

Resolution No. 17-76

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE VILLAGE OF VILLA PARK, SCHOOL DISTRICT 45 AND THE
DUPAGE COUNTY REGIONAL BOARD OF SCHOOL TRUSTEES FOR THE
GRANTING OF EASEMENTS FOR THE VILLAGE'S SUGAR CREEK STORM
WATER DETENTION PROJECT**

WHEREAS, the Village of Villa Park (the "Village") is a duly organized and validly existing non home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, the Village and School District 45 (the "District") are units of local government and public agencies within the meaning of the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) (the "Act") and are authorized by the Act and by Article VII, Section 10 of the 1970 Constitution of the State of Illinois to enter into intergovernmental agreements of cooperation; and,

WHEREAS, the DuPage County Regional Board of School Trustees (the "Regional Board") is the owner of property on which is located Jackson Middle School operated by the District and its related parking facilities and recreational fields; and,

WHEREAS, the Regional Board and District have authority pursuant to Section 5-30 of the School Code (105 ILCS 5/5-30) to grant temporary or permanent easements for water drainage to municipalities; and,

WHEREAS, pursuant to a prior Intergovernmental Agreement dated January 6, 1992, the Regional Board and District granted the Village a storm water easement along the eastern side of its property for storm water purposes; and,

WHEREAS, the Village constructed in 1992 certain storm water improvements within that easement to assist in the detention of storm water in the Village; and,

WHEREAS, the Village funded a recent study of the Sugar Creek watershed that determined that additional storm water detention would improve the storm water facilities in the Village; and,

WHEREAS, the Village as part of the Sugar Creek Watershed Study is planning for the expansion of the storm water detention basins currently located on both Village and District property adjacent to the District's Jackson Middle School (the "Project"); and,

WHEREAS, this Project will be conducted in two phases with the first phase of basin expansion and grading on Village property including storm water mains connecting east to Sugar Creek and phase two involving grading on District property and a storm water main from Jackson Street through the District's property; and,

WHEREAS, as a part of the construction of the expanded storm water detention the Village's plans will include use of soil removed to be used for fill to level and improve the District's recreational fields; and,

WHEREAS, the Village has requested from the District an additional approximately 1.15 acre permanent stormwater easement expanding the existing storm water easement to the Village for the creation of an expanded storm water detention area; and,

WHEREAS, the Village has requested from the District a temporary construction easement over existing open space and recreational areas for the work regrading, placement of soil, and installation of recreational facilities within the permanent storm water easement to expand and level the District's property for more usable recreational

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space; and,

WHEREAS, the Village and District agree to cooperate for the completion of this Project that will benefit both the District and residents of the Village.

NOW THEREFORE, BE IT RESOLVED, by the President and Board of Trustees of the Village of Villa Park, DuPage County, Illinois, as follows:

Section 1: That the *INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF VILLA PARK, ILLINOIS, SCHOOL DISTRICT 45 AND THE DUPAGE COUNTY REGIONAL BOARD OF SCHOOL TRUSTEES FOR THE GRANTING OF EASEMENTS FOR THE VILLAGE'S SUGAR CREEK STORM WATER DETENTION PROJECT*, that is attached hereto and made a part hereof by reference as Exhibit A, between the Village of Villa Park, School district 45 and the Regional Board of School Trustees be and is hereby approved and Village President and Village Clerk are hereby authorized to execute said Intergovernmental Agreement on behalf of the Village.

Section 2: That this resolution shall be in full force and effect from and after its passage and approval according to law.

PASSED this 23rd day of October, 2017, pursuant to a roll call vote as follows:

AYES:	7
NAYS:	0
ABSENT:	0

APPROVED this 23rd day of October, 2017


Village President

Attest: 
Village Clerk





BOARD OF EDUCATION
School District 45, DuPage County
Villa Park, Illinois

Board Meeting, October 16, 2017

SUBJECT: INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF VILLA PARK, ILLINOIS, SCHOOL DISTRICT 45 AND THE DUPAGE COUNTY REGIONAL BOARD OF SCHOOL TRUSTEES FOR THE GRANTING OF EASEMENTS FOR THE VILLAGE'S SUGAR CREEK STORM WATER DETENTION PROJECT

(Recommended by the Superintendent)

That the Board of Education

Approve the Intergovernmental Agreement Between the Village of Villa Park, Illinois, School District 45 and the DuPage County Regional Board of School Trustees for the Granting of Easements for the Village's Sugar Creek Storm Water Detention Project.

