



## Legislation Text

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### Title

[Print Ordinance from attachments due to formatting issues](#)

AN ORDINANCE PROVIDING FOR A NOT TO EXCEED \$10,000,000 REVOLVING TAX-EXEMPT GENERAL OBLIGATION LINE OF CREDIT AGREEMENT AND NOTE TO PAY THE COSTS OF NECESSARY CAPITAL EXPENDITURES FOR ROAD CONSTRUCTION PROJECTS, AND A NOT TO EXCEED \$10,000,000 NON-REVOLVING TAX-EXEMPT GENERAL OBLIGATION LINE OF CREDIT AGREEMENT AND NOTE TO PAY THE COSTS OF NECESSARY CAPITAL EXPENDITURES FOR STORM WATER MANAGEMENT PROJECTS, OF THE VILLAGE OF ORLAND PARK, COOK AND WILL COUNTIES, ILLINOIS, AND PROVIDING FOR THE SECURITY FOR THE VILLAGE'S OBLIGATIONS UNDER SUCH AGREEMENTS AND PAYMENT OF SAID NOTES

### Body

WHEREAS The Village of Orland Park, Cook and Will Counties, Illinois (the "Village"), is a duly organized municipality under the laws of the State of Illinois, operating generally under the Illinois Municipal Code, as amended; by virtue of its population, is a home rule unit pursuant to the provisions of Section 6 of Article VII of the Constitution of the State of Illinois, and as a home rule unit, the Village may exercise any power or perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt (the Illinois Municipal Code as supplemented and, where in conflict, superseded by said constitutional powers being the "Act").

WHEREAS Pursuant to the provisions of the Act, the Village has the power to incur debt payable from ad valorem property tax receipts or from any other lawful source and maturing within 40 years from the time it is incurred without prior referendum approval.

WHEREAS The President and Board of Trustees of the Village (the "Village Board") have considered the needs of the Village and its residents and has determined and does hereby determine that it is desirable and in the best interests of the Village to pay the costs of necessary capital expenditures for certain road reconstruction improvements in and for the Village (the "Necessary Road Expenditures").

WHEREAS The estimated cost of the Necessary Road Expenditures is not less than the sum of \$10,000,000.

WHEREAS The Village Board has considered the needs of the Village and its residents and has determined and does hereby determine that it is desirable and in the best interests of the Village to pay the costs of necessary capital expenditures for certain storm water management improvements in and for the Village (the "Necessary Storm Water Expenditures").

WHEREAS The estimated cost of the Necessary Storm Water Expenditures is not less than the sum of \$10,000,000.

WHEREAS The Village Board hereby expressly determines that it is advisable, necessary and in the best interests of the Village that the Village authorize the execution and delivery of a Revolving Credit Agreement to pay the Necessary Road Expenditures (the “Road Agreement” as hereinafter more completely defined) and a Credit Agreement to pay the Necessary Storm Water Expenditures (the “Storm Water Agreement” as hereinafter more completely defined and, together with the Road Agreement, the “Agreements”).

WHEREAS It is in the best interests of the inhabitants of the Village and necessary for the government and affairs of the Village also to authorize the issuance of a Note (the “Road Note”) to evidence the obligation to repay the principal of and interest on amounts drawn down by the Village and any other obligation of the Village under such Road Agreement and to authorize the issuance of a Note (the “Storm Water Note” and, together with the Road Note, the “Notes”) to evidence the obligation to repay the principal of and interest on amounts drawn down by the Village and any other obligations of the Village under such Storm Water Agreement.

WHEREAS To such end it is hereby deemed advisable and necessary that the Village Board now adopts Ordinance so to specify, determine and authorize.

NOW THEREFORE Be It and It Is Hereby Ordained by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, in the exercise of its home rule powers, as follows:

#### SECTION 1

Definitions. In addition to such other words and terms used and defined in this Ordinance, the following words and terms used in this Ordinance shall have the following meanings unless, in either case, the context or use clearly indicates another or different meaning is intended.

A. The following words and terms are as defined in the preambles.

Act  
Agreements (as hereinafter further defined)  
Necessary Road Expenditures  
Necessary Storm Water Expenditures  
Notes  
Road Agreement (as hereinafter further defined)  
Road Note  
Storm Water Agreement (as hereinafter further defined)  
Storm Water Note  
Village  
Village Board

B. The following words and terms are defined as set forth.

“Agreements” means, collectively, the Road Agreement and the Storm Water Agreement.

“Bank” means BMO Harris Bank N.A.

“Code” means the Internal Revenue Code of 1986, as amended.

“Designated Officer” means the President acting with the Village Manager or acting with the Village Finance Director/Treasurer, and successors or assigns.

