



STORMWATER MANAGEMENT COMMISSION

MEMORANDUM

TO: Lake County Stormwater Management Commission
FROM: Mike Warner, Executive Director
DATE: 8/27/19
RE: Lake Villa Township – Property Purchase Agreement

ACTION REQUESTED: APPROVAL OF JOINT PROPERTY PURCHASE

SMC staff recommends approval of the attached agreement for purchase. One residential property and one vacant lot are included in the proposed agreement. This is the adjacent property to the previously approved parcel. The owner of that property removed themselves from further negotiation. This parcel also floods (as do a total of approximately 18 homes) and will allow for an increased excavation of the detention area. It is somewhat more cost, but has also more benefit and still much lower cost than the original alternatives.

Funds are available in the SMC CCIP floodprone property buyout account. This is being proposed along with a SIRC agreement amendment for the Lake Villa Township's Academy Drive and Columbia Bay Drive Drainage Improvements Project. There is an overall cost savings and increased flood mitigation and water quality benefit, when comparing the joint property purchase coupled with the amended SIRC project to the previous standalone SIRC project scope.

Attached is the Agreement for the project. Please contact me with any questions regarding this project and thank you for your consideration.

INTERGOVERNMENTAL AGREEMENT
Between
LAKE VILLA TOWNSHIP
and the
LAKE COUNTY STORMWATER MANAGEMENT COMMISSION
for the
FOX LAKE HILLS SUBDIVISION PROJECT PHASE 1

WHEREAS, the Lake Villa Township ("TOWNSHIP") as part of its statutory authority participates in property acquisitions and drainage improvement projects; and

WHEREAS, the Lake County Stormwater Management Commission ("SMC") also as part of its statutory authority participates in floodprone property acquisitions, plans and implements flood mitigation and drainage improvement projects; and

WHEREAS, the TOWNSHIP and the SMC are working towards jointly implementing flood mitigation and drainage improvements, that include property acquisition within the Fox Lake Hills Subdivision of Lake Villa Township as shown on Exhibit A, and as part of those activities include; engineering design, collaboratively purchase flood prone property, demolish the structures and perform construction for drainage improvements, while keeping the property as open space for drainage purposes; and

WHEREAS, the TOWNSHIP and the SMC are authorized by the terms and provisions of the Intergovernmental Cooperation Act, 5 ILCS §220/5, to enter into intergovernmental agreements, ventures and undertakings to perform jointly any governmental purpose or undertaking either of them could do singularly; and

WHEREAS, the parties hereto, by their respective governing boards, find this Agreement to be fair and to the mutual benefit of the parties hereto.

NOW, THEREFORE, the TOWNSHIP and the SMC agree, by their authorized representatives, to the following:

1. That the recitals above be and are incorporated by reference as a part of this Agreement.
2. Mutual Agreements. TOWNSHIP and SMC agree:
 - a. The TOWNSHIP and/or the SMC will work cooperatively to achieve the following goals and tasks of this project to mutually gain experience and knowledge in working towards future flood mitigation efforts. The cost share partnership specified herein, is only valid for this project phase.
 - i. Prior to purchasing property, bidding and awarding the project, tasks will include staff review and approval by both parties of the purchase arrangements, construction plans and bidding processes.
 - ii. 'Property Purchase' – SMC agrees to contribute, as provided in Par. 3(c)(i) below, to the TOWNSHIP's purchase of the subject real property and improvements thereon, a single family home, appurtenances, and vacant lot, commonly known as 38096 Academy Drive, Lake Villa, Illinois 60046 and 25253 Columbia Bay Drive, Lake Villa Illinois 60046, as generally shown in Exhibit A, and legally described in Exhibit C, with the TOWNSHIP becoming fee simple owner of the parcel, with SMC retaining only contingent future consent and/or

ownership rights as detailed in the Restrictive Covenants to be attached in perpetuity to said real property upon and after the TOWNSHIP's acquisition thereof (see, Par. 4(c)(iii) below). Both the TOWNSHIP and SMC representatives shall be present at the property closing.

- iii. 'Demolition' – implement demolition process of the building and all appurtenances
- iv. 'Restoration' – excavation, grading, seeding and necessary construction according to the PLAN for the property to convert it to passive open space use with floodwater storage as feasible.

3. SMC Agreements. SMC agrees as follows:

- a. Documentation
 - i. SMC will coordinate with the TOWNSHIP to document all tasks, methods, and outcomes to mutually gain experience and knowledge from this project.
- b. Engineering
 - i. SMC will receive all engineering design and project information from the TOWNSHIP or TOWNSHIP's consultant, review and make suggestions as necessary based on the flood problem area analysis.
- c. Property Purchase
 - i. SMC will provide the not-to-exceed amount of funding based on the budget presented in Exhibit B, for the subject property of \$150,000, at closing, for the purchase of the subject real property.
- d. Demolition
 - i. SMC agrees to provide technical and construction assistance as necessary to the TOWNSHIP in tasks related to the Demolition process.
- e. Restoration
 - i. SMC agrees to provide technical and construction assistance as necessary to the TOWNSHIP in tasks related to the Restoration process.

