treatment Plant for treatment.
- J. "Overhead Fees" are those costs for personnel, services and materials incurred by the Operating Agency and relating to the Glenbard Treatment Plant and not directly charged to the Authority. The Overhead Fees charged by the Operating Agency to the Authority shall be annually determined and incorporated into the approved Budget.

The determination of the Overhead Fees shall be based upon the sum of:

- (i) An allocation of costs from the Operating Agency's administrative and public works staff, representative of that portion of time spent and costs incurred by the Operating Agency for Authority related functions, plus
 - (ii) An allocation of all the direct costs incurred by the Operating Agency for items relating solely to Authority matters, including costs of generating accounts payable checks, payroll checks, supplies, prorated maintenance, postage, computer programming fees, telephone charges and similar items.
- K. "Operation & Maintenance and Capital Expenses" shall be defined as follows:
- (i) Operation and Maintenance Expenses are those costs associated with the day-to-day operations of the Glenbard Treatment Plant, North Regional Interceptor, South Regional Interceptor, LOMBARD Stormwater Plant, Hill Avenue Lift Station, St. Charles Road Lift Station, Sunnyside Lift Station and Valley View Lift Station.
 - (ii) Capital Expenses are those costs associated with more significant improvements to the Wastewater Treatment Facilities operated by the Authority. Capital Expenses are subject to the purchasing policies established by the Operating Agency.

II. Glenbard Wastewater Authority; Establishment, Duties

- A. The Authority is hereby created and established for the purpose of jointly treating and processing wastewater by the Members. The Board of the Authority shall consist of the Village President and six (6) Trustees each from GLEN ELLYN and LOMBARD. The presiding officer of the Board shall alternate each fiscal year of the Authority between the Village President of LOMBARD and the Village President of GLEN ELLYN, with the LOMBARD Village President being the presiding officer in fiscal years ending in even-numbered years and with the GLEN ELLYN Village President being the presiding officer in fiscal years ending in odd-numbered years, unless the Village Presidents agree otherwise. The location of the meetings of the Board shall be the Village Hall of the presiding officer unless the Village Presidents agree otherwise.

The Board shall meet at the call of the presiding officer or any four (4) members of the Board may call a meeting. All meetings of the Board shall comply with the requirements of the Illinois Open Meetings Act. A simple majority (4) of the Village President and six (6) trustees of each Member shall constitute a quorum to do business.

- B. The Authority, by action of its Board, shall have, and is hereby delegated full power and authority to:
- (i) Operate and maintain the Wastewater Treatment Facilities in accord with applicable federal, state, and local laws, ordinances and regulations;
 - (ii) Secure and provide necessary personnel, equipment, and improvements, either directly or through the Members;
 - (iii) Establish a system of revenue through direct payments by Members, a participating agency and/or other private or public bodies;
 - (iv) Enter into agreements with any other local governmental unit for the treatment of wastewater generated from within that governmental unit, and with private wastewater treatment facilities operators, except that agreements with the County of Du Page or a private utility company as identified in the facilities plan for the Authority's facility planning area shall require approval of the Operating Agency only, with the consent of the Executive Oversight Committee;
 - (v) Perform such other acts as may be necessary or desirable for the establishment, maintenance, and operation of the Wastewater Treatment Facilities, including, but not limited to, designating a Member to exercise its condemnation authority in the acquisition of sites for additional wastewater treatment facilities;

(vi) Review and approve an annual budget.

- C. The Board shall create an Executive Oversight Committee, which shall consist of the Village Presidents from GLEN ELLYN and LOMBARD or their respective designees, one (1) elected official from each of the Village Board's of GLEN ELLYN and LOMBARD other than the Village Presidents, the Village Managers of GLEN ELLYN and LOMBARD or their respective designees, and the Public Works Directors of LOMBARD and GLEN ELLYN or their respective designees.

The presiding officer of the Executive Oversight Committee shall be the presiding officer of the Board. In the event the absence of the presiding officer, the elected official from the presiding officer's community shall serve as presiding officer pro tem for that meeting. In the event of the absence of the presiding officer and the presiding officer pro tem, the non-presiding village president or his designee shall assume the role and duties of the presiding officer for that meeting at which the presiding officer and presiding officer pro tem are absent. If the presiding officer, presiding officer pro tem and the non-presiding village president are absent, the elected official from the non-presiding community shall serve as presiding officer pro tem for that meeting.

The location of the meeting of the Executive Oversight Committee shall be the Glenbard Treatment Plant, 21W551 Bemis Road, Glen Ellyn, Illinois 60137, unless otherwise specified by the then presiding officer by reasonable notice to the other members of the Executive Oversight Committee. The duties and powers of the Executive Oversight Committee shall include the following :

1. To make policy recommendations regarding, but not limited to restructuring of the Authority, sale or transfer of the assets of the Authority, long-term planning and capital improvements;
2. To review and recommend an annual budget to the full Board;
3. To review the annual audit;
4. To periodically review facility operations;
5. To sell equipment which the Executive Oversight Committee determines to be obsolete and no longer necessary for the operation of the Authority,
6. To approve expenditures which are specifically provided for within the annual budget or which are necessary in order to implement matters more generally provided for within the annual budget;

7. To review and approve contracts or expenditures of money in excess of the current maximum limit over which competitive bidding is required by 65 ILCS 5/8-9-1, or to such higher amount as the legislature may from time to time amend such section, provided monies have been previously budgeted in a budget approved by the Board;
8. To review and make recommendations to the Board or to the corporate authorities of the respective Members sitting independently, concerning facilities planning area (FPA) boundary changes, with final endorsement of any FPA boundary change requiring the concurrence of the corporate authorities of the Members;
9. To take such additional action as the Executive Oversight Committee determines is necessary and proper for the operation of the Authority by a 4/5 (four fifths) vote of the Executive Oversight Committee members present and voting; provided, however, that the Executive Oversight Committee must give no less than thirty (30) days notice to the corporate authorities of GLEN ELLYN and LOMBARD after taking any such action. If the corporate authorities of either Member pass an ordinance removing the power from the Executive Oversight Committee to take the action so taken, within said thirty (30) day period, then the Executive Oversight Committee shall thereafter lose the power to take such action.

