

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: May 19, 2016 (B of T) DATE: June 16, 2016

TITLE: IEPA Public Water Supply Loan Program

SUBMITTED BY: Carl Goldsmith, Director of Public Works *g*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Public Works transmits for your consideration an Ordinance authorizing signatures of Village President and Village Clerk on documents required for the application for funding through the IEPA Public Water Supply Loan Program. This Ordinance increases the Village's request for funding through the IEPA Loan Program. The Village Board approved the initial request in January 2015.

FISCAL IMPACT/FUNDING SOURCE

Loan amount increase from \$8,172,932 to \$12,050,354.16 over twenty (20) years

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

NOTE: Materials must be submitted to / approved by the Village Manager's Office by 12:00 pm, Wednesday, prior to the Agenda Distribution.



May 19, 2016

TO: Village President and Board of Trustees  
THROUGH: Scott Niehaus, Village Manager  
FROM: Carl Goldsmith, Director of Public Works *z*  
SUBJECT: Illinois Environmental Protection Agency Public Water Supply Loan Program

**Background**

The Village had previously applied and received approval from the Illinois Environmental Protection Agency Public for funds through the Water Supply Loan Program (PWSLP). The Village received funding in the amount of \$8,172,392, which was contained in the Loan Agreement approved on May 18, 2016. The funding was provided for the Roosevelt Road Watermain Lining Phase I, Roosevelt Road Watermain Lining Phase II and Transmission Main (Civic Center to South Booster).

Since the initial application for funding in January 2015, the Village has awarded contracts for the three projects. Based upon the bids and the inclusion of resident engineering costs in the loan program, the Village has amended its request for funding up to an amount of \$12,050,354.16. The loan term will be 20 years with an interest rate of 1.86%. The Ordinance indicates that the Village will be seeking to extend the debt service out for twenty (20) years. The source of funding to be used to pay the debt is the Water and Sewer Fund, which currently has no legal debt obligations.

The attached ordinance has been prepared by the Village Attorney and will be submitted to the IEPA as evidence of the Village's commitment to the loan process. Upon passage of the Ordinance, it will be submitted to the IEPA as part of the formal approval process.

**Recommendation**

The Village staff recommends that the Village President and Board of Trustees approve AN ORDINANCE AUTHORIZING THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS, TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY LOAN PROGRAM.

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May 18, 2016

Vera Herst  
Illinois Environmental Protection Agency  
Division of Legal Counsel**Via email only**  
[vera.herst@illinois.gov](mailto:vera.herst@illinois.gov)**Re: Village of Lombard –  
IEPA Public Water Supply Loan Program Low Interest Loan –  
L175313**

Dear Ms. Herst:

Please be advised that our firm represents the Village of Lombard ("Lombard").

On January 22, 2015, the Village of Lombard approved Ordinance No. 7041, authorizing the borrowing of \$8,172,392.00 relative to the Project (as defined in the said Ordinance No. 7041). After bidding the Project, the Village has determined that the Village will need to borrow \$12,050,354.16 from the IEPA to fund the cost of the Project. In this regard, the Village's Director of Public Works has been in contact with George Lambert at the IEPA, and was advised that the Village will need to adopt a new Ordinance, relative to borrowing funds in the higher amount, and will need to publish the new Ordinance and Notice, and wait the thirty (30) day backdoor referendum period, in order to increase the amount of the loan.

Based on the foregoing, attached please find a copy of the Ordinance that the Lombard President and Board of Trustees intend to adopt on June 16, 2016. Please advise if any revisions, deletions or additions to the Ordinance are necessary, so that I can put it in final form for approval at the June 16, 2016 Village Board meeting.

Your assistance in this matter is greatly appreciated. If there are any questions, please feel free to contact me.

Very truly yours,

KLEIN, THORPE AND JENKINS, LTD.

*Thomas P. Bayer*

Thomas P. Bayer

encl.

cc: Scott Niehaus, Village Manager (w/ encl.; via email)  
Carl Goldsmith, Director of Public Works (w/ encl.; via email)

**ORDINANCE NO. 7225**

**AN ORDINANCE AUTHORIZING  
THE VILLAGE OF LOMBARD,  
DUPAGE COUNTY, ILLINOIS, TO BORROW FUNDS FROM  
THE PUBLIC WATER SUPPLY LOAN PROGRAM**