Background Information

This IGA will provide the necessary easements so the Village can perform the much needed Storm Water Upgrades for the Village.

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF
VILLA PARK, ILLINOIS, SCHOOL DISTRICT 45 AND THE DUPAGE
COUNTY REGIONAL BOARD OF SCHOOL TRUSTEES FOR THE
GRANTING OF EASEMENTS FOR THE VILLAGE'S SUGAR CREEK
STORM WATER DETENTION PROJECT**

This Intergovernmental Agreement ("Agreement") is entered into by and between the Village of Villa Park (the "Village") the Board of Education of School District 45, DuPage County Illinois (the "District") and the DuPage County Regional Board of School Trustees (the "Regional Board").

WHEREAS, the Village and School District are units of local government and public agencies within the meaning of the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) (the "Act") and are authorized by the Act and by Article VII, Section 10 of the 1970 Constitution of the State of Illinois to enter into intergovernmental agreements of cooperation; and,

WHEREAS, the Regional Board is the owner of property on which is located Jackson Middle School operated by the District and its related parking facilities and recreational fields that is legally described in Exhibit A attached hereto and made a part hereof; and,

WHEREAS, the Regional Board and District have authority pursuant to Section 5-30 of the School Code (105 ILCS 5/5-30) to grant temporary or permanent easements for water drainage to municipalities; and,

WHEREAS, pursuant to a prior Intergovernmental agreement dated January 6, 1992, the Regional Board and District granted the Village a storm water easement along the eastern side of its property for storm water purposes; and,

WHEREAS, the Village constructed in 1992 certain storm water improvements within that easement to assist in the detention of storm water in the Village; and,

WHEREAS, the Village funded a recent study of the Sugar Creek watershed that determined that additional storm water detention would improve the storm water facilities in the Village; and,

WHEREAS, the Village as part of the Sugar Creek Watershed Study is planning for the expansion of the storm water detention basins currently located on both Village and District property adjacent to the District's Jackson Middle School and as shown on the following exhibits:

Exhibit B, Drawing 1, Jackson Middle School conceptual grading and cross-sections

Exhibit C, Drawing 2, Jackson Middle School conceptual grading and cross-sections
locations

Exhibit D, Drawing 3, Jackson Middle School and Village property grading exhibit with
spring field layout

Exhibit E, Drawing 4, Jackson Middle School and Village property grading exhibit with fall field layout

Exhibit F, Drawing 5, Phasing Plan

Exhibit G, Drawing 6, Jackson Middle School easements

Exhibit H, Drawing 7, Jackson Middle School and Village property grading exhibit with easements

all as attached hereto and made a part hereof and all such improvements described as the "Project"; and,

WHEREAS, this Project will be conducted in two phases with the first phase of basin expansion and grading on Village property including storm water mains connecting east to Sugar Creek and phase two involving grading on District property and a storm water main from Jackson Street through the District's property to the detention swales as shown on the Exhibit F Phasing Plan; and,

WHEREAS, as a part of the construction of the expanded storm water detention the Village's plans will include use of soil removed to be used for fill to level and improve the District's recreational fields; and,

WHEREAS, the Village has requested from the District an additional approximately 1.15 acre permanent stormwater easement expanding the existing storm water easement to the Village for the creation of an expanded storm water detention area as shown on Exhibit G and legally described in Exhibit A; and,

WHEREAS, the Village has requested from the District a temporary construction easement over existing open space and recreational areas for the work regrading, placement of soil, and installation of recreational facilities within the permanent storm water easement to expand and level the District's property for more usable recreational space; and,