“Face Amount” means the authorized maximum amount of each of the Notes, as stated on its face.

“Maturity Date” means the date on which the principal of each Note is due and owing under the respective Note and the corresponding Agreement.

“Note Register” means the books of the Village kept by the Note Registrar to evidence the registration and transfer of the Notes.

“Note Registrar” means the Village Treasurer of the Village.

“Ordinance” means this Ordinance as originally introduced and adopted and as the same may from time to time be amended or supplemented in accordance with the terms hereof.

“Paying Agent” means the Village Treasurer of the Village.

“Regular Record Date” means the day immediately prior to any interest payment date on the Note.

“Road Agreement” means that certain written agreement providing for the creation of a line of credit for the Village and the issuance of the Road Note to evidence the obligation of the Village to repay amounts due and owing thereunder.

“Storm Water Agreement” means that certain written agreement providing for the creation of a line of credit for the Village and the issuance of the Storm Water Note to evidence the obligation of the Village to repay amounts due and owing thereunder.

“Tax-exempt” means, with respect to the Notes, the status of interest paid and received thereon as excludable from the gross income of the owners thereof under the Code for federal income tax purposes and as not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Code, but as taken into account in computing an adjustment used in determining the federal alternative minimum tax for certain corporations.

“Taxable” means, with respect to the Notes, the status of interest paid and received thereon as includible in the gross income of the owners thereof under the Code for federal income tax purposes.

## SECTION 2

Findings. The Village Board hereby finds and determines that (a) all of the recitals contained in the preambles to this Ordinance are full, true and correct and hereby incorporates them into this Ordinance by this reference; (b) this Ordinance is adopted pursuant to Section 6 of Article VII of the Illinois Constitution of 1970; (c) it is necessary and in the best interests of the Village that the Village adopt this Ordinance; (d) it is necessary and in the best interests of the Village that the Agreements be executed so as to pay the costs of the Necessary Road Expenditures and the Necessary Storm Water Expenditures; and (e) the execution of the Agreements, the borrowing of money for the purposes authorized therein and the issuance of the Notes is for a proper public purpose and is in the public interest.

### SECTION 3

Execution of the Agreements Authorized. The Village is hereby authorized to enter into the Agreements with the Bank in substantially the forms attached hereto as Exhibit A, with such changes to such Agreements as the President or the Village Treasurer shall approve. Each of the President or the Village Treasurer be, and hereby is, authorized, empowered and directed to execute, and his or her execution thereof shall constitute conclusive evidence of the approval of any and all terms contained in the Agreements and the Notes by the Village Board, and the Village Clerk be, and hereby is, authorized, empowered and directed to attest the Agreements and the Notes in the name, for and on behalf of the Village, and thereupon to cause the Agreements to be delivered to the Bank. The Agreements (as executed) are entered into to provide for the loan of the proceeds of the Notes to the Village and the use of such proceeds as aforesaid and to pay the costs of issuing the Notes, in the manner and with the effect therein provided. From and after the execution and delivery of the Agreements, the officers, employees and agents of the Village are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreements and the Notes as executed and each Designated Officer is hereby authorized to make requests for advances pursuant to the Agreements and the Notes; and the Agreements and the Notes shall constitute, and hereby are made, a part of this Ordinance, and a copy of the Agreements and the Notes shall be placed in the official records of the Village, and shall be available for public inspection at the office of the President and Board of Trustees.

### SECTION 4

Note Details. The Road Note is hereby authorized to be issued to evidence the obligations under the Road Agreement and shall be issued in the principal amount of not to exceed \$10,000,000. The Storm Water Note is hereby authorized to be issued to evidence the obligations under the Storm Water Agreement and shall be issued in the principal amount of not to exceed \$10,000,000. Each of the Notes shall be dated when delivered under the Agreements (the "Dated Date"), and the amount of each Note issued, being the sum of the amounts advanced under said Note, not in excess of the Face Amount of said Note, less in each case principal payments made from time to time thereon, shall be the "Outstanding Principal Amount" of said Note. The Outstanding Principal Amount of each Note from time to time outstanding shall bear interest at the rate set forth in each Agreement; provided, however, that in no event shall such rate exceed the maximum interest rate permitted by law, with interest payable on such date or dates as provided in the Agreements, upon prepayment and on the Maturity Date. The Maturity Date of each Note shall be not later than ten years from the Dated Date. Each Note shall bear interest on the Outstanding Principal Amount from time to time at the rate provided, in each case from the time advanced until duly paid or provided for, such interest being computed as provided in each Agreement.