**WHEREAS**, the Village of Lombard, DuPage County, Illinois, (hereinafter the "Village"), operates its public water supply system (hereinafter the "System") in accordance with the provisions of 65 ILCS 5/11-139-1 *et seq.*, and is subject to the provisions of the Local Government Debt Reform Act, 30 ILCS 350/1 *et seq.* (said statutory provisions being hereinafter collectively referred to as the "Act"); and

**WHEREAS**, in accordance with the provisions of Article VII, Section 10 of the *Illinois Constitution* of 1970, and 415 ILCS 5/4 and 5/19.1 through 5/19.9, the Village is authorized to enter into a Loan Agreement with the Illinois Environmental Protection Agency (hereinafter the "IEPA") for a loan of funds for public water supply system improvements, the repayment of which loan may be secured by a dedicated source of revenue; and

**WHEREAS**, the President and Board of Trustees of the Village (hereinafter the "Corporate Authorities") have determined that it is advisable, necessary and in the best interests of public health, safety and welfare to improve the System, including the following:

- A. **ROOSEVELT ROAD WATERMAIN LINING – PHASE I:** The project includes the rehabilitation of approximately 6,500 linear feet of watermain by installation of cured-in-place pipe (CIPP). The project limits for Phase I include Finley Road to Fairfield Avenue. In addition to lining the watermain, the scope of work also includes excavation, sidewalk, asphalt and concrete driveway aprons, storm sewer and sod restoration;

- B. **ROOSEVELT ROAD WATERMAIN LINING – PHASE II:** The project includes the rehabilitation of approximately 4,300 linear feet of watermain by installation of cured-in-place pipe (CIPP). The project limits for Phase II include Fairfield Avenue to Wisconsin Avenue. In addition to lining the watermain, the scope of work also includes excavation, sidewalk, asphalt and concrete driveway aprons, storm sewer and sod restoration; and
- C. **TRANSMISSION MAIN – CIVIC CENTER RESERVOIR TO SOUTH BOOSTER STATION:** The Transmission Main is a water main intended to provide a direct connection from the Civic Center Reservoir to the South Booster Station. Currently, the South Booster Station is fed by the existing water system network. The project consists of the construction of approximately 8,200 linear feet of 16 inch ductile iron transmission main from the Civic Center Reservoir to the South Booster Station;

together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to the construction and installation (hereinafter the “Project”), all in accordance with the plans and specifications prepared by consulting engineers of the Village; which Project has a useful life of at least sixty (60) years; and

**WHEREAS**, on January 22, 2015, the Corporate Authorities approved Ordinance No. 7041, entitled, “An Ordinance Authorizing the Village of Lombard, DuPage County, Illinois, to Borrow Funds from the Public Water Supply Loan Program,” relative to the Project (hereinafter the “Original Ordinance”); and

**WHEREAS**, the Original Ordinance anticipated the cost of the Project to be \$8,172,392.00, and, therefore, authorized the Village to borrow funds from the IEPA’s Public Water Supply Loan Program in the aggregate principal amount of \$8,172,392.00; and

**WHEREAS**, after going to bid in relation to the Project, the Village has determined that the cost of construction and installation of the Project, including engineering, legal, financial and other related expenses, is \$12,050,354.16, and there are insufficient funds on hand and lawfully available to pay these costs; and

**WHEREAS**, it is, therefore, necessary for the Village to borrow funds from the IEPA Public Water Supply Loan Program, in the amount of \$12,050,354.16, relative to the Project; and

**WHEREAS**, the loan shall bear an interest rate as defined by 35 Ill. Adm. Code 662, which does not exceed the maximum rate authorized by the Bond Authorization Act, as amended, 30 ILCS 305/0.01 *et seq.*, at the time of the issuance of the loan; and

**WHEREAS**, the principal and interest payments shall be payable semi-annually, and the loan shall mature in twenty (20) years, which is within the period of useful life of the Project; and

**WHEREAS**, the costs are expected to be paid for with a loan to the Village from the Public Water Supply Loan Program through the IEPA, the loan to be repaid from the water user fees, and the loan is authorized to be accepted at this time pursuant to the Act; and

**WHEREAS**, in accordance with the provisions of the Act, the Village is authorized to borrow funds from the Public Water Supply Loan Program in the aggregate principal amount of \$12,050,354.16 to provide funds to pay the costs of the Project; and

**WHEREAS**, the loan to the Village shall be made pursuant to a Loan Agreement, including certain terms and conditions, between the Village and the IEPA;

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1: INCORPORATION OF PREAMBLES.** The Corporate Authorities hereby find that the recitals contained in the preambles are true and correct, and

incorporate them into this Ordinance by this reference.