The Executive Oversight Committee shall meet at the call of the presiding officer or at the call of any two (2) members of the Executive Oversight Committee. A simple majority, (i.e. five (5) members of the Executive Oversight Committee), shall constitute a quorum to transact business.

Nothing shall preclude the village managers or their designees and the public works directors from meeting to discuss matters related to the operation of the Glenbard Wastewater Authority, provided that a report of the meeting is provided to the Executive Oversight Committee at the next meeting of the Executive Oversight Committee.

III. Budget Adoption, Audit

- A. Adoption of the annual operating budget shall require the affirmative vote of four (4) members of the Board from each Member. The fiscal year of the Authority shall be the same as the fiscal year of the Operating Agency (May 1 to April 30).
- B. The Authority budget shall be prepared and maintained as a separate document and shall not be intermingled or made a part of the regular GLEN ELLYN budget.

- C. The annual audit shall be executed by an auditing firm selected by the Operating Agency, subject to the advice and consent of a majority of the Executive Oversight Committee. The auditing firm selected by the Operating Agency shall be a firm independent of the auditing firm auditing the books and records of either GLEN ELLYN or LOMBARD, unless such firm is approved by the Executive Oversight Committee.

IV. **Personnel**

- A. All appointments, evaluations and discipline of personnel for the Authority, with the exception of the Executive Director, shall be made by the Operating Agency. The appointment and dismissal of the Executive Director shall be made by the Executive Oversight Committee.
- B. All appointments shall be made only on the basis of merit and fitness, as determined by the Operating Agency.
- C. All persons directly employed in the operation of the Wastewater Treatment Facilities shall be considered to be employees of the Authority, subject to the supervision of the Operating Agency in the performance of its duties.
- D. Employees of the Authority meeting the eligibility requirements for pension benefits shall be sponsored by the Operating Agency for participation in the Illinois Municipal Retirement Fund.
- E. The Operating Agency shall provide employee benefits and health insurance to the Authority personnel, subject to the benefit levels established within the personnel rules and policies as adopted by the Operating Agency. Such benefits and insurance shall be the cost of the Authority.

V. **Authority Insurance**

The Operating Agency shall utilize its insurance provider to extend coverage to the Authority for liability, workers compensation, property and other coverage deemed to be necessary, consistent with the coverage limits maintained by the Operating Agency. Such insurance shall be the cost of the Authority.

VI. **Wastewater Treatment Facilities Operations & Finances**

- A. Financing of Operations.

GLEN ELLYN, as Operating Agency, has responsibility for complete operation and maintenance of the Wastewater Treatment Facilities as agreed upon by the Members. The Village Manager of the Operating Agency shall

have purchasing authority up to the limit established for the Executive Oversight Committee as referenced in Section II.C.7 of this Agreement.

The Operating Agency shall maintain separate funds or accounts as necessary to ensure that the billing and financing of the Authority's operations and capital replacements are apportioned to each Member as detailed in Section VI.C of this Agreement.

B. Billing Procedure

Each Member will transfer into such fund or account, and in the manner, including electronic transfer, as the Authority may direct, a set amount on the last day of the month for which service is rendered as a preliminary payment for that service. This monthly amount is established as 1/12th (one-twelfth) of that fiscal year's budget apportioned to each Member as determined by Section VI.C of this Agreement.

Not later than the twentieth (20th) calendar day of each month the Authority shall send a monthly flow bill to each Member for the treatment of wastewater based on respective metered flows for the prior month. The amount due from each Member may be adjusted, if applicable, twice a year based on the monthly flow bills issued from May thru October and November thru April. After the issuance of the October and April flow bills, the Members will remit any balance due, or the Authority will return any overpayment, within sixty (60) days. Any other revenue or audit adjustment will be handled as a separate invoice/credit transaction, and not deducted or added to the flow bills.

The Operating Agency will also make available to each Member, upon request, a monthly budget statement, said statement detailing, by line item, expenditures for the previous month, end of the month encumbrances, and unencumbered budget balances.

Each Member shall include in its annual appropriation or budget ordinance adequate funds for the aforementioned payments.

C. Rate Determination.

The Operating Agency may include debt service costs in monthly billing to Members. The payment schedule shall consist of twelve (12) equal monthly amounts to be collectively paid by the Members, with the portion of each month's payment being adjusted monthly based upon the ratio of flow contributed by each Member to the total flow received by the Authority from the Members, in accordance with the following formulas:

1. GLENBARD TREATMENT PLANT:

- a) Operation and Maintenance

Current Year Budget X Previous Month Flow Contribution %
12

- b) Vehicle & Equipment Replacement

Current Year Budget X Previous Month Flow Contribution %
12

2. LOMBARD STORMWATER PLANT:

- a) Operation and Maintenance

LOMBARD will pay all expenses.

- b) Capital Expenses

LOMBARD will pay all expenses

3. NORTH REGIONAL INTERCEPTOR:

- a) Operation and Maintenance

Current Year Budget X Previous Month Flow Contribution %
12

- b) Capital Expenses

Current Year Budget X Previous Month Flow Contribution %
12

4. SOUTH REGIONAL INTERCEPTOR:

- a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

- b) Capital Expenses

GLEN ELLYN will pay all expenses

5. ST. CHARLES ROAD LIFT STATION

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

6. VALLEY VIEW LIFT STATION

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

7. SOUTH REGIONAL INTERCEPTOR LIFT STATION

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

8. SUNNYSIDE LIFT STATION

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

D. **Capital Expenses** –As part of the annual budget process, the Executive Oversight Committee shall determine the actual contribution required for capital expenses in each Division based upon the most recently approved asset analysis. Debt service shall be expensed to the appropriate Division’s capital fund. The Executive Oversight Committee shall ensure that adequate funding is maintained for debt service and capital replacement for each Division.

