



## Engineering & Public Works Department

**SUBJECT:** Resolution approving a Memorandum of Understanding with the School District 39 for the Neighborhood Storage Project

**MEETING DATE:** January 14, 2020

**FROM:** [Brigitte Berger-Raish](#), P.E., Director of Engineering and Public Works

**BUDGET IMPACT:** None

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### **Recommended Motion**

Move to approve Resolution 2020-R-2 approving the terms and authorizing the execution of a Memorandum of Understanding (MOU) between Wilmette School District 39 and Village of Wilmette for the construction, operation, and maintenance of stormwater improvements and construction access on certain School District owned properties.

### **Background**

On April 17, 2018, after a comprehensive review of alternatives and extensive public engagement, the Village Board voted to move forward with the Neighborhood Storage Project. The NSP consists of constructing three underground detention structures and associated relief sewers to improve the effectiveness of the existing storm sewer system west of Ridge Road. The original project was estimated to reduce structure flooding for 71% of the homes inundated by flooding in a ten-year storm event.

In February 2019, the Village Board approved an “optimized” plan which increases project performance by protecting 98% of the homes vulnerable to flooding and will bring the cost from \$55 million to \$68 million. There was general consensus by the Village Board to design the entire project to the optimized standards and build the detention basins to the optimized size. The optimized storm sewers will be bid as alternates, to allow flexibility with the timing of their installation.

The proposed schedule is as follows:

Detention Basin Location	Anticipated Construction Schedule
Community Playfield	2020
Hibbard Park	2021
Thornwood Park	2022

## **Discussion**

The first phase of the Neighborhood Storage Project includes construction of an 18.6-acre-foot underground storage reservoir at Community Playfield. The project is on schedule to begin in April and be completed in November of this year. In order to build the project with the least amount of disruption to the residents in Wilmette, Village staff approached School District 39 administration about utilizing the Highcrest School parking lot during summer recess for access to the Playfield. Specifically, the Village is seeking a temporary construction easement for truck access to the Playfield and a permanent easement for a new 36-inch storm sewer.

Village staff has met with the School District staff and the School Board on multiple occasions over the past several months to work through the terms of an Intergovernmental Agreement (IGA). While the terms of the IGA are being finalized, Village staff presented the School District with a Memorandum of Understanding (MOU). The purpose of the MOU is to give the Village confidence that the School District will work with the Village on approving an IGA so the project can move forward. The School Board approved the MOU at their December 16, 2019 meeting.

Some key points in the MOU include:

- The MOU is non-binding and subject to changing conditions as agreed to by both parties, though the purpose of the MOU is to give the Village some level assurance that it can continue to incur substantial engineering design costs based upon the agreed locations of the underground vaults
- A future Intergovernmental Agreement (IGA) will be generated to secure final project terms and conditions
- The Village shall be allowed to install, operate and maintain stormwater improvements on School District Property and utilize School property for temporary access to Community Playfield
- Details such as specific terms of the non-exclusive perpetual easement and the temporary construction easement will continue to be discussed with the School District and confirmed in the future IGA.

## **Next Steps**

The upcoming critical milestones for the Community Playfield project are as follows:

Week of January 13	Construction contract out to bid
January/February	School Board & Park Board Consideration of IGAs (followed by Village Board consideration)
End of February	Bid opening
February 28	Village Board request to approve the construction contract

## **Documents Attached**

Resolution 2020-R-2

**RESOLUTION NO. 2020-R-2**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE VILLAGE OF WILMETTE AND THE BOARD OF EDUCATION OF WILMETTE PUBLIC SCHOOLS DISTRICT 39 FOR TEMPORARY USE OF SCHOOL DISTRICT PROPERTY AND FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF STORMWATER IMPROVEMENTS ON CERTAIN SCHOOL DISTRICT OWNED PROPERTY**

**WHEREAS**, the Village of Wilmette, Cook County, Illinois (“Wilmette”), is a home rule municipal corporation as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois and, pursuant to said constitutional authority, may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the President and Board of Trustees of the Village of Wilmette find that it is necessary, convenient and in the best interests of the residents of the Village of Wilmette to enter into a Memorandum of Understanding (“MOU”) by and between the Village of Wilmette and the Board of Education of Wilmette Public Schools District 39 (“School District”) for temporary access and for construction, operation, and maintenance of stormwater improvements on certain School District owned property; a copy of which is attached hereto as Exhibit A;