WHEREAS, the Village and District agree to cooperate for the completion of this Project that will benefit both the District and residents of the Village.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Village, District and Regional Board hereby agree as follows:

1. That the above whereas clauses are hereby incorporated into and made a part of this Agreement as though fully set forth herein.
2. The Village agrees to prepare and pay for the construction plans to implement the Project and storm water improvements as shown on Exhibits B through H. Prior to letting the Project for bid, the Village shall provide a copy of those construction plans to the District for its review and approval.
3. The Village agrees that the installation of all improvements for the Project shall be done (a) in compliance with all applicable federal, state, and local laws, including the Villa Park Municipal Code, (b) in a good and workmanlike manner and (c) all at the sole expense of the Village.

4. The District and Regional Board agree to grant to the Village:
 - A. A permanent storm water easement over, upon, under and through the District's property described in Exhibit A to construct, reconstruct, repair, inspect, maintain and operate a storm water drainage facility and all appurtenances as described on the Plat of Easement attached hereto and made a part hereof as Exhibit A which shall be approved by the District within 30 days of the approval of this Agreement. The District reserves the right to use the easement for any lawful purposes which will not interfere, obstruct or be inconsistent with the Village's use of the easement provided the District shall not erect or construct any structure in the easement, change the topographic profile, or take any action which will interfere with the drainage without the expressed written approval of the Village.
 - B. A temporary construction easement for the earlier of: (i) a period of two years from the date of this agreement or (ii) until completion of the Project, to construct, grade, regrade, excavate and fill over, upon, under and through the Property as described on the Plat of Easement attached hereto and made a part hereof as Exhibit A which shall be approved by the District within 30 days of the approval of this Agreement.
5. The Village agrees to the following conditions regarding the construction of the Project:
 - A. That the Village shall have the Project constructed in substantial compliance with Exhibits B through H and the construction documents approved by the District. The Village and District shall work together to approve any changes to those plans during the construction of the Project with any such changes remaining as much as possible to the intent of the Exhibits and plans.
 - B. That the Project shall be constructed to have only detention of storm water and not to have permanent retention of storm water in the easement areas.
 - C. Construction within the easement areas, pursuant to the temporary construction easement, shall be as much as possible occurring during times when school is not in session. Days of construction shall be agreed to between the District Superintendent and Village Manager. The Village shall provide the District with a copy of the construction schedule for the Project at least twenty-one (21) days prior to commencing any work or construction on the Project. The Village shall also designate a specific route or location that the Village will access the easement, and a general plan for the placement of any equipment, tools, or materials. The construction schedule, access points, and plan for placement of equipment shall be collectively referred to as the "Construction Plan". The Village shall not commence work or construction on the Project until the District gives written authorization of the Construction Plan. In the event the Village needs to access the property as described on the Plat of Easement on Exhibit A at any time other than as set forth on the Construction Plan authorized by the District, the Village shall request access from the District at least forty-eight (48) hours before the requested time to access. The District shall have the right to deny the Village access to the property if said access would interfere with the District's classes or other educational endeavors,

student activities, faculty trainings or meetings, community meetings or other events previously scheduled. If the District denies access for any of these reasons, the District and the Village agree to cooperate in finding a mutually agreeable time for the Village to access the property.