For each Division where a single Member is responsible for one hundred percent (100%) of the costs, the responsible Member may adjust their capital contribution to the Division on an annual basis provided that the current year debt service and capital expenses for the Division are completely funded. Members may transfer cash reserves out of a Division for which they are one hundred percent (100%) responsible for costs provided that the current year debt service and capital expenses for the Division are completely funded

E. **Rate Adjustment**- The audit shall be completed within six (6) months of completion of the fiscal year of the Operating Agency. The audit report shall include the following information:

1. Total flows billed per Member.
2. Total revenues billed and received per Member.
3. An expenditure analysis, including operating expenses by category,
4. An analysis of each Member’s expense allocation determined by the product of the percentage of flow for each Member to total flow applied to total expense.
5. An amount payable or receivable by each Member based on an adjusted rate as determined by dividing total expenses by total flow.

Based on the audit report, the Operating Agency shall either remit or bill the amount due to, or from, each Member, except for that cash fund balance which shall be maintained by the Authority as further defined in subsection I below, entitled “Cash Balance.”

Payment by either the Authority or any Member shall be due within sixty (60) days of the billing.

F. **Method of Metering**- The metering of the wastewater into the Glenbard Treatment Plant shall be such that the flow contributed by each Member, can be accurately measured. Estimated flows may be used as a substitute in the case of meter failure. Such estimates, however, shall require the mutual approval of the Operating Agency and the affected Member. Where a dispute should occur the Parties shall consider using prior years flows for the same period.

G. **Control of Permits**- All permits requiring Federal and/or Illinois Environmental Protection Agency approval shall be processed through the staff of the Authority.

Copies of any permits involving fifteen (15) persons equivalent, or less, additions to the sewer system flowing to the Glenbard Treatment Plant shall be filed with the Glenbard Treatment Plant staff.

- H. **Punitive Action**- Any responsibility for punitive action taken by the Federal and/or Illinois Environmental Protection Agency against the Operating Agency must be assumed by the allegedly offending Member, including any and all legal costs and any resultant fines levied by court action or the Illinois Pollution Control Board, unless the fine is a result of negligence on the part of the Authority. In such case, the Authority shall be responsible for the punitive action.
- I. **Cash Balance**- A working cash fund shall be maintained in an amount approximately equal to twenty-five percent (25%) of the previous fiscal year's expenditures for operation and maintenance, as determined by the audit, exclusive of depreciation and equipment reserves. Working cash shall be calculated as the total of the general ledger cash and short term investment balances. This calculation shall be done only for the operation and maintenance fund and not on a combined fund basis.
- J. **Compensation of Operating Agency**- The Operating Agency shall be entitled to compensation for services rendered to the Authority, with the amount of compensation being the 'Overhead Fees' defined in Article I, subsection I. The amount of Overhead Fees payable to the Operating Agency shall be mutually determined by the Members and included in the annual operating budget. In the event the Members fail to agree upon the compensation payable to the Operating Agency, then the amount of compensation contained in the most current, approved operating budget shall be carried forward into the subsequent fiscal year's annual operating budget, provided, however, that the use of the preceding fiscal year's budgeted amount to determine the Operating Agency's compensation shall not be employed in two consecutive years.

VII. Future Capital Improvements

If, at some future date, it becomes necessary or advisable to enlarge, improve, or expand the Wastewater Treatment Facilities, the same may be accomplished with the approval and concurrence of each Member and the Board, under such terms as may be agreed to by the Members.

VIII. Revenue Bond Restrictions

Sections XI and XII of this Agreement shall be subject to restrictions contained in present and/or future Revenue Bond Ordinances of LOMBARD and GLEN ELLYN, which provide funding for wastewater treatment facilities and/or sanitary sewer facilities.

IX. Use of Authority Property

Land and facilities operated by the Authority are intended for the sole use of the Authority. Any request to utilize land, office space, storage space, garage space or other property of the Authority shall be subject to the approval of the Executive Oversight Committee.

All revenues derived from the use of the land and Wastewater Treatment Facilities operated by the Authority shall be placed in a cash reserve account with the Operating Agency and shall be reviewed by the Executive Oversight Committee who shall determine the use of the funds. Revenues derived from the use of land and Wastewater Treatment Facilities operated by the Authority where a single Member is responsible for one hundred percent (100%) of the costs shall become the property of the Member responsible for the operating and capital expenses for the Wastewater Treatment Facilities

X. Overhead Fees

(A). The initial Overhead Fees adopted as part of this revised Agreement are attached as **Exhibit A and made part thereof**. The Overhead Fees shall be adjusted annually by a percentage increase equivalent to the most recent calendar year consumer price index (CPI-U for the Chicago Metropolitan Area).

(B). If any extraordinary costs are incurred by the Operating Agency in excess of this adopted fee schedule, such extraordinary costs shall be subject to the approval of the Executive Oversight Committee prior to reimbursement of the Operating Agency therefore.

(C). The components of the indirect costs of the Overhead Fees shall be reviewed every three (3) years by the Executive Oversight Committee. The Executive Oversight Committee shall have the authority to make revisions to **Exhibit A** without amendment to this Agreement.

XI. Single Village Ownership

Should it become necessary for either GLEN ELLYN or LOMBARD to own part or all of the Wastewater Treatment Facilities in its entirety at any time after completion, it may do so upon approval of the sale and conditions of the sale from each of the Village Boards of LOMBARD and GLEN ELLYN. The purchase price shall be the seller's proportionate share of the appraisal value of that part of the Wastewater Treatment Facilities at the time of the sale, determined by the respective contributions of the Members as provided for herein, plus the then appraised value of the land. The purchase shall be either as a lump sum payment or may be amortized over a period not to exceed twenty (20) years at a rate of interest equal to the interest rate of the outstanding bonds of the selling Member and deducted from the sewage treatment service charges if agreeable to both Members. Upon payment of the full purchase price, the selling Member shall have the right to continue to use that part of the Wastewater Treatment Facilities at such rate as will allow the purchasing Member a reasonable return of its total investment above operating costs.

