

**ORDINANCE NO. 6334**

**AN ORDINANCE OF THE VILLAGE OF LOMBARD  
AUTHORIZING THE GLENBARD WASTEWATER AUTHORITY  
TO BORROW FUNDS FROM THE WATER POLLUTION  
CONTROL REVOLVING FUND – ST. CHARLES LIFT STATION**

WHEREAS, the Glenbard Wastewater Authority, DuPage County, Illinois (the “Authority”) operates its sewage system (the “System”), and the Villages of Glen Ellyn and Lombard have entered into an intergovernmental agreement in order to create the Authority in accordance with the provisions of the Intergovernmental Cooperation Act and the Intergovernmental Cooperation provisions of the Illinois Constitution (Ill. Const. Art. VII, Section 10, 5 ILCS 220/1) and the Local Government Debt Reform Act, (30 ILCS 350/1) collectively, the “Act”); and

WHEREAS, the Board of Directors of the Authority has determined that it is advisable, necessary and in the best interest of public health, safety and welfare to upgrade the existing St. Charles Road Lift Station to help alleviate a sanitary sewer overflow located in the collection system upstream of the station, as well as other miscellaneous equipment improvements, with an estimated useful life of not less than twenty (20) years, together with any land or rights in land and all electrical, mechanical and other services necessary, useful or advisable to such construction and installation (the “Project”), all in accordance with the plans and specifications therefor prepared by consulting engineers to the Authority; and

WHEREAS, the estimated cost of constructing and installing the Project, including engineering, legal, financial, and other related expenses, is in the amount of up to \$4,000,000.00, and there are insufficient funds on hand and lawfully available to pay all of such costs; and

WHEREAS, such costs are expected to be paid for with a loan to the Authority from the Illinois Environmental Protection Agency through the Water Pollution Control Revolving Fund, said loan to be repaid from the revenues of the System and such loan is authorized to be accepted at this time pursuant to the Act; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the Authority is authorized to borrow funds from the Water Pollution Control Revolving Loan Fund in the aggregate principal amount not to exceed \$4,000,000.00 for the purpose of providing funds to pay the costs of the Project; and

WHEREAS, the loan to the Authority shall be made pursuant to a Loan Agreement, including certain terms and conditions, between the Authority and the Illinois Environmental Protection Agency; and

WHEREAS, the Corporate Authorities of the Villages wish to independently exercise their authority to authorize or ratify the execution of the Loan Agreement in addition to the actions to be taken by the Board of Directors of the Authority;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: Incorporation of Preambles. The Corporate Authorities of the Village of Lombard hereby find that the recitals contained in the preambles to this Ordinance are true and correct and do incorporate them into this Ordinance by this reference.

SECTION 2: Determination to Borrow Funds. It is necessary and in the best interests of the Authority to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described, so that the System continues to be operated in accordance with the provisions of the Act, and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the Authority in an aggregate amount not to exceed \$4,000,000.00, and to pay such interest charges as are charged for loans from the Water Pollution Control Revolving Fund, with available Federal subsidies, which cannot exceed any statutory maximum.

SECTION 3: Publication. This Ordinance, together with a Notice in the statutory form as attached hereto as Exhibit A, and made part hereof, shall be published once within ten (10) days after passage in the Lombardian, a newspaper published and of general circulation in the Village of Lombard, and if no petition, signed by electors numbering 10% or more of the registered voters in the Village of Lombard 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 of Lombard, 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.

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 of the Village of Lombard may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for entering into the Loan Agreement with the Illinois Environmental Protection Agency, prescribing all the details of the Loan Agreement, and providing for the collection, segregation and distribution of the revenues derived from a user charge, 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, through the entity of the Authority, adopt additional ordinances or amendments which provide for any substantive or material change in the scope or 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 Authority or of this Village to assist the Authority in its proportional obligation to pay rates and charges to the Authority to permit it to pay the principal and interest due to the Water Pollution Control Revolving Fund under the loan without the written consent of the Illinois Environmental Protection Agency.

SECTION 5: Loan Not Indebtedness of Village, Adequate Rates. Repayment of the loan to the Illinois Environmental Protection Agency by the Authority pursuant to this Ordinance is to be solely from the revenues of the system, and the loan does not constitute an indebtedness of the Village within the meaning of any constitutional or statutory limitation. The Village will, during any time that principal or interest payments on the loan are due, charge sewer rates which are adequate, in addition to all other expenses of the System, to adequately produce funds to pay its proportional share of principal and interest payments when due.

SECTION 6: Acceptance of Loan Agreement. The power of the Authority, to the extent that such power is not specifically stated in the intergovernmental cooperative agreement, is hereby extended in that the Corporate Authorities of the Village of Lombard hereby authorize, and ratify all prior action of the Authority to accept the offer of a loan through the Water Pollution Control Revolving Fund, 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 of the Village of Lombard further agree that the loan funds awarded shall be used solely for the purposes of the Project as approved by the Illinois Environmental Protection Agency in accordance with the terms and conditions of the Loan Agreement.

SECTION 7: Authorization of Authority to Execute the Loan Agreement. The Authority is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency on or before August 30, 2009, upon the Authority's acceptance of the final interest costs, if any.

SECTION 8: Severability. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 9: Repealer. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict here by repealed.

SECTION 10: This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

First reading waived by action of the Board of Trustees this 7<sup>th</sup> day of May, 2009.

PASSED on second reading this 7<sup>th</sup> day of May, 2009.

AYES: Trustees Gron, Tross, O'Brien, Moreau, Fitzpatrick and Soderstrom

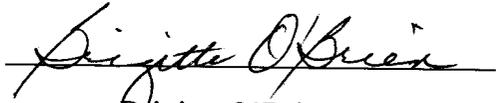
NAYS: None

ABSENT: None

APPROVED this 7<sup>th</sup> day of May, 2009

  
William J. Mueller  
Village President

ATTEST:

A handwritten signature in cursive script, reading "Brigitte O'Brien", written over a horizontal line.

Brigitte O'Brien  
Village Clerk

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

NOTICE IS HEREBY GIVEN that, pursuant to Ordinance Number 6334, adopted on May 7, 2009, the Village of Lombard, DuPage County, Illinois (the "Village") has ratified the Glenbard Wastewater Authority's (the "Authority") intent to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed Four Million and No/100 Dollars (\$4,000,000.00) 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 sewage system operated by the Authority, for the benefit 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 six hundred sixty-two (2,662) 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 sewage system and entering into the Loan Agreement is submitted to the Village Clerk within thirty (30) days after the publication of this Notice, the question of improving the sewage system operated by the Authority, for the benefit of the Village, as provided in the Ordinance and Loan Agreement shall be submitted to the electors of the Village at the next election to be held under general election law on February 2, 2010. A Petition form is available from the office of the Village Clerk.

BRIGITTE O'BRIEN  
VILLAGE CLERK OF THE VILLAGE OF LOMBARD,  
DUPAGE COUNTY, ILLINOIS