Subject to the provisions of the Agreements and the Notes, the interest on and all payments of principal of each Note shall be payable in lawful money of the United States of America, or by electronic funds transfer of lawful money of the United States of America, upon presentation at the office of the Note Registrar; provided, however, that so long as a financial institution is the registered owner of each Note, then such payments shall be made by electronic funds transfer or account transfer to the person in whose name each Note is registered as evidenced by the Note Register at the close of business on the applicable Regular Record Date, which payment shall be made in lawful money of the United States of America and (if by check or draft) mailed to the address or (if by funds transfer) transferred to such account of such registered owner as it appears on the Note Register or at such other address or account as may be furnished in writing to the Note Registrar; and provided, further, that the final installment of principal of and interest on the Note shall be paid upon surrender in lawful money of the United States of America, at the principal office maintained for the purpose by the Paying Agent or its

proper agent.

Each Note shall be redeemable or prepayable prior to maturity at the option of the Village, in whole or in part on any date, at a redemption or prepayment price of par plus accrued interest to the date of redemption or prepayment, plus any amounts owed upon prepayment pursuant to the applicable Agreement.

The Notes shall be substantially in the forms attached to the Agreements and as approved by the President or the Village Treasurer, his or her execution thereof to constitute approval of all terms set forth therein by the Village Board, and shall have impressed or imprinted thereon the corporate seal of the Village and shall be attested by the manual signature of the Village Clerk, and in case any officer whose signature shall appear on a Note shall cease to be such officer before the delivery of said Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The execution by the Village of the fully registered Notes and the Agreements shall constitute full and due authorization of the Notes and the Agreements, and the Note Registrar shall thereby be authorized to authenticate, date and deliver the Notes. The person in whose name the Notes shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of or interest on the Notes shall be made only to or upon the order of the registered owner thereof or the owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Notes to the extent of the sum or sums so paid.

The Notes shall each have thereon a certificate of authentication duly executed by the Note Registrar as authenticating agent of the Village and showing the date of authentication. The Notes shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until such certificate of authentication shall have been duly executed by the Note Registrar by manual signature, and such certificate of authentication upon the Notes shall be conclusive evidence that the Notes have been authenticated and delivered under this Ordinance.

## SECTION 5

Sale and Delivery of Notes. The Notes and the Agreements hereby authorized shall be executed as in this Ordinance provided as soon after the passage hereof as may be, and thereupon be deposited with the Village Treasurer, and be by said Treasurer delivered to the Bank; each Agreement is in all respects ratified, approved and confirmed, it being hereby found and determined that the Agreements and the Notes are in the best interests of the Village and that no person holding any office of the Village, either by election or appointment, is in any manner financially interested directly in his or her own name or indirectly in the name of any other person, association, trust or corporation, in the Agreements.

Any Designated Officer and such other officers of the Village as may be necessary are hereby authorized to execute such other documents, as may be necessary to implement the Agreements and the transactions contemplated thereby and to effect the issuance and delivery of the Notes, and execution thereof by such officers is hereby deemed conclusive evidence of approval thereof with such changes, additions, insertions, omissions or deletions as such officers may determine, with no further official action of or direction by the Village Board.

## SECTION 6

Security; Payment. The security for the payment of the obligations of the Village under each Note and each

Agreement shall be as follows: (a) the full faith and credit general obligation pledge of the Village, to which as and to the extent necessary, for the purpose of providing funds required to pay the interest on the Notes promptly when and as the same falls due, and to pay and discharge the principal thereof at maturity and to pay all other obligations under the Agreements, and (b) all of the taxable property within the Village is subject to a direct annual tax, without limit as to rate or amount; provided, however, that (i) a separate tax for the Notes need not be levied for so long as there is no default in payment of any obligation on either Note or either Agreement unless so determined by the Village Board in its discretion and (ii) following a default in payment of any obligation on a Note a separate tax levy shall be placed on file with the County Clerks of Cook and Will Counties, Illinois, no later than the last day permitted for such filings during the then current tax levy year in an amount sufficient to pay all amounts due and payable under the Notes and the Agreements during such year.

The Village covenants and agrees with the Bank that so long the Notes remains outstanding, the Village will take no action or fail to take any action which in any way would adversely affect the security for the Notes or the ability of the Village to levy and collect taxes, if necessary, to pay its obligations under the Notes and the Agreements.