XII. Sale to a Third Party

If it becomes necessary or desirable to sell part or all of the Wastewater Treatment Facilities to a third party, that may be done upon the mutual consent and agreement of GLEN ELLYN and LOMBARD. The proceeds of such sale shall be distributed in proportion to the amounts each Member contributed to the total cost of that part of the Wastewater Treatment Facilities, less any federal contribution. However, in no event shall the share distributed to either Member be less than is required to satisfy in full the outstanding bonded indebtedness incurred by either Member for the construction of said portion of the Wastewater Treatment Facilities, and the system connected therewith.

XIII. Notice

Notice or other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this AGREEMENT shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

A. If to the Village of Lombard:

Village Manager
Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148

B. If to the Village of Glen Ellyn:

Village Manager
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, IL 60137

XIV. Previous Agreement

The agreement between GLEN ELLYN and LOMBARD, dated the 1st day of April, 1968, and all amendments thereto, are hereby rendered void as of the effective date of this Agreement, said effective date being that date on which both Members have authorized and executed this Agreement, and inserted in the opening paragraph hereof.

EXECUTED this _____ day of _____, 2010, by the Village of Glen Ellyn.

By _____
Village President
ATTEST:

Village Clerk

EXECUTED this _____ day of _____, 2010, by the _____
Village of Lombard.

By _____
Village President
ATTEST:

Village Clerk

EXHIBIT A

Glenbard Wastewater Authority
Schedule of Operating Agency Overhead Fees
Fiscal Year 2010/11

FY11 Administration & Finance Charges	85,226
FY11 Public Works Charges	<u>37,950</u>
	123,176
Actual charged for FY10	238,100

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGES OF
GLEN ELLYN AND LOMBARD IN REGARD TO THE GLENBARD
WASTEWATER AUTHORITY AGREEMENT**

(As amended on November 28, 1997; March 21, 1985; March 31, 1986; April 13, 1987; April 7, 1988; May 9, 1994; May 7, 1998; and _____, 2010)

This ~~intergovernmental~~ Intergovernmental agreement ~~Agreement~~ ~~between~~ ~~Between~~ the Villages of Glen Ellyn and Lombard in regard ~~Regard~~ to the Glenbard Wastewater Authority (hereinafter referred to as the "Agreement" is made this _____ day of _____, 2010 by and between the Village of Lombard, Du Page County, (hereinafter referred to as "LOMBARD"), an Illinois municipal corporation, and the Village of Glen Ellyn, Du Page County, (hereinafter referred to as "GLEN ELLYN"), an Illinois municipal corporation, and is intended to provide for the joint and cooperative establishment and operation of a wastewater treatment system under, and pursuant to the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 et seq). (LOMBARD and GLEN ELLYN are sometimes referred to herein individually as a "Party" and collectively as the "Parties.");

WITNESSETH:

WHEREAS, the Parties hereto have been jointly involved in wastewater treatment under the terms and conditions of an agreement dated April 1, 1968, and amendments thereto; and

WHEREAS, the Federal and Illinois Environmental Protection Agencies have adopted certain wastewater collection and treatment standards requiring major improvements to the Glenbard Wastewater Treatment Plant (as defined below), the construction of an interceptor trunk line transporting wastewater from unincorporated areas and the LOMBARD stormwater plant to the Glenbard Treatment Plant and conversion of the LOMBARD stormwater plant for primary treatment of combined sewer overflows only (hereinafter referred to as the "PROJECTS"); and

WHEREAS, facility planning and engineering design (Step I and Step II) have been completed for the PROJECTS; and

WHEREAS, the Parties hereto have determined that joint action is the most effective way to accomplish the above described purposes; and

WHEREAS, units of local government have had conferred upon them the following powers by Article VII, Section 10 of the Constitution of the State of Illinois:

Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine or transfer any power or function, in any manner not prohibited by law or by

ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, 5 Illinois Compiled Statutes 220/1 et seq., formerly Chapter 127, Illinois Revised Statutes, Sections 741 et sequitur, provides as follows:

Section 220/3. Intergovernmental Agreements

Any power of powers, privileges or authority exercised or which may be exercised by a public agency of this State may be exercised and enjoyed jointly with any other public agency of this State and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States do not prohibit joint exercise of enjoyment.

Section 220/5. Intergovernmental Contracts

Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties; and

WHEREAS, the Parties hereto have authorized the execution of this Agreement, as an exercise of their respective governmental authority, and as an exercise of their Intergovernmental Cooperation authority under the Constitution and laws of the State of Illinois; and their purposes, powers, rights, objectives, and responsibilities hereunder are fully set forth herein;

NOW, THEREFORE, in consideration of the foregoing, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties hereto, it is hereby agreed by, between and among the Parties hereto, as follows:

I. **Definitions**

- A. "Members" means LOMBARD and GLEN ELLYN.
- B. "Authority" means the Glenbard Wastewater Authority.
- C. "Board" means the Board of Directors of the Glenbard Wastewater Authority.

