



RESOLUTION NO. 2020-025

**A RESOLUTION AUTHORIZING AN AGREEMENT BY AND BETWEEN THE VILLAGE OF MONTGOMERY
AND COMMONWEALTH EDISON REGARDING COMPENSATORY STORAGE**

WHEREAS, the Village of Montgomery is not a home rule municipality within Article VII, Section 6A of the 1970 Constitution of the State of Illinois, and therefore, acts pursuant to those powers granted to it under 65 ILCS 6/1-1 *et seq.*; and,

WHEREAS, Commonwealth Edison ("Com Ed") intends to reconstruct a portion of its parking lot located at 2001 Aucutt Road in the Village of Montgomery's corporate limits ("Subject Property"), and as the result of such construction is required to provide compensatory storage due to its reduction of floodplain storage, all in accordance with the Village's Stormwater Management Ordinance; and,

WHEREAS, the Village intends to construct a regional detention/compensatory storage basin within the watershed in order to promote economic development in the TIF #2 area and the Subject Property is located within said TIF #2 area; and,

WHEREAS, Com Ed and the Village seek to enter into an agreement which would allow for Com Ed to pay the Village a fee in lieu of constructing compensatory storage, with said fee to be utilized by the Village toward its construction of the regional detention basin benefitting the TIF #2 area where the Subject Property is located ;


NOW, THEREFORE, BE IT RESOLVED by the Village President and Village Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows:

That the Village President, or his designee, is authorized and directed to sign, and the Village Clerk is authorized and directed to attest, on behalf of the Village, an Agreement By and Between the Village of Montgomery and Commonwealth Edison Regarding Compensatory Storage, attached hereto as **Exhibit A**.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, this 23rd day of Nov., 2020.

Matthew Brolley,
President of the Board of Trustees of the Village of Montgomery

ATTEST:


Penny Fitzpatrick
Clerk of the Village of Montgomery



| | Aye | Nay | Absent | Abstain |
|-----------------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Trustee Tom Betsinger | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Trustee Dan Gier | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Trustee Steve Jungermann | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Trustee Denny Lee | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Trustee Doug Marecek | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Trustee Theresa Sperling | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Village President Matthew Brolley | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

**AGREEMENT BY AND BETWEEN THE VILLAGE OF MONTGOMERY AND COMMONWEALTH EDISON
REGARDING COMPENSATORY STORAGE**

WHEREAS, the Village of Montgomery (“Village”) is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution, and accordingly, acts pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, Commonwealth Edison (“Com Ed”) is an electrical utility operating in accordance with the Illinois Public Utilities Act (220 ILCS 5/*et seq.*); and,

WHEREAS, Com Ed owns certain real property commonly known as 2001 Aucutt Road (“Subject Property”), which is located within the corporate limits of the Village; and,

WHEREAS, Com Ed is seeking to reconstruct a portion of its parking lot (“Project”) located on the Subject Property; and,

WHEREAS, the Project reduces floodplain storage, and therefore, requires the provision of compensatory storage in accordance with the Village’s Stormwater Ordinance and the Kane County Stormwater Ordinance; and,

WHEREAS, the Village is proposing to construct a regional detention/compensatory storage basin within the watershed in order to promote economic development in the TIF #2 area; and,

WHEREAS, the Subject Property is located within the TIF #2 area; and,

WHEREAS, the Village and Com Ed wish to enter into an Agreement regarding compensatory storage for the Subject Property through which Com Ed can make a payment to the Village toward the construction of its regional detention basin in lieu of construction; and,

NOW, THEREFORE, THE VILLAGE OF MONTGOMERY and COMMONWEALTH EDISON hereby agree as follows:

1. **Recitals.** The Recitals hereto are incorporated herein by reference to the same extent and with the same force and effect as if fully set forth herein.
2. **Calculation of Impact.** It is hereby determined that Com Ed’s Project will reduce the floodplain storage by 56,380 cubic feet (1.29 Acre-Feet). The required floodplain compensatory storage for the Project is 1.5 times the storage reduction, or 84,570 cubic feet (1.94 Acre-Feet).
3. **Payment in Lieu of Construction.** In accordance with the calculation of impact set forth in Section 2 of this Agreement, Com Ed hereby agrees to pay to the Village a payment in lieu of construction in the amount of \$174,600.00 (1.94 Acre-Feet x \$90,000/acre). This payment shall be made in prior to the commencement of construction.
4. **Findings.** The Village hereby makes the following findings regarding the payment in lieu of the construction of compensatory storage:

- a. That there are no adverse impacts on the floodplain due to this Agreement
- b. That the overall benefit of allowing a payment in lieu of construction for the regional basin exceeds the benefits otherwise required by requiring Com Ed's construction of compensatory storage
- c. That all other requirements of the Village's Stormwater Ordinance are satisfied

5. **Fulfillment of Compensatory Storage Obligation.** This payment shall be in full satisfaction of Com Ed's compensatory storage obligations and shall be considered to bring the Project into compliance with the Village's Stormwater Ordinance.

Dated this ____ day of _____, 2020.

VILLAGE OF MONTGOMERY:

COM ED:

By: _____

By: _____

Its: _____

Its: _____

Attest: _____

Attest: _____