4. TOWNSHIP Agreements. TOWNSHIP agrees as follows:

- a. Documentation
 - i. TOWNSHIP will coordinate with SMC to document all tasks, methods, and outcomes to mutually gain experience and knowledge from this project.
- b. Engineering
 - i. TOWNSHIP or the TOWNSHIP's engineering consultant will provide the engineering design and project information for the project. Grading and construction plan shall be jointly agreed on and completed for the overall project.
- c. Property Purchase
 - i. TOWNSHIP will be the Purchaser of the subject property at closing; and the TOWNSHIP agrees that the Warranty Deed transferring fee simple title to the TOWNSHIP shall include in perpetuity Restrictive Covenants preserving the subject property as open space and flood storage in the text and form attached hereto as Exhibit C.
 - ii. The TOWNSHIP will record an open space restriction on the property, naming SMC as an authorized signatory entity on the mutually agreed deed Restrictive Covenants document (see attached Exhibit C).
 - iii. The township will pay a minimum of \$49,988 towards the property purchase and also any exceedance of the total property purchase cost shown on Exhibit B.
- d. Demolition

- i. TOWNSHIP will perform work necessary to properly and safely demolish the structure and appurtenances, include utility coordination and disposal of debris.
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 - ii. TOWNSHIP agrees that the Demolition work shall be completed within 120 calendar days after the date of closing, or if delayed due to winter weather, the latest date shall be as of May 31st, 2020.
- e. Restoration
 - i. The TOWNSHIP shall provide excavation, grading and vegetative restoration for the property, in accordance with the Plan TOWNSHIP agrees that the Restoration work shall be completed within 60 days of completion of the demolition.
- f. Maintenance
 - i. The TOWNSHIP, in perpetuity, shall perform or have performed, long term maintenance for the property.

5. The effective date of this Agreement shall be June ____, 2019.

Agreed and executed by the parties hereto, by their duly authorized representatives, on the date first written above.