- D. “Budget” means the Annual Operating Budget and Capital Improvements Plan for the Glenbard Wastewater Authority.
- E. “Division” means the budgetary costs centers for Waterwater Treatment Facilities for the Glenbard Wastewater Authority.
- F. “Executive Oversight Committee” means the executive oversight committee of the Glenbard Wastewater Authority, as provided for in Section II. C. of this Agreement.
- G. “Wastewater Treatment Facilities” means:
- (i) Glenbard Treatment Plant – Main operating facility for all wastewater flows located at 21 W 551 Bemis Road, Glen Ellyn, Illinois 60137;
 - (ii) LOMBARD Stormwater Plant – Combined sewerage treatment facility utilized by LOMBARD during high flow events. The LOMBARD Stormwater Plant also includes the Hill Avenue Lift Station that is utilized during high flow events;
 - (iii) North Regional Interceptor (NRI) – Trunk sewer pipe that conveys flow from the St. Charles Road Lift Station to the Glenbard Treatment Plant. It has multiple connection points from each Party;
 - (iv) South Regional Interceptor (SRI) – Trunk sewer pipe that conveys wastewater from the Valley View Lift Station to the Glenbard Treatment Plant. It has multiple connection points from GLEN ELLYN;
 - (v) St. Charles Road Lift Station – Pumping station responsible for conveying flow from the Glen Ellyn Heights subdivision (Du Page County managed) and North Glen Ellyn Subdivision;
 - (vi) __ Valley View Lift Station – Pumping station responsible for conveying flows from the Valley View Subdivision currently serviced and managed by Illinois American Water Company;
 - (vii) SRI Lift Station – Pumping station built to provide a level of protection on the SRI during high flow conditions;
 - (viii) Sunnyside Lift Station – Pumping station responsible for_ conveying flow from the Sunnybrook Subdivision. (homes along the east side of Sunnybrook Drive).

———The term “Wastewater Treatment Facilities” shall not include the sewer collection system of each individual Member

G.H. “Operating Agency” means GLEN ELLYN. The authority of the Operating Agency shall be only as defined or detailed herein, subject to the restrictions and limitation of applicable federal, state, and local laws or regulations. In general, the Operating Agency shall provide the Authority with support services, including accounts receivable, accounts payable, payroll, bookkeeping and accounting services, human resources services, legal services and overall management supervision to oversee the day-to-day operations of the “Wastewater Treatment Facilities” in accordance with the general direction and policy as provided by the Executive Oversight Committee. The Operating Agency shall be paid an Overhead Fee (as defined below) as compensation for these services.

H.I. “Participating Agency” shall be defined as public agencies contributing wastewater to the Glenbard Treatment Plant for treatment.

H.J. “Overhead Fees” are those costs for personnel, services and materials incurred by the Operating Agency and relating to the Glenbard Treatment Plant and not directly charged to the ~~Glenbard Wastewater Authority~~. The Overhead Fees charged by the Operating Agency to the ~~Glenbard Wastewater Authority~~ shall be annually determined and incorporated into the approved ~~budget~~Budget.

The determination of the Overhead Fees shall be based upon the sum of:

- (i) An allocation of costs from the Operating Agency’s administrative and public works staff, representative of that portion of time spent and costs incurred by the —Operating Agency for ~~Glenbard Wastewater Authority~~ related functions, plus
- (ii) An allocation of all the direct costs incurred by the Operating Agency for items relating solely to ~~Glenbard Wastewater Authority~~ matters, including costs of ~~generating~~ accounts payable checks, payroll checks, supplies, prorated maintenance, postage, computer programming fees, telephone charges and similar ———items.

H.K. “Operation & Maintenance and Capital Expenses” shall be defined as follows:

- (i) Operation and Maintenance ~~expenses~~Expenses are those costs associated with the day-to-day operations of the Glenbard Treatment Plant, North Regional Interceptor, South Regional Interceptor, LOMBARD Stormwater Plant, Hill Avenue Lift Station, St. Charles Road Lift Station, Sunnyside Lift Station and Valley View Lift Station.
- (ii) Capital ~~expenses~~Expenses are those costs associated with more significant improvements to the Wastewater Treatment Facilities

operated by the Authority. Capital ~~expenses~~ Expenses are subject to the purchasing policies established by the Operating Agency.:-

II. Glenbard Wastewater Authority; Establishment, Duties

- A. The Authority is hereby created and established for the purpose of jointly treating and processing wastewater by the Members. The Board ~~of Directors~~ of the Authority shall consist of the Village President and six (6) Trustees each from GLEN ELLYN and LOMBARD. The presiding officer of the Board shall alternate each fiscal year of the Authority between the Village President of LOMBARD and the Village President of GLEN ELLYN, with the LOMBARD Village President being the presiding officer in fiscal years ending in even-numbered years and with the GLEN ELLYN Village President being the presiding officer in fiscal years ending in odd-numbered years, unless the Village Presidents agree otherwise. The location of the meetings of the Board shall be the Village Hall of the presiding officer unless the Village Presidents agree otherwise.

The Board shall meet at the call of the presiding officer or any four (4) members of the Board may call a meeting. All meetings of the Board shall comply with the requirements of the Illinois Open Meetings Act. A simple majority (4) of the Village President and six (6) trustees of each Member shall constitute a quorum to do business.

- B. The Authority, by action of its Board, shall have, and is hereby delegated full power and authority to:
- (i) Operate and maintain the Wastewater Treatment Facilities in accord with applicable federal, state, and local laws, ordinances and regulations;
 - (ii) Secure and provide necessary personnel, equipment, and improvements, either directly or through the Members;
 - (iii) Establish a system of revenue through direct payments by Members, a participating agency and/or other private or public bodies;
 - (iv) Enter into agreements with any other local governmental unit for the treatment of wastewater generated from within that governmental unit, and with private wastewater treatment facilities operators, except that agreements with the County of Du Page or a private utility company as identified in the facilities plan for the Authority's facility planning area shall require approval of the Operating Agency only, with the consent of the Executive Oversight Committee;
 - (v) Perform such other acts as may be necessary or desirable for the establishment, maintenance, and operation of the Wastewater Treatment Facilities, including, but not limited to, designating a Member to exercise

its condemnation authority in the acquisition of sites for additional wastewater treatment facilities;

(vi) Review and approve an annual budget.

C. The Board shall create an Executive Oversight Committee, which shall consist of the Village Presidents from GLEN ELLYN and LOMBARD or ~~his~~their respective designees, one (1) elected official from each of the Village Board's of - GLEN ELLYN and LOMBARD other than the Village Presidents, the Village Managers of GLEN ELLYN and LOMBARD or their respective designees, and the Public Works Directors of LOMBARD and GLEN ELLYN or their respective designees.