**SECTION 2: DETERMINATION TO BORROW FUNDS.** It is necessary and in the best interests of the Village to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described; that the System continues to be operated in accordance with the provision of the Act; and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the Village in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$12,050,354.16.

**SECTION 3: PUBLICATION.** This Ordinance, together with a Notice in the statutory form (a copy of which is attached hereto as Exhibit A and made part hereof), shall be published once within ten (10) days after passage of the Ordinance in the *Lombardian*, a newspaper published and of general circulation in the Village, and if no Petition (a copy of which is attached hereto as Exhibit B and made part hereof), signed by electors numbering ten percent (10%) or more of the registered voters in the Village (i.e., two thousand eight hundred twenty-six (2,826) or more electors) asking that the question of improving the System as provided in this Ordinance and entering into the Loan Agreement therefor be submitted to the electors of the Village, is filed with the Village Clerk within thirty (30) days after the date of publication of this Ordinance and the Notice, then this Ordinance shall be in full force and effect. A Petition form shall be provided by the Village Clerk to any individual requesting one. In the event that no such Petition is filed, the Village Clerk shall provide a No Referendum Certificate to the IEPA in the form as attached hereto as Exhibit C and made part hereof.

**SECTION 4: ADDITIONAL ORDINANCES.** If no Petition meeting the

requirements of the Act and other applicable laws is filed during the thirty (30) day Petition period, then the Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for entering into the Loan Agreement with the IEPA, prescribing all the details of the Loan Agreement, and providing for the collection, segregation and distribution of the water user fees, so long as the maximum amount of the Loan Agreement as set forth in this Ordinance is not exceeded and there is no material change in the Project or purposes described herein. Any additional ordinances or proceedings shall in all instances become effective in accordance with the Act or other applicable law. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for entering into the Loan Agreement under applicable law.

However, notwithstanding the above, the Village may not adopt additional ordinances or amendments which provide for any substantive or material change in the scope and intent of this Ordinance, including but not limited to interest rate, preference, or priority of any other ordinance with this Ordinance, parity of any other ordinance with this Ordinance, or otherwise alter or impair the obligation of the Village to pay the principal and interest due to the Public Water Supply Loan Program without the written consent of the IEPA.

**SECTION 5: LOAN NOT INDEBTEDNESS OF THE VILLAGE.** Repayment of the loan to the IEPA by the Village pursuant to this Ordinance is to be solely from the revenue derived from water user fees, and the loan does not constitute an indebtedness of the Village within the meaning of any constitutional or statutory limitation.

**SECTION 6: APPLICATION FOR LOAN.** The Village Manager of the Village is



hereby authorized to make application to the IEPA for a loan through the Public Water Supply Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 662.

**SECTION 7: ACCEPTANCE OF LOAN AGREEMENT.** The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Public Water Supply Loan Program, including all terms and conditions of the Loan Agreement as well as all special conditions contained therein and made a part thereof by reference. The Corporate Authorities further agree that the loan funds awarded shall be used solely for the purposes of the Project as approved by the IEPA in accordance with the terms and conditions of the Loan Agreement.

**SECTION 8: AUTHORIZATION OF PRESIDENT TO EXECUTE LOAN AGREEMENT.** The Village President is hereby authorized and directed to execute the Loan Agreement with the IEPA. The Corporate Authorities may authorize by resolution a person other than the Village President for the sole purpose of authorizing or executing any documents associated with payment requests or reimbursements from the IEPA in connection with this loan.

**SECTION 9: SEVERABILITY.** If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

**SECTION 10: REPEALER.** Except for Ordinance No. 7041, adopted January 22, 2015, relative to the Project, which shall be repealed by the Corporate Authorities upon the passage of thirty (30) days from the publication of this Ordinance and the Notice attached hereto as Exhibit A, without any valid referendum petition having been

filed with the Village, and the confirmation of the IEPA's issuance of a loan through the Public Water Supply Loan Program, in the amount of \$12,050,354.16, relative to the Project, all ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**SECTION 11:** That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form and as provided for in Section 3 above, as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

First reading waived by action of the Board of Trustees this 16th day of June, 2016.

Passed on second reading this 16th day of June, 2016.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this 16th day of June, 2016.

\_\_\_\_\_  
Keith Giagnorio, Village President

**ATTEST:**

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published by me in pamphlet form this 17th day of June, 2016.