Lake Villa Township

Lake County Stormwater Management Commission

By: _____

By: _____

Title _____

Title _____

EXHIBIT A

FOX LAKE HILLS SUBDIVISION PROJECT PHASE 1

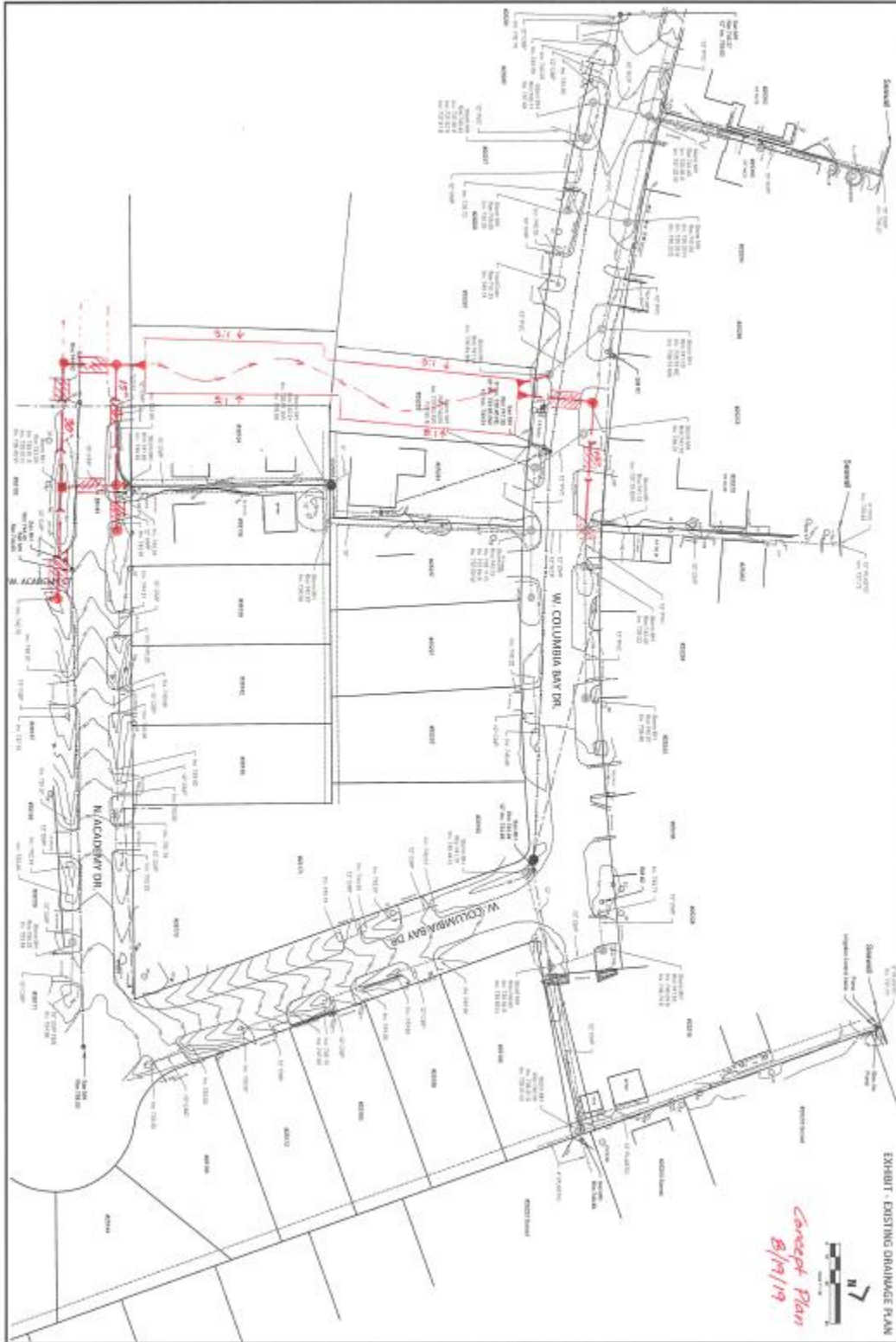


EXHIBIT B

FOX LAKE HILLS SUBDIVISION PROJECT PHASE 1 BUDGET

Project Item	Project Component Cost	Lake Villa Twp.	SMC Match
Property Purchase	\$201,200	\$51,200	\$150,000
Phase 1 Infrastructure Work Amended SIRF Project	\$345,000	\$295,000	\$50,000
Total Project Cost	\$546,200	\$346,200	\$200,000
		63%	37%

PROPERTY

PIN(S): 01-36-404-025 (38096 Academy Drive, Lake Villa, Illinois 60046)

01-36-404-006 (25253 Columbia Bay Drive, Lake Villa Illinois 60046)

EXHIBIT C RESTRICTIVE COVENANTS

In reference to the property or properties ("PROPERTY") conveyed by the Lake County Stormwater Management Commission, ("GRANTORS") participating in the Lake Villa Township Buyout Project, to the Lake Villa Township ("GRANTEE"), its successors and assigns:

WHEREAS, the Intergovernmental Agreement ("AGREEMENT") between the Lake Villa Township ("TOWNSHIP") and the Lake County Stormwater Management Commission ("SMC") identifies a cost-share partnership for the Lake Villa Township Buyout Project ("PROJECT"), to acquire interest in PROPERTY, including the acquisition of structure(s) in the floodplain, to demolish and/or remove the structure(s), and to maintain the use of the PROPERTY as open space and flood storage in perpetuity;

WHEREAS, the PROPERTY is located in the Lake Villa Township in Lake County;

WHEREAS, the terms of the FOX LAKE HILLS SUBDIVISION PROJECT require that the TOWNSHIP and SMC agree to conditions that restrict the use of the land to open space and flood storage in perpetuity in order to protect, preserve and enhance flood prone areas;

Now, therefore, the AGREEMENT for the PROJECT is made subject to the following terms and conditions:

1. TERMS. Pursuant to the terms of the AGREEMENT, the following conditions and restrictions shall apply in perpetuity to the PROPERTY as described and acquired by the TOWNSHIP pursuant to the PROJECT AGREEMENT requirements concerning the acquisition of PROPERTY for open space and flood storage:
 - a. Compatible uses. The PROPERTY shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include parks for outdoor recreational activities; wetlands management; unimproved, unpaved parking lots; buffer zones; and other uses consistent with FEMA guidance for open space acquisition.
 - b. Structures. No new structures or improvements shall be erected on the PROPERTY other than:
 - i. A public facility that is open on all sides and functionally related to a designated open space or recreational use;
 - ii. A public restroom; or
 - iii. A structure that is compatible with open space and conserves the natural function of the floodplain, including uses described in paragraph 1.a., above, and approved by the SMC in writing before

construction of the structure begins.

Any improvements on the PROPERTY shall be in accordance with proper floodplain management policies and practices. Structures built on the PROPERTY according to paragraph b. of this section shall be floodproofed or elevated to at least the base flood level plus 1 foot of freeboard, or greater, if required, and in accordance with Watershed Development Ordinance criteria.