## SECTION 7

Use of Proceeds, General Fund. Note proceeds and other funds of the Village as noted are hereby appropriated as follows: The drawdown of the principal proceeds of the Road Note shall be set aside in a separate fund, heretofore created, and designated as the "General Road Fund," and be used to pay the Necessary Road Expenditures when due, including costs of issuance of the Road Note, and interest on or principal of the Road Note and any obligations under the Road Agreement at any time there are insufficient funds from other sources to pay the same. The drawdown of the principal proceeds of the Storm Water Note shall be set aside in a separate fund, heretofore created, and designated as the "General Storm Water Fund," and be used to pay the Necessary Storm Water Expenditures when due, including costs of issuance of the Storm Water Note, and interest on or principal of the Storm Water Note and any obligations under the Storm Water Agreement at any time there are insufficient funds from other sources to pay the same. The Village Treasurer shall keep a complete and accurate record of the expenditure of the proceeds of each Note, including the dates of each draw on each Note, the dates the amount of such draw were expended, the purposes of such expenditures by budget item and further detail, including to whom the payment was made, and the useful life of any capital asset for which payment is made. Further, if repayments are made on either Note from time to time, the Treasurer shall at the time of such prepayment allocate same to an expenditure as previously made and shall keep a record of such allocations.

## SECTION 8

General Covenants. The Village covenants and agrees with the Bank that, so long as either Note remains outstanding and unpaid:

(a) The Village will punctually pay or cause to be paid the principal of and interest on each Note, and all other obligations of the Village under the Agreements in strict conformity with the terms of the Agreements, the Notes and this Ordinance, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Ordinance, the Agreements and the Notes.

(b) The Village will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Village, in which complete and correct entries shall be made of all transactions relating to the Necessary Road Expenditures and the Necessary Storm Water Expenditures. Such

books of record and accounts shall at all times during business hours be subject to the inspection of the Bank or its representatives authorized in writing.

(c) The Village will furnish a copy of the annual financial statements of the Village to the Bank promptly when such financial statements become available, and in any event, within 210 days of the close of such fiscal year.

(d) The Village will preserve and protect the security of the Notes and the rights of the registered owners of the Notes.

(e) The Village will adopt, make, execute and deliver any and all such further ordinances, resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention of, or to facilitate the performance of, this Ordinance, and for the better assuring and confirming unto the registered owner of the Notes of the rights and benefits provided in this Ordinance.

## SECTION 9

General Arbitrage Covenants. The Village hereby covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Notes) if taking, permitting or omitting to take such action would cause either of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause the interest on either Note to be included in the gross income of the recipients thereof for federal income tax purposes. The Village acknowledges that, in the event of an examination by the Internal Revenue Service of the exemption from federal income taxation for interest paid on the Notes, under present rules, the Village is treated as the “taxpayer” in such examination and agrees that it will respond in a commercially reasonable manner to any inquiries from the Internal Revenue Service in connection with such an examination.

The Village also agrees and covenants with the purchasers and holders of the Notes from time to time outstanding that, to the extent possible under Illinois law, it will comply with whatever federal tax law is adopted in the future which applies to the Notes and affects the Tax-exempt status of the Notes.

The Village Board hereby authorizes the officials of the Village responsible for issuing the Notes, the same being the Designated Officers, along with the Village Clerk, to make such further covenants and certifications as may be necessary to assure that the use thereof will not cause either Note to be an arbitrage bond and to assure that the interest on each Note will be exempt from federal income taxation. In connection therewith, the Village and the Village Board further agree: (a) through their officers, to make such further specific covenants, representations as shall be truthful, and assurances as may be necessary or advisable; (b) to consult with Bond Counsel and to comply with such advice as may be given; (c) to pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Notes; (d) to file such forms, statements, and supporting documents as may be required and in a timely manner; and (e) if deemed necessary or advisable by their officers, to employ and pay fiscal agents, financial advisors, attorneys, and other persons to assist the Village in such compliance.

## SECTION 10

Registered Form. The Village recognizes that Section 149(a) of the Code requires the Notes to be issued and to remain in fully registered form in order to be and remain Tax-exempt. In this connection, the Village agrees

that it will not take any action to permit the Notes to be issued in, or converted into, bearer or coupon form.

#### SECTION 11

Reimbursement. None of the proceeds of the Notes will be used to pay, directly or indirectly, in whole or in part, for an expenditure that has been paid by the Village prior to the date hereof (i) except architectural or engineering costs incurred prior to commencement of any portion of the projects financed by the Notes, (ii) expenditures paid within 60 days of this Ordinance or (iii) expenditures for which an intent to reimburse it as properly declared under Treasury Regulations Section 1.103-18. This Ordinance is in itself a declaration of official intent under Treasury Regulations Section 1.103-18 as to all costs of the projects financed by the Notes, paid after the date hereof and prior to issuance of the Notes.

#### SECTION 12

Publication of Ordinance. A full, true and complete copy of this Ordinance shall be published in pamphlet form by authority of the Village Board.

#### SECTION 13

Superseder and Effective Date. All ordinances, resolutions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded; and this Ordinance shall be in full force and effect immediately upon its passage and approval.