



AGENDA ITEM #9H/9I/9J

**AGENDA ITEM EXECUTIVE SUMMARY
Village Board Meeting
2/27/2023**

Item Title: 817 Crest Sidewalk Payment Authorization

Staff Contact: Caron Bricks, AICP, Community Development Manager

OLD BUSINESS

VILLAGE BOARD ACTION:

- 1. Open public hearing for an amendment to the pre-annexation agreement for 817 Crest, Medinah.**
- 2. Close public hearing for an amendment to the pre-annexation agreement for 817 Crest, Medinah.**
- 3. Pass an ordinance approving and authorizing the execution of an amendment to the pre-annexation agreement for the property commonly referred to as 817 Crest Avenue, Medinah, Illinois previously referred to as 22W331 Crest Avenue, Medinah, Illinois.**

Executive Summary:

In November 2022, the Village Board discussed allowing 817 Crest Avenue to pay a fee-in-lieu of installing sidewalks on his property, as required by his pre-annexation agreement, due to the complicated process to have the construction and design of the sidewalk approved. The property is partially in a flood plain and Village Staff recommended a fee-in-lieu of this property would be appropriate.

Per direction from the Board, the property owner paid \$7,972.88 in December 2022. The Village Attorney has recommended this payment be codified as an amendment to the pre-annexation agreement. Therefore, notification of the public hearing was published in the **Daily Herald on February 10, 2023.**

Implications:

Is this item budgeted? N/A

Estimated cost: N/A

Any other implications to be considered? N/A

Strategic Priority:

N/A

Attachments:

Ordinance
Agreement

THE VILLAGE OF ROSELLE
DUPAGE AND COOK COUNTIES, ILLINOIS

ORDINANCE
NUMBER _____

**AN ORDINANCE
APPROVING AND AUTHORIZING
THE EXECUTION OF AN AMENDMENT TO
THE PRE-ANNEXATION AGREEMENT FOR
THE PROPERTY COMMONLY REFERRED TO AS
817 CREST AVENUE, ROSELLE, ILLINOIS
PREVIOUSLY REFERRED TO AS
22W331 CREST AVENUE, MEDINAH, ILLINOIS**

DAVID PILESKI, Mayor
AMANDA HAUSMAN, Village Clerk

BRUCE BERKSHIRE
WAYNE D. DOMKE
CHERYL LENISA
TOM DELLA PENNA
TOM PIORKOWSKI
LEE TREJO

Village Board

Published in pamphlet form by authority of the
Mayor and the Board of Trustees of the Village of Roselle
on this the 13th day of February, 2023

ORDINANCE NO. _____

**AN ORDINANCE
APPROVING AND AUTHORIZING
THE EXECUTION OF AN AMENDMENT TO
THE PRE-ANNEXATION AGREEMENT FOR
THE PROPERTY COMMONLY REFERRED TO AS
817 CREST AVENUE, MEDINAH, ILLINOIS
PREVIOUSLY REFERRED TO AS
22W331 CREST AVENUE, MEDINAH, ILLINOIS**

WHEREAS, the Village of Roselle is a municipal corporation organized pursuant to the laws of the State of Illinois possessing certain powers and perform certain functions pertaining to its local government and affairs as provided for by and through the Illinois Constitution of 1970, Illinois Municipal Code and Illinois Statute;

WHEREAS, the Village of Roselle (hereinafter referred to as "Village") on or about October 18, 2004 approved a pre-annexation agreement for the property commonly referred to 22W331 Crest Avenue, Medinah, Illinois and now known as 817 Crest Avenue, Medinah, Illinois (hereinafter referred to as the "Subject Property");

WHEREAS, upon approval of the corporate authorities may enter into an agreement with another party pursuant to Illinois Statute;

WHEREAS, that as one of the terms and conditions of the pre-annexation agreement it was agreed upon by the respective parties that a public sidewalk along the entire frontage of the Subject Property would be installed at the sole cost of the owners;

WHEREAS, the Subject Property was annexed into the Village of Roselle on or about August 26, 2019;

WHEREAS, that the owners of the Subject Property have yet to install the public sidewalk and have negotiated with the Village to pay an agreed upon sum in lieu of the installation of the public sidewalk; and

WHEREAS, the Corporate Authorities of the Village of Roselle have determined that it is in the best interests of the health, welfare and safety of the residents of the Village to amend the pre-annexation agreement as referenced herein.

