

**124-R-20**

**A RESOLUTION**

**Authorizing the City Manager to Execute an Intergovernmental Agreement with the Village of Wilmette for Street Resurfacing**

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, authorize and encourage intergovernmental cooperation; and

**WHEREAS**, the Parties are “public agencies” within the meaning of the Illinois Intergovernmental Cooperation Act; and

**WHEREAS**, improvements to Garrison Avenue, from Isabella Street to North Dead End, are to be made pursuant to Evanston’s 2021 Water Main and Street Resurfacing Project; and

**WHEREAS**, the aforementioned portion of Garrison Avenue is partially in Wilmette and partially in Evanston; and

**WHEREAS**, the City and the Village of Wilmette wish to associate, cooperate, and enter into an Intergovernmental Agreement to define each Parties’ rights and responsibilities to the construction contemplated for Garrison Avenue (“Agreement”). The Agreement is attached hereto as Exhibit A ; and

**WHEREAS**, the Evanston City Council has determined that it will serve and be in the best interest of the City to enter into the Agreement with the Village of Wilmette;

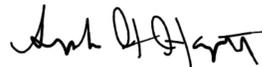
**NOW BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** The City Council hereby adopts the foregoing recitals as its findings, as if fully set forth herein.

**SECTION 2:** The City Council hereby approves, pursuant to the City of Evanston's home rule power, the Agreement in the form attached to this Resolution as Exhibit A.

**SECTION 3:** The City Manager is hereby authorized to sign the "Intergovernmental Agreement Between the City of Evanston and the Village of Wilmette for Street Resurfacing", attached hereto as Exhibit A and incorporated herein by reference.

**SECTION 4:** This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.



\_\_\_\_\_  
Stephen H. Hagerty, Mayor

Attest:



\_\_\_\_\_  
Devon Reid, City Clerk

Approved as to form:



\_\_\_\_\_  
Kelley A. Gandurski, Corporation Counsel

Adopted: December 14, 2020

**EXHIBIT A**

**INTERGOVERNMENTAL AGREEMENT**

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF WILMETTE  
AND THE CITY OF EVANSTON FOR STREET RESURFACING**

**THIS AGREEMENT**, is entered into as of the latest date following the signatures hereon, by and between the VILLAGE OF WILMETTE, an Illinois municipal corporation and home rule unit as described in the Illinois Constitution (hereinafter “Wilmette”), and the CITY OF EVANSTON, an Illinois municipal corporation and home rule unit as described in the Illinois Constitution (hereinafter “Evanston”), collectively referred to as the “Parties”.

**WITNESSETH**

**WHEREAS**, pursuant to Section 10 of Article VII of the Illinois Constitution of 1970, and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq. public agencies may contract or otherwise associate among themselves, or transfer any power or function, in any manner not prohibited by law or ordinance; and

**WHEREAS**, the Parties are “public agencies” within the meaning of the Illinois Intergovernmental Cooperation Act; and

**WHEREAS**, the Parties have the power and authority to enter into an agreement pursuant to, but without limitation, the home rule powers under Section 6, Article VII of the 1970 Constitution of the State of Illinois; and

**WHEREAS**, improvements to Garrison Avenue, from Isabella Street to North Dead End, are to be made pursuant to Evanston’s 2021 Water Main and Street Resurfacing Project; and

**WHEREAS**, the aforementioned portion of Garrison Avenue is partially in Wilmette and partially in Evanston; and

**WHEREAS**, Wilmette has requested that Evanston include street resurfacing within Wilmette’s right-of-way as part of any contract Evanston enters into for the improvements to Garrison Avenue; and

**WHEREAS**, the Parties wish to associate, cooperate, and enter into an intergovernmental agreement to define each Parties’ rights and responsibilities in regard to the construction contemplated for Garrison Avenue (“Agreement”); and

**WHEREAS**, the City of Evanston has agreed to be the lead agency in constructing said improvements and shall provide design and construction engineering services for said improvements; and

**WHEREAS**, the total estimated cost for said improvements is \$100,000; and

**WHEREAS**, the City of Evanston shall pay 100% of the actual costs of the improvements, estimated to be \$100,000; and

**WHEREAS**, the portion of costs for the improvements benefiting Wilmette’s right-of-way is estimated to be \$45,000, which shall be paid in full by Wilmette; and

**WHEREAS**, the portion of costs for the improvements benefiting Evanston's right-of-way is estimated to be \$55,000, which shall be paid in full by Evanston; and

**WHEREAS**, Wilmette shall reimburse Evanston for its portion of the costs

**WHEREAS**, should the portion of costs for the improvements benefiting Wilmette exceed the aforementioned estimate, Wilmette shall pay the additional costs; and

**WHEREAS**, the Board of Trustees of the Village of Wilmette, on the [REDACTED] day of [REDACTED], 2021, has authorized the Village Manager of the Village of Wilmette to enter into an agreement for the construction of said improvement; and

**WHEREAS**, the City Council of the City of Evanston, on the [REDACTED] day of [REDACTED], 2021, by its resolution has authorized its City Manager to enter into an agreement for said improvement; and

**WHEREAS**, this Agreement shall be executed in addition to and shall have no effect upon any other agreements between the Parties; and

**NOW, THEREFORE**, in consideration of the foregoing recitals, and the mutual covenants and undertakings hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, it is agreed between the Parties hereto, as follows:

**A. Recitals Incorporated**

The foregoing recitals are incorporated herein as if fully set forth herein.