The presiding officer of the Executive Oversight Committee shall be the presiding officer of the Board. In the event the absence of the presiding officer, the elected official from the presiding officer's community shall serve as presiding officer pro tem for that meeting. In the event of the absence of the presiding officer and the presiding officer pro tem, the non-presiding village president or his designee shall assume the role and duties of the presiding officer for that meeting at which the presiding officer and presiding officer pro tem are absent. If the presiding officer, presiding officer pro tem and the non-presiding village president are absent, the elected official from the non-presiding community shall serve as presiding officer pro tem for that meeting.

The location of the meeting of the Executive Oversight Committee shall be the Glenbard Treatment Plant, 21W551 Bemis Road, Glen Ellyn, Illinois 60137, unless otherwise specified by the then presiding officer by reasonable notice to the other members of the Executive Oversight Committee. The duties and powers of the Executive Oversight Committee shall include the following :

- ~~1.~~ To make policy recommendations regarding, but not limited to restructuring ~~_____~~ of the Authority, sale or transfer of the assets of the Authority, long-term
1. ~~_____~~ planning and capital improvements;-
2. ~~_____~~ 2. To review and recommend an annual budget to the full Board;
3. ~~_____~~ 3. To review the annual audit;
4. ~~_____~~ 4. To periodically review facility operations;
- ~~_____~~ 5. To sell equipment which the Executive Oversight Committee determines to be -

5. ~~—obsolete and no longer necessary for the operation of the Authority,~~

- ~~—6.—To approve expenditures which are specifically provided for within the annual—
—budget or which are necessary in order to implement matters more generally~~
6. ~~— provided for within the annual budget;~~

- ~~—7.—To review and approve contracts or expenditures of money in excess of the
—current maximum limit over which competitive bidding is required by Section-~~
7. ~~-65 ILCS 5/8-9-1, or to such higher amount as the legislature may from time to time amend such section, provided monies have been previously budgeted in a budget approved by the Board;~~

- ~~8.—8.—To review and make recommendations to the Board or to the corporate
—authorities of the respective Members ~~villages~~-sitting independently,-
—concerning - ~~—~~ facilities planning area (FPA) boundary changes, with final
—endorsement of any FPA boundary change requiring the concurrence of the
—corporate authorities of the Members;~~
8. ~~—8.—To review and make recommendations to the Board or to the corporate
—authorities of the respective Members ~~villages~~-sitting independently,-
—concerning - ~~—~~ facilities planning area (FPA) boundary changes, with final
—endorsement of any FPA boundary change requiring the concurrence of the
—corporate authorities of the Members;~~

- ~~9.—9.—To take such additional action as the Executive Oversight Committee
—determines is necessary and proper for the operation of the Authority by a 4/5 (four —fifths) vote of the Executive Oversight Committee members present and voting; provided, however, that the Executive
—Oversight Committee must give no less than thirty (30) days notice to the_-
—corporate authorities of GLEN ELLYN and LOMBARD after taking any such —action. If the corporate authorities of either ~~Village Member~~ pass an ordinance removing —the power from the Executive Oversight Committee to take the action so taken, within said thirty (30) day period, —then the Executive Oversight Committee shall thereafter lose the power to take_-~~—~~such action.~~
9. ~~—9.—To take such additional action as the Executive Oversight Committee
—determines is necessary and proper for the operation of the Authority by a 4/5 (four —fifths) vote of the Executive Oversight Committee members present and voting; provided, however, that the Executive
—Oversight Committee must give no less than thirty (30) days notice to the_-
—corporate authorities of GLEN ELLYN and LOMBARD after taking any such —action. If the corporate authorities of either ~~Village Member~~ pass an ordinance removing —the power from the Executive Oversight Committee to take the action so taken, within said thirty (30) day period, —then the Executive Oversight Committee shall thereafter lose the power to take_-~~—~~such action.~~

- ~~10.—To approve debt or loan obligations related to the operation of the Authority, — provided that the Executive Oversight Committee must give no less than thirty (30) days notice to the corporate authorities of GLEN ELLYN and LOMBARD—
—after taking any such action. If the corporate authorities of either Village pass an~~

~~ordinance removing the power from the Executive Oversight Committee to take the action so taken, then the Executive Oversight Committee shall thereafter lose the power to take such action.~~

The Executive Oversight Committee shall meet at the call of the presiding officer or at the call of any two (2) members of the Executive Oversight Committee. A simple majority, (i.e. five (5) members of the Executive Oversight Committee), shall constitute a quorum to transact business.

Nothing shall preclude the village managers or their designees and the public works directors from meeting to discuss matters related to the operation of the Glenbard Wastewater Authority, provided that a report of the meeting is provided to the Executive Oversight Committee at the next meeting of the Executive Oversight Committee.

III. Budget Adoption, Audit

- A. Adoption of the annual operating budget shall require the affirmative vote of four (4) members of the Board from each Member. The fiscal year of the Authority shall be the same as the fiscal year of the Operating Agency (May 1 to April 30).
- B. The Authority budget shall be prepared and maintained as a separate document and shall not be intermingled or made a part of the regular GLEN ELLYN budget.
- C. The annual audit shall be executed by an auditing firm selected by the Operating Agency, subject to the advice and consent of a majority of the Executive Oversight Committee. The auditing firm selected by the Operating Agency shall be a firm independent of the auditing firm auditing the books and records of either GLEN ELLYN or LOMBARD, unless such firm is approved by the Executive Oversight Committee.

IV. Personnel

- A. All appointments, evaluations and discipline of personnel for the Authority, with the exception of the Executive Director, shall be made by the Operating Agency. The appointment and dismissal of the Executive Director shall be made by the Executive Oversight Committee.
- B. All appointments shall be made only on the basis of merit and fitness, as determined by the Operating Agency.