- D. That construction and any work on Phase Two shall not begin until Phase One has been completed and grass turf established in the Phase One area unless agreed to by mutual written consent of the Village and the District.
- E. The Village agrees to minimize any adverse impact on the District's property, including the District's use of the property, during the course of the Project. The Village agrees that all of the District's property, including the baseball field located east of Jackson Middle School, shall be restored to the equivalent or better condition as part of the Project.
- F. That the two baseball fields located outside the easement area will remain usable during the construction of the Project.
- G. That when construction is being performed within the permanent storm water easement or temporary construction easement, the Village shall have the easement areas enclosed by a construction fence and shall take all other reasonable safety precautions. The Village agrees that at all times it is solely responsible for: (i) the safety of any work or construction performed on the easement, (ii) any acts or omissions performed by its employees or contractors while accessing the easement or on the District's property, (iii) securing the easement to prevent access to any unsafe or dangerous conditions on the easement, and (iv) securing any equipment, tools, material, or other personal property that is on the easement.
- H. The Village agrees to and shall defend, indemnify, and hold harmless the District, its Board members, officers, agents and employees from all and any liability, losses, costs, damage or expense, or injury to person or property, including reasonable attorney's fees, and other reasonable costs of defense, arising out of or resulting from the acts or omissions of the Village, its agents, employees, officers, or contractors as part of this Project, or from the Village's breach of this Agreement.
- I. The Village shall continue to remain a member in good standing with the Intergovernmental Risk Management Agency that provides its liability insurance coverage. The Village shall cause the District, its Board of Education, individual Board members, officers, employees, agents, representatives, and volunteers, to be named as additional insureds on these policies by endorsement. The commercial general liability and automobile liability policies shall be endorsed to reflect that coverage is primary to and noncontributory with any other insurance available to the District. The commercial general liability policy shall, by endorsement, provide contractual liability coverage, including the indemnity obligations provided in this Agreement. Each such policy shall include, by endorsement, a requirement of at least thirty (30) days' written notice to the District prior to any termination or

cancellation of or material amendment to that policy. Upon execution of this Agreement, the Village shall furnish to District certificate(s) of insurance, policies, and endorsements reflecting the required coverages. The type and minimum limits of insurance required are as follows:

Type	Limits
Commercial General Liability	
Per Occurrence:	\$1,000,000
Aggregate:	\$2,000,000
Automobile Liability:	\$1,000,000 (combined single limit)
Workers' Compensation:	Statutory Minimum
Umbrella / Excess:	\$3,000,000

- J. If the District wishes to add improvements beyond that of what the Village proposes, it may do so at its expense.
- K. The easements set forth in Sections 4.a. and 4.b. of this Agreement shall be used and enjoyed solely by the Village and its duly authorized employees, agents, contractors, subcontractors, and material suppliers (collectively the "Village Group") for the sole purposes set forth in this Agreement, and the Village shall not assign its easement rights in whole or in part, nor shall it grant any license or permission to any other third-party to traverse, enter upon, or otherwise use the easement without the express written consent of the District.
- L. The Village agrees not to bring any equipment, machinery, or materials onto or remain on any portion of the District's property other than on the easement or as set forth on the Construction Plan.
- M. No explosives or flammable or hazardous materials of any kind shall be transported across, brought upon, or stored or deposited on, the District's property except in compliance with applicable law or as needed for vehicles or equipment; provided that the Village shall be liable for any damage to or contamination of the District's property resulting from such activity or use. As used in this Agreement, "hazardous materials" means any hazardous or toxic substances, materials or wastes, including, but not limited to solid, semi-solid, liquid or gaseous substances which are toxic, ignitable, corrosive, carcinogenic or otherwise dangerous to human, plant or animal health or well-being and those substances, materials, and wastes listed in the United States Department of Transportation Table (49 CFR 972.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto or such substances, materials, and wastes regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as "hazardous substances" pursuant to Section 1251 et.

seq. (33 U.S.C. Section 1321) or listed pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. seq. (42 U.S.C. Section 6903), or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq. (42 U.S.C. Section 9601) or any other applicable environmental law.

N. Any soil that the Village uses to fill, level, improve, or otherwise place on the District's property, shall be tested by the Village or by a certified and licensed geotechnical engineering firm or other professional at the Village's expense. The soil shall not contain any hazardous materials hazardous substances, and shall not contain contaminant concentrations exceeding the limits set by the Illinois Environmental Protection Agency. Village shall provide the testing results to the District's Superintendent prior to placing the soil on the District's property. This section shall apply to all soil placed on the District's property, regardless of whether the soil was removed from the District's property as part of this Project or whether the soil was taken from an off-site location.

