

**ORDINANCE NUMBER 2010-B**

**ORDINANCE APPROVING AND AUTHORIZING EXECUTION OF  
INTERGOVERNMENTAL AGREEMENT FOR ACQUISITION, DESIGN,  
CONSTRUCTION, USE, OPERATION AND MAINTENANCE OF STORMWATER  
AND RECREATIONAL IMPROVEMENTS AT HERITAGE PARK AND  
AUTHORIZING CONVEYANCE OF PROPERTY**

**WHEREAS**, the Wheeling Park District (“The Park District”) is a body politic duly organized under the Illinois Park District Code 70 ILCS 1205/1-1, et. seq., and operating in Cook County, Illinois and having among its powers the authority to construct, operate and maintain recreational facilities; and

**WHEREAS**, the Metropolitan Water Reclamation District of Greater Chicago (“MWRDGC”) is a municipal corporation organized and existing under the laws of the State of Illinois, having among its powers the authority to construct, operate and maintain flood control facilities; and

**WHEREAS**, the Village of Wheeling (“Village”) is a municipal corporation organized, operating and existing under the laws of the State of Illinois, and having among its powers the authority to construct, operate and maintain flood control facilities; and

**WHEREAS**, the Park District, the Village and MWRDGC are public agencies within the meaning of Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

**WHEREAS**, Article VII, Section 10, of the 1970 Constitution of the State of Illinois encourages and provides for units of local government to contract and otherwise associate with other units of local government to exercise, combine or transfer any power or function in any manner not prohibited by law; and

**WHEREAS**, the MWRDGC, Park District, and Village have completed extensive negotiations and now desire to enter into an Intergovernmental Agreement for the acquisition, design, construction, use, operation, and maintenance of stormwater and recreational improvements at Heritage Park (“Intergovernmental Agreement”); and

**WHEREAS**, under the terms of the Intergovernmental Agreement the MWRDGC will acquire certain land and easements within Heritage Park, will design and construct certain recreational amenities for the benefit and use of the Wheeling Park District and certain stormwater improvements for the benefit of the Village and the MWRDGC; and

**WHEREAS**, under the terms of the Intergovernmental Agreement the Park District and the Village will acquire certain easements for public utility and maintenance purposes; and

**WHEREAS**, the stormwater storage facilities that MWRDGC is to construct under the Intergovernmental Agreement are to provide compensatory storage for Levee 37, a United States Army Corps of Engineers project on the Des Plaines River; and

**WHEREAS**, the MWRDGC Board of Commissioners has previously authorized MWRDGC to enter into an agreement with the Park District and the Village and is prepared to construct the improvements and facilities as specified in Intergovernmental Agreement, subject to the covenants, conditions and restrictions contained therein; and

**WHEREAS**, on prior occasions the Park District, the Village and MWRDGC have cooperated on the design, construction, operation and maintenance of Storm water improvements in Heritage Park.

**NOW, THEREFORE, BE IT ORDAINED** by the Wheeling Park District Board of Park Commissioners, Cook County, Illinois (the “Board”), as follows:

**SECTION 1. FINDINGS:** The Board hereby finds and determines that it is necessary and desirable that the Wheeling Park District enter into the Intergovernmental Agreement with the Metropolitan Water Reclamation District of Greater Chicago and the Village of Wheeling, in substantially the form attached hereto as Exhibit 1 for the purposes described herein.

**SECTION 2. APPROVAL OF AGREEMENT:** That the Intergovernmental Agreement attached hereto as Exhibit 1 is hereby approved, and the President and Secretary of the Board of Park Commissioners are hereby authorized and directed to execute the Agreement with such revisions and corrections as may be approved by the President and Secretary on the advice of the Park District’s Executive Director and attorneys.

**SECTION 3. AUTHORIZATION OF CONVEYANCE:** The Board of Park Commissioners hereby authorizes and approves the conveyance of real estate as described in the Intergovernmental Agreement to the MWRDGC. The Park District Board President and the Board Secretary are hereby authorized and empowered to sign and attest, respectively, to appropriate instruments for the following conveyances subject to the terms and conditions set forth in the Intergovernmental Agreement:

- 1) Fee simple conditional title to Parcels 1A (PIN 03-11-200-017) and 1B (PIN 03-11-203-002) to MWRDGC;
- 2) Exclusive Permanent Easement to MWRDGC where Storage Areas D & E are proposed and where the 60” discharge conduit from Lake Heritage is located. Specifically, Storage Area D (Part of PIN 03-11-100-012) and that part of Storage Area E lying within PIN 03-11-100-012) are to be used for operating, maintaining and reconstructing stormwater storage and conveyance facilities;
- 3) Temporary Construction Easement to MWRDGC (PINS 03-11-100-012; 03-11-100-026, 03-11-100-005, 03-11-100-043, & 03-11-100-044);
- 4) License or Permit to MWRDGC to deposit 160,000 cubic yards of excavated material from project on the Disposal Property;
- 5) Utility Easement to Village for fiber optic lines in Heritage Park;
- 6) Temporary Construction Easement to Village for fiber optic lines in Heritage Park;

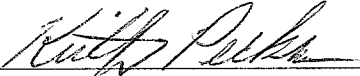
7) Permanent Underground Utility Easement to Village for direct hydraulic connection to Lake Heritage.

**SECTION 4. CERTIFICATION AND DELIVERY:** The Park District Board Secretary is hereby directed to prepare a certified copy of this Ordinance and cause it to be delivered to the Executive Director of the MWRDGC and to the Village Clerk of the Village of Wheeling.

**SECTION 5. SEVERABILITY.** If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

**SECTION 6. REPEAL.** All other ordinances, resolutions or parts thereof in conflict with this ordinance be and the same are hereby repealed and this ordinance shall be in full force and effect forthwith upon its adoption.

ADOPTED, this 9<sup>th</sup> day of February, 2010.

  
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President, Board of Park Commissioners  
Wheeling Park District

Attest:

  
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Secretary, Board of Park Commissioners  
Wheeling Park District

(SEAL)