

## ORDINANCE NO. 513

AN ORDINANCE authorizing the issuance of Sewerage Revenue Bonds of the Wheaton Sanitary District, DuPage County, Illinois, in an aggregate principal amount not to exceed \$23,000,000 or, in lieu thereof, General Obligation Bonds (Alternate Revenue Source) in an aggregate principal amount not to exceed \$23,000,000.

\* \* \*

WHEREAS, the Wheaton Sanitary District, DuPage County, Illinois (the “*District*”), is a duly organized and existing sanitary district incorporated and existing under the provisions of the laws of the State of Illinois, is now operating under the provisions of the Sanitary District Act of 1917 of the State of Illinois, as amended (the “*Act*”); and for many years has owned and operated a sewerage system (the “*System*”); and

WHEREAS, the Board of Trustees of the District (the “*Board*”) has determined that it is advisable, necessary and in the best interests of the public health, safety and welfare to improve and expand the System, including the acquisition, construction and installation of (i) a 48-inch diameter sewer to replace two old interceptors that have exceeded their design life (Southside Interceptor Project) and (ii) modifications to the initial treatment processes to enhance their reliability and improve the level of treatment possible for peak flows and improved effluent (Preliminary/Primary Treatment and Electrical Improvements), all in accordance with the preliminary plans and estimate of costs heretofore approved by the Board and now on file in the office of the Clerk of the Board (the “*Clerk*”), and to pay the engineering, legal, financial and administrative expense related thereto (collectively, the “*Project*”); and

WHEREAS, the estimated cost of constructing and installing the Project, including engineering, legal, financial, bond discount, printing and publication costs, and other expenses, is not less than \$23,000,000, and there are insufficient funds on hand and lawfully available to pay such costs; and

WHEREAS, it is necessary and for the best interests of the District that the Project be undertaken and in order to finance the costs thereof it will be necessary for the District to issue up to \$23,000,000 bonds payable from the revenues of the System (the "*Revenue Bonds*"), as authorized to be issued at this time pursuant to the Sanitary District Revenue Bond Act of the State of Illinois, as amended (the "*Revenue Bond Act*") or, in lieu thereof, up to \$23,000,000 alternate bonds, being general obligation bonds payable from the revenues of the System (the "*Alternate Bonds*"), as authorized to be issued at this time pursuant to the Local Government Debt Reform Act of the State of Illinois, as amended; and

WHEREAS, if the above-mentioned revenues of the System are insufficient to pay the Alternate Bonds, ad valorem property taxes upon all taxable property in the District without limitation as to rate or amount are authorized to be extended to pay the principal of and interest on the Alternate Bonds; and

WHEREAS, the District expects to issue all or a portion of the Revenue Bonds in connection with the "Water Pollution Control Loan Program" (the "*Loan Program*") offered to the District by the State of Illinois, acting through the Illinois Environmental Protection Agency (the "*IEPA*"); and

WHEREAS, pursuant to and in accordance with the provisions of the Act and the Revenue Bond Act, the District is authorized to borrow funds from the Loan Program and may issue the Revenue Bonds in evidence thereof for the purpose of providing funds to pay the costs of the Project; and

WHEREAS, such loan or loans to the District may be made pursuant to a loan agreement or agreements and bond ordinance or ordinances, with such terms and conditions as may be provided by the IEPA:

NOW, THEREFORE, Be It Ordained by the Board of Trustees of the Wheaton Sanitary District, DuPage County, Illinois, as follows:

*Section 1. Incorporation of Preambles.* The Board hereby finds that all of the recitals contained in the preambles to this Ordinance are full, true and correct and do incorporate them into this Ordinance by this reference.

*Section 2. Determination to Issue Bonds.* It is necessary and in the best interests of the District to undertake the Project for the public health, safety and welfare, in accordance with the estimates as hereinabove described, and that for such purpose, there are hereby authorized to be issued and sold the Revenue Bonds in an aggregate principal amount not to exceed \$23,000,000 or, in lieu thereof, Alternate Bonds in an aggregate principal amount not to exceed \$23,000,000.

*Section 3. Publication.* This Ordinance, together with a notice in the statutory form (the “*Notice*”), shall be published once after passage hereof by the Board in the *Daily Herald*, the same being a newspaper of general circulation in the District, and if no petition, signed by 3,478 electors of the District, being equal to ten percent (10%) of the number of registered voters in the District asking that the question of improving and expanding the System, as provided in this Ordinance, and issuing the Revenue Bonds to pay the costs thereof, be submitted to the legal voters of the District is filed with the Clerk within thirty (30) days after the date of the publication of this Ordinance and the Notice, then the Revenue Bonds shall be authorized to be issued.

If no petition, signed by 2,609 electors of the District, being equal to seven and one half percent (7.5%) of the registered voters in the District asking that the issuance of the Alternate Bonds be submitted to referendum is filed with the Clerk within thirty (30) days after the date of the publication of this Ordinance and the Notice, then the Alternate Bonds shall be authorized to be issued.

*Section 4. Additional Ordinances.* If no petitions meeting the requirements of applicable law are filed during the petition periods hereinabove referred to, then the Board may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for the issuance and sale of the Revenue Bonds or, in lieu thereof, the Alternate Bonds,

prescribing all the details of the Revenue Bonds or, in lieu thereof, the Alternate Bonds, so long as the maximum amount of the Revenue Bonds or, in lieu thereof, the Alternate Bonds, as set forth in this Ordinance is not exceeded and there is no material change in the Project or purposes described herein. Such additional ordinances or proceedings shall in all instances become effective in accordance with applicable law. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for the issuance of the Revenue Bonds or, in lieu thereof, the Alternate Bonds, under applicable law.

*Section 5. 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 6. Repealer.* All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Adopted April 28, 2009.

/s/ Jeffrey Walker  
President, Board of Trustees,  
Wheaton Sanitary District,  
DuPage County, Illinois

Attest:

/s/ Robert A. Hesterman  
Clerk, Board of Trustees,  
Wheaton Sanitary District,  
DuPage County, Illinois