



Board of Aldermen Request for Action

MEETING DATE: 8/28/2023

DEPARTMENT: Public Works

AGENDA ITEM: Resolution 1257 – Authorize the Mayor to sign an MOU with the School District

REQUESTED BOARD ACTION

Motion to approve Resolution 1257, authorizing the Mayor to sign an MOU with the Smithville R-II School District.

SUMMARY:

The MOU outlines responsibilities and financial obligations of the City and the school district towards the reconstruction of the Stonebridge lift station. In order to provide sewer service for the new School Transit Facility, the Stonebridge Lift Station requires additional capacity. The school district is agreeing to pay \$100,000 towards the construction of the new lift station. The Transit Facility will be up and running before the new lift station is complete and the MOU also outlines that the wash bay would not be used until the new station is on-line.

PREVIOUS ACTION:

None

POLICY ISSUE:

Infrastructure Maintenance and growth

FINANCIAL CONSIDERATIONS:

Currently the Owens Branch gravity sewer main is in design and was anticipated to be constructed in 2024. This project is a higher priority and would be completed in 2024 and the Owens Branch project would be completed in 2025.

ATTACHMENTS:

- | | |
|--|-----------------------------------|
| <input type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Plans |
| <input type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes |
| <input checked="" type="checkbox"/> Other: MOU | |

RESOLUTION 1257

**A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A
MEMORANDUM OF UNDERSTANDING (MOU) WITH
SMITHVILLE R-II SCHOOL DISTRICT**

WHEREAS, the City and the District desire to cooperate on a construction project which will allow for the construction of a new lift station (Stonebridge Lift Station) which is necessary, in part, for the District's sewer line to serve its' new Transportation Facility; and

WHEREAS, the City and the District desire to enter into a Memorandum of Understanding outlining the responsibilities and financial obligations of both the City and District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF
THE CITY OF SMITHVILLE, MISSOURI:**

THAT the Mayor is hereby authorized to sign the Memorandum of Understanding with the Smithville R-II School District.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 28th day of August, 2023.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

MEMORANDUM OF UNDERSTANDING
LIFT STATION

This Memorandum of Understanding (hereinafter “MOU”) is entered into the [redacted] day of [redacted], 2023, by and between the Smithville R-II School District, a political subdivision and public school district of the State of Missouri (hereinafter “the District” or “District”), and the City of Smithville, Missouri, a political subdivision of the State of Missouri (hereinafter “the City” or “City), pursuant to § 70.220, RSMo.

WHEREAS, the City and the District desire to cooperate on a construction project which will allow for the construction of a new lift station (“Stonebridge Lift Station”) which is necessary, in part, for the District’s sewer line to serve the new Transportation Facility;

NOW, THEREFORE, in consideration of this agreements and certain covenants contained herein and other valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Lift Station.** Time is of the essence, the city will have the plans completed by a qualified engineering firm. The City will notify the District of any impact to the District or District property. The District will be provided a set of plans upon completion.
2. **School District Responsibilities.** The School District shall contribute up to One Hundred Thousand Dollars and No Cents (\$ 100,000.00) to the City to contribute to costs associated with construction of the Stonebridge Lift Station. Payments shall be made in installments at times and by methods agreed upon by the parties in writing. Half of the payment will be made when the school district connects to the existing lift station. The remaining balance will be due on the Stonebridge Lift Station is completed.
3. **City Responsibilities.** The City shall be responsible for the construction of the Stonebridge Lift Bridge. Following construction of the Stonebridge Lift Station, the City shall be responsible for all costs and duties associated with maintaining and operating the Stonebridge Lift Station.
4. **Wash Bay.** While the Stonebridge Lift Station is being constructed, the City shall permit the District to connect to the old lift station. The District agrees that it will not hook up its wash bay until the Stonebridge Lift Station installation is complete. Once the Stonebridge Lift Station is completed, the City will allow the District to use the wash bay as intended.
5. **Term.** This MOU shall remain in effect for the duration of the construction of the Stonebridge Lift Station and the term shall expire when construction of the Stonebridge Lift Station is completed. Notwithstanding the foregoing, this MOU may

be terminated by either party at any time upon sixty (60) days written notice to the other party.

6. **Governing Law.** This MOU shall be construed and governed in accordance with the laws of the State of Missouri. Any action in regard to this MOU or arising out of its terms and conditions must be instituted and litigated in the courts of the State of Missouri within Clay County, Missouri. The parties submit to the jurisdiction of the courts of the State of Missouri and waive any objection to venue.
7. **Compliance.** The parties shall comply with all federal, state and local laws, ordinances and regulations applicable to this MOU and each and every action to be taken hereunder.
8. **Waiver.** Waiver by any party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this MOU can be waived except by written consent of the parties, and forbearance or indulgence by the parties in any regard whatsoever shall not constitute a waiver of same to be performed by the parties to which the same may apply and, until complete performance by the parties of the term, covenant or condition, the parties shall be entitled to invoke any remedy available to them under this MOU or by law despite any such forbearance or indulgence.
9. **Rights and Remedies Cumulative and Not Exclusive.** All rights and remedies granted to the parties herein and any other rights and remedies which the parties may have at law and in equity are hereby declared to be cumulative and not exclusive, and the fact that the parties may have exercised any remedy without terminating this MOU shall not impair the parties' rights thereafter to terminate or to exercise any other remedy herein granted or to which each party may be otherwise entitled.
10. **Headings; Construction of MOU.** The headings of each section of this MOU are for reference only. Unless the context of this MOU clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender. In the event of any conflict between this MOU and any incorporated Attachments, the provisions of this MOU shall control.
11. **Entire MOU.** This MOU, including any referenced attachments, constitutes the entire agreement between the parties with respect to this subject matter, and supersedes all prior agreements between the parties with respect to this subject matter.
12. **Modification.** This MOU may be amended by mutual agreement of the parties, in writing, at any time.

13. **Severability of Provisions.** Except as specifically provided in this MOU, all the provisions of this MOU shall be severable. If any provision of this MOU is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this MOU shall be valid unless the court finds that the valid provisions of this MOU are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this MOU could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

14. **Binding Effect.** This MOU shall be binding upon approval of both parties, and their successors in interest.

15. **Authority.** The parties each certify that it has the power and authority to execute and deliver this MOU, and to perform this MOU in accordance with its terms.

16. **Conditions Precedent:** This MOU shall not be in effect unless and until the parties have valid ordinances or Board approvals in effect authorizing the entry into this MOU and it has been executed by all parties.

17. **No Waiver of Immunity:** Nothing in this MOU waives any governmental immunity, including sovereign immunity or official immunity, available to the parties or their agents. The parties hereby expressly reserve all immunities available under Missouri law.

IN WITNESS WHEREOF, the parties' authorized representatives have signed this Memorandum of Understanding on the dates set forth below.

CITY OF SMITHVILLE, MISSOURI

By: _____
 Mayor

Name (Printed): _____

Date: _____, 2023

SMITHVILLE R-II SCHOOL DISTRICT

By: _____
 Board of Education President

Date: _____, 2023

Attest by: _____
 Board Secretary