**B. Purpose**

The purpose of this Agreement is for Evanston to include additional construction to its 2021 Water Main Replacement and Street Resurfacing Project construction that will benefit Wilmette and for Wilmette to provide payment for those additional costs.

**C. Bidding**

The bidding and letting of contract(s) for the work to be performed hereunder, as well as City of Evanston engineering services, shall be done in accordance with Evanston's ordinances, practices, and procedures, the current version of the IDOT Standard Specifications for Road and Bridges, and Supplemental Specifications and Recurring Special Provisions and IDOT Procedures. In the event of a conflict, the aforementioned Specifications for Roads and Bridges shall control.

Bid specifications issued by the City of Evanston pursuant to this Agreement shall:

Require that the contractor provide Wilmette with a certificate of insurance naming Wilmette as an additional insured and an agreement to indemnify and hold harmless Wilmette from all claims arising out of the contractor's

performance, on the same terms and conditions as those provided to Evanston; and

Provide therein that Wilmette is intended to be a third-party beneficiary of the contract, and that any terms establishing rights and authority in Evanston shall also be deemed to extend to Wilmette.

**D. Payment by Wilmette**

Wilmette, upon written request from Evanston, shall promptly convey to Evanston sufficient funds to meet the portion of each request for payment submitted by the contractor that is attributable to Wilmette pursuant to this Agreement, and shall do so in a timely manner so as to allow Evanston to meet its payment obligations pursuant to its contract with said contractor without default.

**E. Execution of Additional Documentation**

Both of the parties agree to cooperate fully, to execute any and all supplementary documents, and to take all additional actions which are consistent with and which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement and to preserve and assert any claims that a party may have against a contractor performing work under this Agreement.

**F. Wilmette's Indemnification of Evanston**

Wilmette shall defend, protect, indemnify, save, and forever hold harmless Evanston and/or each of its officers, officials, employees, agents, and/or representatives from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses, including but not limited to court costs, litigation expenses, insurance deductibles, and attorneys' fees and expenses, which Evanston and/or its officers, officials, employees, agents, and/or representatives may incur, suffer, or sustain, or for which Evanston and/or its officers, officials, employees, agents, and/or representatives may become obligated by reasons of any accident, injury to, or death of any persons, or loss of, or damage to, any property, or civil and/or constitutional infringement of civil rights or liberties (specifically including violations of any and all federal civil rights statutes, regulations, and constitutional provisions) arising directly or indirectly from, in connection with, under, or as a result of this Agreement.

**G. Insurance**

During the term of the Agreement, Wilmette shall maintain its insurance – with limits at the time this agreement is executed – against all claims for injury to or death of a person or persons or damage to property, which may arise wholly or in part from the performance of the services hereunder by Evanston. Wilmette shall name Evanston, its officers, officials, and employees as additional insureds on its liability insurance, or self-insurance, coverage, at all times during the term of this Agreement. Such Certificate of Insurance shall be provided to Evanston within 10 days after this Agreement is fully executed.

**H. Notice**

All notices required to be given hereunder shall be in writing and shall be properly served on the date delivered by courier or on the date deposited, postage prepaid, with the U. S. Postal Service for delivery *via* certified mail, return receipt requested, addressed:

If to Evanston:

Erika Storlie  
City Manager  
City of Evanston  
2100 Ridge Avenue  
Evanston, IL 60201

Dave Stoneback  
Director of Public Works  
City of Evanston  
2100 Ridge Avenue  
Evanston, IL 60201

Kelley Gandurski  
City Attorney  
City of Evanston  
2100 Ridge Avenue  
Evanston, IL 60201

If to Wilmette:

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

Brigitte Berger-Raish  
Director of Engineering  
and Public Works  
Village of Wilmette  
1200 Wilmette Avenue  
Wilmette, IL 60091

Jeffrey M. Stein  
Corporation Counsel  
1200 Wilmette, Ave.  
Wilmette, IL 60091

**I. Additional Terms and Conditions**

1. This Agreement shall be binding to the Parties and their respective successors, including successors in office.
2. This Agreement is governed by and shall be construed in accordance with the laws of the State of Illinois.
3. No amendment, waiver, or modification of any term or condition of this Agreement shall be binding or effective for any purpose unless expressed in writing and adopted by each of the Parties as required by law.
4. This Agreement expresses the complete and final understanding of the Parties with respect to the subject matter as of the date of its execution. The Parties acknowledge that no representations have been made which have not been set forth herein.
5. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
6. This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent will be granted or denied at the Party's sole discretion.

7. This Agreement is for the benefit of the Parties and no other person is intended to or shall have any rights, interest or claims under this Agreement or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.
8. The undersigned represent that they have the authority of their respective governing authorities to execute this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by the Village President of the Village of Wilmette and the City Manager of the City of Evanston. Their signatures are attested to by the respective clerks of these municipalities, and their respective corporate seals have been hereunto affixed on the day and year written below.

**VILLAGE OF WILMETTE:**

By: \_\_\_\_\_ Attest: \_\_\_\_\_  
Village President Village Clerk

Date: \_\_\_\_\_ [Seal]

**CITY OF EVANSTON:**

By: \_\_\_\_\_ Attest: \_\_\_\_\_  
City Manager City Clerk

Date: \_\_\_\_\_ [Seal]