- C. All persons directly employed in the operation of the Wastewater Treatment Facilities shall be considered to be employees of the Authority, subject to the supervision of the Operating Agency in the performance of its duties.
- D. Employees of the Authority meeting the eligibility requirements for pension benefits shall be sponsored by the Operating Agency for participation in the Illinois Municipal Retirement Fund.
- E. The Operating Agency shall provide employee benefits and health insurance to the Authority personnel, subject to the benefit levels established within the personnel rules and policies as adopted by the Operating Agency. Such benefits and insurance shall be the cost of the Authority.

V. **Authority Insurance**

The Operating Agency shall utilize its insurance provider to extend coverage to the Authority for liability, workers compensation, property and other coverage deemed to be necessary, consistent with the coverage limits maintained by the Operating Agency. Such insurance shall be the cost of the Authority.

VI. **Wastewater Treatment Facilities Operations & Finances**

A. Financing of Operations.

GLEN ELLYN, as Operating Agency, has responsibility for complete operation and maintenance of the Wastewater Treatment Facilities as agreed upon by the Members. The Village Manager of the Operating Agency shall have purchasing authority up to the limit established for the Executive Oversight Committee as referenced in Section II.C.7 of this Agreement.

The Operating Agency shall maintain separate funds or accounts as necessary to ensure that the billing and financing of the Authority's operations and capital replacements are apportioned to each Member as detailed in Section VI.C of this Agreement.

B. Billing Procedure

Each Member will transfer into such fund or account, and in the manner, including electronic transfer, as the Authority may direct, a set amount on the last day of the month for which service is rendered as a preliminary payment for that service. This monthly amount is established as 1/12th (one-twelfth) of that fiscal year's budget apportioned to each Member as determined by Section VI.C of this Agreement.

Not later than the twentieth (20th) calendar day of each month the Authority shall send a monthly flow bill to each Member for the treatment of

wastewater based on respective metered flows for the prior month. The amount due from each Member may be adjusted, if applicable, twice a year based on the monthly flow bills issued from May thru October and November thru April. After the issuance of the October and April flow bills, the Members will remit any balance due, or the Authority will return any overpayment, within sixty (60) days. Any other revenue or audit adjustment will be handled as a separate invoice/credit transaction, and not deducted or added to the flow bills.

The Operating Agency will also make available to each Member, upon request, a monthly budget statement, said statement detailing, by line item, expenditures for the previous month, end of the month encumbrances, and unencumbered budget balances.

Each Member shall include in its annual appropriation or budget ordinance adequate funds for the aforementioned payments.

C. Rate Determination.

The Operating Agency may include debt service costs in monthly billing to Members. The payment schedule shall consist of twelve (12) equal monthly amounts to be collectively paid by the Members, with the portion of each month's payment being adjusted monthly based upon the ratio of flow contributed by each Member to the total flow received by the Authority from the Members, in accordance with the following formulas:

1. GLENBARD TREATMENT PLANT:

a) Operation and Maintenance

$$\frac{\text{Current Year Budget}}{12} \times \text{Previous Month Flow Contribution \%}$$

b) Vehicle & Equipment Replacement

$$\frac{\text{Current Year Budget}}{12} \times \text{Previous Month Flow Contribution \%}$$

2. LOMBARD STORMWATER PLANT:

a) Operation and Maintenance

LOMBARD will pay all expenses.

b) Capital Expenses

LOMBARD will pay all expenses

3. NORTH REGIONAL INTERCEPTOR:

a) Operation and Maintenance

Current Year Budget X Previous Month Flow Contribution %
12

b) Capital Expenses

Current Year Budget X Previous Month Flow Contribution %
12

4. SOUTH REGIONAL INTERCEPTOR:

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

5. ST. CHARLES ROAD LIFT STATION

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

6. VALLEY VIEW LIFT STATION

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

7. **SOUTH REGIONAL INTERCEPTOR LIFT STATION**

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

8. **SUNNYSIDE LIFT STATION**

a) Operation and Maintenance

GLEN ELLYN will pay all expenses.

b) Capital Expenses

GLEN ELLYN will pay all expenses

D. Capital Expenses –As part of the annual budget process, the Executive Oversight Committee shall determine the actual contribution required for capital expenses in each Division based upon the most recently approved asset analysis. Debt service shall be expensed to the appropriate Division’s capital fund. The Executive Oversight Committee shall ensure that adequate funding is maintained for debt service and capital replacement for each Division.

For each Division where a single Member is responsible for one hundred percent (100%) of the costs, the responsible Member may adjust their capital contribution to the Division on an annual basis provided that the current year debt service and capital expenses for the Division are completely funded. Members may transfer cash reserves out of a Division for which they are one hundred percent (100%) responsible for costs provided that the current year debt service and capital expenses for the Division are completely funded

E. Rate Adjustment- The audit shall be completed within six (6) months of completion of the fiscal year of the Operating Agency. The audit report shall include the following information:

1. Total flows billed per Member.
2. Total revenues billed and received per Member.
3. An expenditure analysis, including operating expenses by category,
4. An analysis of each Member's expense allocation determined by the product of the percentage of flow for each Member to total flow applied to total expense.
5. An amount payable or receivable by each Member based on an adjusted rate as determined by dividing total expenses by total flow.

Based on the audit report, the Operating Agency shall either remit or bill the amount due to, or from, each Member, except for that cash fund balance which shall be maintained by the Authority as further defined in subsection I below, entitled "Cash Balance."

Payment by either the Authority or any Member shall be due within sixty (60) days of the billing.

F. **Method of Metering**- The metering of the wastewater into the Glenbard Treatment Plant shall be such that the flow contributed by each Member, can be accurately measured. Estimated flows may be used as a substitute in the case of meter failure. Such estimates, however, shall require the mutual approval of the Operating Agency and the affected Member. Where a dispute should occur the Parties shall consider using prior years flows for the same period.

~~B-G.~~ **Control of Permits**- All permits requiring Federal and/or Illinois Environmental Protection Agency approval shall be processed through the staff of the Authority. Copies of any permits involving fifteen (15) persons equivalent, or less, additions to the sewer system flowing to the Glenbard Treatment Plant shall be filed with the Glenbard Treatment Plant staff.