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

**Exhibit A**

**NOTICE OF INTENT TO BORROW FUNDS  
AND RIGHT TO FILE PETITION**

NOTICE IS HEREBY GIVEN that, pursuant to Ordinance Number 7225, adopted on June 16, 2016, the Village of Lombard, DuPage County, Illinois (the "Village") intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed \$12,050,354.16 and bearing annual interest at an amount not to exceed the maximum rate authorized by law at the time of execution of the Loan Agreement, for the purpose of paying the cost of certain improvements to the public water supply system of the Village. A complete copy of the Ordinance accompanies this Notice.

NOTICE IS HEREBY FURTHER GIVEN that, if a Petition signed by two thousand eight hundred twenty-six (2,826) or more electors of the Village (being equal to ten percent (10%) of the registered voters in the Village), requesting that the question of improving the public water supply system and entering into the Loan Agreement be submitted to the electors of the Village, is submitted to the Village Clerk within thirty (30) days after the publication of this Notice, the question of improving the public water supply system of the Village, and entering into the Loan Agreement, as provided in the Ordinance, shall be submitted to the electors of the Village at the next election to be held under general election law on November 8, 2016. A Petition form is available from the office of the Village Clerk.

SHARON KUDERNA  
CLERK OF THE VILLAGE OF LOMBARD,  
DUPAGE COUNTY, ILLINOIS

**Exhibit B**

**PETITION**

To the Clerk of the Village of Lombard, DuPage County, Illinois:

We, the undersigned, being registered voters of the Village of Lombard, DuPage County, Illinois, do hereby petition you to cause the following question, relative to improving the public water supply system of said Village and the Loan Agreement in relation thereto, as provided for in Ordinance Number 7225 of said Village, to be certified to the County Clerk of DuPage County, Illinois, and submitted to the electors of said Village at the next appropriate regular election to be held on November 8, 2016:

“Shall the Village of Lombard, DuPage County, Illinois obtain a loan from the Illinois Environmental Protection Agency’s Public Water Supply Loan Program, in an amount not to exceed \$12,050,354.16, for improvements to the Village’s water supply system, and enter into a loan agreement in relation thereto?”

<u>Name</u>	<u>Address</u>	
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois
_____	_____	_____, Illinois

I, \_\_\_\_\_ of \_\_\_\_\_  
(insert residence address), Illinois, do hereby certify that I am 18 years of age or older, that I am a citizen of the United States, and that the signatures on this Petition were signed in my presence within the Village of Lombard, and in the County of DuPage, Illinois, and are genuine, and, to the best of my knowledge and belief, the persons so signing were at the time of signing this Petition registered voters of said Village of Lombard and that their respective addresses are correctly stated herein.

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2016. \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Exhibit C

**NO REFERENDUM CERTIFICATE**

I, the undersigned, do hereby certify that I am the duly qualified, and acting Clerk of the Village of Lombard, DuPage County, Illinois (the "Village"), and as such officer I am the keeper of the books, records, files and journal of proceedings of the Village and of the President and Board of Trustees of the Village.

I do further certify that Ordinance Number 7225, being the Ordinance entitled "AN ORDINANCE AUTHORIZING THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS, TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY LOAN PROGRAM" (the "Ordinance") was presented to and passed by the Board of Trustees of the Village at its legally convened meeting held on the 16th day of June, 2016 and signed by the Village President of the Village on said day.

I do further certify that the Ordinance was duly and properly published in the *Lombardian*, a newspaper published and of general circulation within the Village, on the 22nd day of June, 2016, being a date within ten (10) days from the date of passage of the Ordinance.

I do further certify that publication of the Ordinance was accompanied by a separate publication of Notice of: (1) the specific number of voters required to sign the Petition requesting the question of constructing improvements to the public water supply system as provided in the Ordinance; (2) the time in which such Petition must have been filed; and (3) the date of the prospective referendum.

I do further certify that I did make available and provide to any individual so requesting a Petition form, which Petition form provided for submission to the electors of the Village of the question as set forth therein. Such Petition forms were available from me continuously from June 17, 2016 up to and including July 22, 2016.

I do further certify that no Petition has been filed in my office within thirty (30) days after publication of the Ordinance or as of the time of the signing hereof, as provided by statute asking that the question of improving the public water supply system as provided in the Ordinance and the Loan Agreement therefor be submitted to the electors of the Village.

**IN WITNESS WHEREOF**, I have hereunto affixed my official signature and the corporate seal of the Village of Lombard, DuPage County, Illinois this \_\_\_ day of July, 2016.

(SEAL)

\_\_\_\_\_  
Sharon Kuderna, Clerk of the  
Village of Lombard,  
DuPage County, Illinois