**NOW, THEREFORE, BE IT RESOLVED** by the President and Board of Trustees of the Village of Wilmette as follows:

**SECTION ONE:** The above recitals are incorporated into this section one as if fully set forth.

**SECTION TWO:** The MOU attached as Exhibit A is hereby approved.

**SECTION THREE:** The Village President is authorized to execute the MOU. Prior to executing the MOU, the Village President is authorized to make changes to the form of the MOU in his discretion.

**SECTION FOUR:** The Village President and the Village Manager are authorized to take any action necessary to carry out the purpose of this Resolution and this Resolution shall be in full force and effect from and after its passage.

**SECTION FIVE:** This Resolution shall be in full force and effect from and after its passage.

**ADOPTED** on **January 14, 2020**, pursuant to the following roll call vote:

**AYES:**        None.

**NAYS:**        None.

**ABSTAIN:**   None.

**ABSENT:**    None.

\_\_\_\_\_  
Village Clerk

Approved on **January 14, 2020.**

\_\_\_\_\_  
Village President

Attest:

\_\_\_\_\_  
Village Clerk

**EXHIBIT A**

MEMORANDUM OF UNDERSTANDING

**MEMORANDUM OF UNDERSTANDING**

(Village of Wilmette – Wilmette Public Schools District 39)

This Memorandum of Understanding (“MOU”) is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between THE VILLAGE OF WILMETTE, (“Village”), an Illinois municipal corporation and home rule unit, and the BOARD OF EDUCATION OF WILMETTE PUBLIC SCHOOLS DISTRICT 39 (“School District”), an Illinois School District and unit of local government. The Village and School District are hereinafter sometimes referred to individually as “Party” and collectively as the “Parties”.

**WHEREAS**, the Village has determined that it is in the best interests of the health, safety, and welfare of its residents and the general public to construct, maintain, and operate, within the corporate boundaries of the Village, a series of underground storm water reservoirs, piping, and other apparatuses (collectively, “Storage Reservoirs”), for the purpose of managing and storing excess surface storm water in an effort to decrease surface flooding throughout the Village (“Project”); and

**WHEREAS**, the Village performed a significant amount of due diligence, including consultation with third-party consultants, to evaluate the efficacy of the Project and to identify potential locations for the Storage Reservoirs; and

**WHEREAS**, the Village identified specific portions of Park District property, namely, Community Playfield, Thornwood Park, and Hibbard Park (collectively referred to as the “Locations”), as suitable locations for the installation and operation of the Storage Reservoirs, and requested permission from the Park District for access to and use of the Locations to help facilitate the Project; and

**WHEREAS**, the Village also held numerous public meetings to discuss the Project, the Storage Reservoirs, and the Locations, and to receive input from their respective residents and the general public with respect to same; and

**WHEREAS**, the Village has determined that it is in the best interests of their respective residents, as well as the public generally, to proceed with the Project, including the installation and operation of the Storage Reservoirs at the Locations; and

**WHEREAS**, the School District owns Highcrest Middle School which is located at 569 Hunter Road, Wilmette, IL 60091 (“Subject Property”), which is adjacent and directly contiguous to Community Playfield; and

**WHEREAS**, the Village desires to construct a new stormwater sewer entering the Subject Property at Hunter Road and located through the parking lot upon the Subject Property to Community Playfield (“Stormwater Sewer”); and

**WHEREAS**, the Village desires to obtain access to Community Playfield through the Subject Property to construct the Project at Community Playfield; and

**WHEREAS**, the Parties acknowledge and agree that the stated intent is to work toward an IGA that will be approved by the School District provided its needs are well-addressed, such intergovernmental agreement to be entered into between the Parties on a future date that will provide the specific terms and conditions governing the Project and, in particular, the access of the Subject Property for purposes of the installation and operation of the Storage Reservoir at Community Playfield; and