~~C-H.~~ **Punitive Action**- Any responsibility for punitive action taken by the Federal and/or Illinois Environmental Protection Agency against the Operating Agency must be assumed by the allegedly offending Member, including any and all legal costs and any resultant fines levied by court action or the Illinois Pollution Control Board, unless the fine is a result of negligence on the part of the Authority. In such case, the Authority shall be responsible for the punitive action.

~~D-I.~~ **Cash Balance**- A working cash fund shall be maintained in an amount approximately equal to twenty-five percent (25%) of the previous fiscal year's expenditures for operation and maintenance, as determined by the audit, exclusive of depreciation and equipment reserves. Working cash shall be calculated as the total of the general ledger cash and short term investment balances. This calculation shall be done only for the operation and maintenance fund and not on a combined fund basis.

E.J. Compensation of Operating Agency- The Operating Agency shall be entitled to compensation for services rendered to the Authority, with the amount of compensation being the 'Overhead Fees' defined in Article I, ~~paragraph H~~subsection I. The amount of Overhead Fees payable to the Operating Agency shall be mutually determined by the Members and included in the annual operating budget. In the event the Members fail to agree upon the compensation payable to the Operating Agency, then the amount of compensation contained in the most current, approved operating budget shall be carried forward into the subsequent fiscal year's annual operating budget, provided, however, that the use of the preceding fiscal year's budgeted amount to determine the Operating Agency's compensation shall not be employed in two consecutive years.

VII. Future Capital Improvements

If, at some future date, it becomes necessary or advisable to enlarge, improve, or expand the Wastewater Treatment Facilities, the same may be accomplished with the approval and concurrence of each Member and the Board, under such terms as may be agreed to by the Members.

VIII. Revenue Bond Restrictions

Sections XI and XII of this Agreement shall be subject to restrictions contained in present and/or future Revenue Bond Ordinances of LOMBARD and GLEN ELLYN, which provide funding for wastewater treatment facilities and/or sanitary sewer facilities.

IX. Use of Authority Property

Land and facilities operated by the Authority are intended for the sole use of the Authority. Any request to utilize land, office space, storage space, garage space or other property of the Authority shall be subject to the approval of the Executive Oversight Committee.

All revenues derived from the use of the land and ~~facilities~~Wastewater Treatment Facilities operated by the Authority shall be placed in a cash reserve account with the Operating Agency and shall be reviewed by the Executive Oversight Committee who shall determine the use of the funds. Revenues derived from the use of land and Wastewater Treatment Facilities operated by the Authority where a single Member is responsible for one hundred percent (100%) of the costs shall become the property of the Member responsible for the operating and capital expenses for the Wastewater Treatment Facilities

X. Overhead Fees

(A). The initial Overhead Fees adopted as part of this revised Agreement are attached as **Exhibit A and made part thereof**. The Overhead Fees shall be adjusted annually by a percentage increase equivalent to the most recent calendar year consumer price index (CPI-U for the Chicago Metropolitan Area).

(B). If any extraordinary costs are incurred by the Operating Agency in excess of this adopted fee schedule, such extraordinary costs shall be subject to the approval of the Executive Oversight Committee prior to reimbursement of the Operating Agency therefore.

(C). The components of the indirect costs of the Overhead Fees shall be reviewed every three (3) years by the Executive Oversight Committee. The Executive Oversight Committee shall have the authority to make revisions to **Exhibit A** without amendment to this Agreement.

XI. Single Village Ownership

Should it become necessary for either GLEN ELLYN or LOMBARD to own part or all of the Wastewater Treatment Facilities in its entirety at any time after completion, it may do so upon approval of the sale and conditions of the sale from each of the Village Boards of LOMBARD and GLEN ELLYN. The purchase price shall be the seller's proportionate share of the appraisal value of that part of the Wastewater Treatment Facilities at the time of the sale, determined by the respective contributions of the Members as provided for herein, plus the then appraised value of the land. The purchase shall be either as a lump sum payment or may be amortized over a period not to exceed twenty (20) years at a rate of interest equal to the interest rate of the outstanding bonds of the selling Member and deducted from the sewage treatment service charges if agreeable to both Members. Upon payment of the full purchase price, the selling Member shall have the right to continue to use that part of the Wastewater Treatment Facilities at such rate as will allow the purchasing Member a reasonable return of its total investment above operating costs.

XII. Sale to a Third Party

If it becomes necessary or desirable to sell part or all of the Wastewater Treatment Facilities to a third party, that may be done upon the mutual consent and agreement of GLEN ELLYN and LOMBARD. The proceeds of such sale shall be distributed in proportion to the amounts each Member contributed to the total cost of that part of the Wastewater Treatment Facilities, less any federal contribution. However, in no event shall the share distributed to either Member be less than is required to satisfy in full the outstanding bonded indebtedness incurred by either Member for the construction of said portion of the Wastewater Treatment Facilities, and the system connected therewith.

XIII. Notice

Notice or other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this AGREEMENT shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

A. If to the Village of Lombard:

Village Manager
Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148

B. If to the Village of Glen Ellyn:

Village Manager
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, IL 60137

~~XHXIV.~~ **Previous Agreement**

The agreement between GLEN ELLYN and LOMBARD, dated the 1st day of April, 1968, and all amendments thereto, are hereby rendered void as of the effective date of this Agreement, said effective date being that date on which both Members have authorized and executed this Agreement, and inserted in the opening paragraph hereof.

EXECUTED this _____ day of _____, 2010, by the Village of Glen Ellyn.

By _____
Village President
ATTEST:

Village Clerk

EXECUTED this _____ day of _____, 2010, by the Village of Lombard.

By _____
Village President
ATTEST:

Village Clerk

EXHIBIT A

Glenbard Wastewater Authority
Schedule of Operating Agency Overhead Fees
Fiscal Year 2010/11

FY11 Administration & Finance Charges	85,226
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