- c. Transfer. The TOWNSHIP, including successors in interest, shall convey any interest in the PROPERTY only if the SMC gives prior written approval of the transferee in accordance with this paragraph.
 - i. The request by the TOWNSHIP must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.
 - ii. The TOWNSHIP may convey a PROPERTY interest only to a public entity or to a qualified conservation organization. However, the TOWNSHIP may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a), of this section, with the prior approval of the SMC, and so long as the conveyance does not include authority to control and enforce the terms and conditions of this section.
 - iii. If title to the PROPERTY is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth in this section, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:
 - a. The TOWNSHIP shall convey, in accordance with this paragraph, a conservation easement to an entity other than the title holder, which shall be recorded with the deed, or
 - b. At the time of title transfer, the TOWNSHIP shall retain such conservation easement and record it with the deed.
 - iv. Conveyance of any PROPERTY interest must reference and incorporate the original deed restrictions providing notice of the conditions in this section and must incorporate a provision for the PROPERTY interest to revert to the SMC, or TOWNSHIP in the event that the transferee ceases to exist or loses its eligible status under this section.

- 2. Inspection. SMC, its representatives and assigns shall have the right to enter upon the PROPERTY, at reasonable times and with reasonable notice, for the purpose of inspecting the PROPERTY to ensure compliance with the terms of this part, the

PROPERTY conveyance and of the PROJECT AGREEMENT.

3. Monitoring and reporting. Every five years on 6/1, the TOWNSHIP, in coordination with any current successor in interest, shall submit to SMC a report certifying that the TOWNSHIP has inspected the PROPERTY within the month preceding the report, and that the PROPERTY continues to be maintained consistent with the PROPERTY conveyance, and with the provisions of the PROJECT AGREEMENT.
4. Enforcement. The TOWNSHIP, the SMC, and their respective representatives, successors and assigns, are responsible for taking measures to bring the PROPERTY back into compliance if the PROPERTY is not maintained according to the terms of the PROPERTY conveyance, and with the provisions of the PROJECT AGREEMENT.
5. Amendment. This agreement may be amended upon signatures of SMC and the TOWNSHIP only to the extent that such amendment does not affect the fundamental statutory purposes underlying the PROJECT AGREEMENT.
6. Severability. Should any provision of this PROJECT AGREEMENT or the application thereof to any person or circumstance be found to be invalid or unenforceable, the rest and remainder of the provisions of the PROJECT AGREEMENT and their application shall not be affected and shall remain valid and enforceable.

**FOX LAKE HILLS SUBDIVISION PROJECT
PROPERTY LEGAL DESCRIPTION**

PROPERTY 1: 01-36-404-025, (38096 Academy Drive, Lake Villa, Illinois 60046)

LEGAL DESCRIPTION (Residential Home)

Lot 25 in Block "K" in Fox Lake Hills, Chesney Area, Unit No. 4, being a Subdivision in Section 1, Township 45 North, Range 9, East of the 3rd P.M., and Section 36, Township 46 North, Range 9, East of the 3rd P.M., according to the Plat thereof recorded June 15, 1956, as Document 912128, in Book 33 of Plats, Page 100, in Lake County, Illinois.

PROPERTY 2: 01-36-404-006 (25253 Columbia Bay Drive, Lake Villa Illinois 60046)

LEGAL DESCRIPTION (Vacant Lot)

Lot 12 in Block "K" in Fax Lake Hills, Chesney Area, Unit No. 4, being a Subdivision in Section 1, Township 46 North, Range 9, East of the Third Principal Meridian, and Section 36, Township 46 North, Range 9, East of the Third Principal Meridian, according to the Plat thereof recorded June 15, 1956, as Document 912128, in Book 33 of Plats, Page 100, in Lake County, Illinois.

LAKE VILLA TOWNSHIP

PIN(S): 01-36-404-025 (38096 Academy Drive, Lake Villa, Illinois 60046)

01-36-404-006 (25253 Columbia Bay Drive, Lake Villa Illinois 60046)

Dated this _____ day of _____, 2019

Michael Warner (Signature)
Lake County Stormwater Management
Commission

Executive Director

Title (Print/Type)

Wendy Morey (Signature)
Lake County Stormwater Management
Commission

Executive Recording Secretary

Title (Print/Type)

STATE OF ILLINOIS, COUNTY OF _____SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Michael Warner, personally known to me to be the Executive Director of the Lake County Stormwater Management Commission, and Wendy Morey, personally known to me to be the Executive Recording Secretary of the Lake County Stormwater Management Commission, personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument, pursuant to the authority given by the Lake County Stormwater Management Commission Board of Commissioners, as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____ day of _____, 20

Notary Public

My commission expires on _____ 20 _____