**WHEREAS**, this MOU is intended to provide the Parties with assurances with respect to the mutually agreed upon use of the Subject Property for the purpose of the construction of the Project at Community Playfield; and

**WHEREAS**, an intergovernmental agreement is appropriate and such an agreement is authorized and encouraged by Article 7, Section 10 of the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.); and

**WHEREAS**, the Village, by virtue of its powers as a home rule unit of government as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois, and School District, by virtue of its powers set forth in Section 5-30 of the School District Code (105 ILCS 5/5-30), are authorized to enter into this MOU; and

**WHEREAS**, the interest of the School District is to ensure no loss of operation of the Subject Property and that its full and complete educational program will be provided in a safe and efficient manner with minimal disruption and without additional costs to the School District due to the Project.

**NOW THEREFORE**, in consideration of the promises herein contained, the Parties agree as follows:

1. **RECITALS.** Each of the foregoing recitals and findings are hereby made a part of this MOU and are incorporated by reference as if set forth verbatim herein.
2. **GRANT OF AN EASEMENT.** Upon the successful negotiation and execution of an intergovernmental easement agreement with terms and conditions acceptable to the Parties, the School District shall grant the Village a non-exclusive easement to install, operate and maintain the relevant portion of the Stormwater Sewer at the Subject Property and a temporary construction easement to allow the Village to use the Subject Property for purposes of temporary access to Community Playfield for purposes of constructing the portion of the Project and the Storage Reservoir relevant to Community Playfield and for the purpose of restoring the Subject Property to pre-construction conditions. The specific details of the easements contemplated by this MOU shall be provided in an intergovernmental agreement between the Parties to be

considered and approved by February 24, 2020, or as soon as mutually agreeable terms may be reached.

3. LOCATIONS. Upon the successful negotiation and execution of an intergovernmental easement agreement with terms and conditions acceptable to the Parties, the Village shall be allowed to install, operate and maintain the relevant portion of the Stormwater Sewer at the Subject Property and a temporary construction easement to allow the Village to use the Subject Property for purposes of temporary access to Community Playfield for purposes of constructing the portion of the Project and the Storage Reservoir relevant to Community Playfield as specifically provided for in this MOU and as provided for in writing in any subsequent agreement. The Project shall substantially conform to the footprints and the provisions provided for in the following Exhibits:

- a. Construction access, location of construction and easements and terms and conditions of construction attached as Exhibits AA, BB, and CC. The parties hereto fully acknowledge that the attached Exhibits are in draft format and are in no way to be understood as the final diagrams for access, location of construction, or easements, and do not contain the final terms and conditions of construction.

4. VILLAGE OBLIGATIONS.

The Village shall construct the Stormwater Sewer and be granted access to the Subject Property and restore the Subject Property at no cost to the School District in the manner as mutually agreed upon between the Parties at a later date and memorialized in an intergovernmental agreement.

5. LAW GOVERNING.

The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance.

6. CAPTIONS AND PARAGRAPH HEADINGS.

Captions and paragraph headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.

7. NOTICES.

All notices provided for herein shall be served upon the Parties by personal delivery, email, fax or Certified United States mail, return receipt requested, at the following locations, or at such other location or locations as the Parties may from time to time designate in writing:

Notice to School District:

Notice to Village:

Superintendent  
Wilmette Public Schools District 39  
615 Locust Road  
Wilmette, IL 60091

Village Manager  
Village of Wilmette  
1200 Wilmette Avenue  
Wilmette, IL 60091

Notices shall be deemed given when received by the Party to whom it was sent.

8. COUNTERPARTS.

This Agreement may be executed in counterparts that, taken together, will be effective as if they were a single document. Signatures transmitted by a .pdf file or facsimile shall be treated as originals.

9. ENTIRE AGREEMENT.

This instrument contains the entire agreement between the Parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect, and any modifications to this Agreement must be in writing and must be signed by all Parties to this Agreement.

Agreed to:

VILLAGE OF WILMETTE

BOARD OF EDUCATION OF WILMETTE PUBLIC  
SCHOOL DISTRICT 39

\_\_\_\_\_  
Robert T. Bielinski,  
Village President

By: \_\_\_\_\_  
Lisa Schneider-Fabes  
President, Board of Board of Education