O. At all times, the Village shall keep the District's property free of accumulations of debris, waste and garbage resulting from the Village's construction activities.

6. The District agrees:

A. That upon completion of the Project, it shall resume the regular maintenance for its property in compliance with the ordinances of the Village.

B. To participate in progress meetings during construction and otherwise maintain communication with the Village during the course of this Project.

7. MISCELLANEOUS PROVISIONS

A. Authority. Each party warrants to the other that it is authorized to execute, deliver and perform this Agreement. Each party warrants to the other that execution, delivery and performance of this Agreement does not constitute a breach or violation of any agreement, undertaking, law or ordinance by which that party is bound. Each individual signing this Agreement on behalf of a party warrants to the other party that such individual is authorized to execute this Agreement in the name of the party on whose behalf he or she executes it.

B. Compliance with all laws. The Village and District shall at all times observe and comply with the laws, ordinances, regulations and codes of federal, state, county and other local governmental agencies, which may in any manner affect the performance of this Agreement.

- C. Binding Effect. This Agreement shall be binding on the parties and their respective successors. It may not be assigned.
- D. Further Acts. Each party shall, at the request and expense of the other, execute and deliver any further documents and do all acts and things as that party may reasonably require carrying out the true intent and meaning of this Agreement.
- E. Governing Law. This Agreement is governed by and shall be interpreted and enforced in accordance with the laws of the State of Illinois.
- F. Waivers and Modifications. No waiver of any term or condition of this Agreement shall be binding or effective for any purpose unless expressed in writing and signed by the party making the waiver, and then shall be effective only in the specific instance and for the purpose given. This Agreement shall not in any other way be modified except in writing signed by all parties.
- G. Notices. Any notice, payment, request, instruction, or other document to be delivered hereunder shall be deemed sufficiently given if in writing and delivered personally or mailed by certified mail, postage prepaid, as follows:

If to the Village:
 Village Manager
 Village of Villa Park
 20 S. Ardmore
 Villa Park, IL 60181

If to District 45:
 Superintendent
 School District 45, DuPage County, Illinois
 255 W. Vermont Street
 Villa Park, IL 60181

If to Regional Board:
 Secretary Ex-Officio
 Regional Board of Trustees
 421 N. County Farm Road
 Wheaton, IL 60187

- H. Entire Agreement. This Agreement expresses the complete and final understanding of the parties with respect to its subject matter.
- I. Execution. This Agreement may be executed in duplicate counterparts, each of which shall be as effective as the others upon approval and execution by all parties.
- J. Effective Date. This Agreement shall be deemed dated and become effective on the date that it is signed by the last of the parties' duly authorized representatives.

**BOARD OF EDUCATION,
 SCHOOL DISTRICT 45,
 DUPAGE COUNTY, ILLINOIS**

By: *Judith Dymon*
President

ATTEST: *Carol C. Klameck*
Secretary

Date: 10-17, 2017

**VILLAGE OF VILLA PARK,
STATE OF ILLINOIS**

By: *Albert Bultman*
President

ATTEST: *Joanna Kopycky*
Clerk

Date: October 23, 2017



**REGIONAL BOARD OF
SCHOOL TRUSTEES OF
DUPAGE COUNTY**

By: _____
President

ATTEST: _____
Secretary Ex-Officio

Date: _____, 2017

LIST OF EXHIBITS

- Exhibit A, Plat of Easement Abrogation / Plat of Easement
- Exhibit B, Drawing 1, Jackson Middle School conceptual grading and cross-sections
- Exhibit C, Drawing 2, Jackson Middle School conceptual grading and cross-sections locations
- Exhibit D, Drawing 3, Jackson Middle School and Village property grading exhibit with spring field layout
- Exhibit E, Drawing 4, Jackson Middle School and Village property grading exhibit with fall field layout
- Exhibit F, Drawing 5, Phasing Plan
- Exhibit G, Drawing 6, Jackson Middle School easements
- Exhibit H, Drawing 7, Jackson Middle School and Village property grading exhibit with easements