NOW, THEREFORE, BE IT ORDAINED, in open meeting assembled, by the Mayor and Board of Trustees of the Village of Roselle, DuPage and Cook Counties, Illinois, as follows:

Section One – Recitals

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to the ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this ordinance as legislative findings.

Section Two – Approval of Amendment to Pre-Annexation Agreement

The Village hereby approves the pre-annexation agreement substantially in the form attached hereto and made a part hereof as Exhibit A and directs the Village Administrator to negotiate final terms, if any, with the advice of the Village Attorney.

Section Three – Authorization and Direction

- a) The Mayor is hereby authorized to execute the agreement substantially in the form of such agreement attached hereto as Exhibit A, with such changes therein as shall be approved by the Village Attorney and the officials of the Village executing the same, their execution thereof to constitute exclusive evidence of their approval to any and all changes or revisions therein from and after the execution and delivery of such contracts.
- b) The Village Clerk is hereby directed to file a copy of the Agreement with the Recorder's Office in which County in which the Subject Property is located.

Section Four - Other Actions Authorized

The officers, employees and/or agents of the Village shall take all actions necessary or reasonably required to carry out and give effect to the intent of this ordinance and otherwise to consummate the transactions contemplated herein and shall take all actions necessary in conformity therewith including, without limitation, the execution and delivery of all documents required to be delivered in connection with the transaction contemplated herein.

Section Five - Acts of Village Officials

That all past, present and future acts and doings of the officials of the Village that are in conformity with the purpose and intent of this resolution are hereby, in all respects, ratified, approved, authorized and confirmed.

Section six - Passage Clause

That this ordinance shall take full force and effect from and after its passage, approval and publication as provided by law.

Section Seven - Publication

This ordinance shall be published in book or pamphlet form as provided by the Illinois Municipal Code.

Section Eight – Conflict Clause

All ordinances, parts of ordinances, resolutions, parts of resolutions or board actions in conflict herewith are hereby repealed to the extent of such conflict.

Section Nine – Saving Clause

If any section, paragraph, clause or provision of this ordinance is declared by a court of law to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity of any other provisions of this ordinance which are hereby declared to be separable.

Section Ten – Recording

This ordinance shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of Roselle.

DECIDED pursuant to a Roll Call Vote:

	YES	NO	ABSENT	PRESENT
Bruce Berkshire				
Wayne D. Domke				
Cheryl Lenisa				
Tom Della Penna				
Tom Piorkowski				
Lee Trejo				
David Pileski				
TOTAL				

PASSED AND APPROVED by the Village of Roselle Board of Trustees on the 13th day of February, 2023:

David Pileski
Mayor

ATTEST:

Amanda Hausman
Village Clerk

STATE OF ILLINOIS)
) SS
 COUNTIES OF DUPAGE AND COOK)

CLERK’S CERTIFICATION

I, Amanda Hausman hereby certify that I am the duly appointed and qualified Village Clerk in and for the Village of Roselle, DuPage and Cook Counties, Illinois; that I am the keeper of the files, records, and seal of said Village, and that the following is a true and correct copy of Ordinance No. _____

**AN ORDINANCE APPROVING AND AUTHORIZING
 THE EXECUTION OF AN AMENDMENT TO THE PRE-ANNEXATION AGREEMENT FOR
 THE PROPERTY COMMONLY REFERRED TO AS
 817 CREST AVENUE, ROSELLE, ILLINOIS
 PREVIOUSLY REFERRED TO AS 22W331 CREST AVENUE, MEDINAH, ILLINOIS**

adopted and approved by the Mayor and the Board of Trustees at an official meeting held on February 13, 2023 and that the vote on the motion for adoption was as follows:

	YES	NO	ABSENT	PRESENT
Bruce Berkshire				
Wayne D. Domke				
Cheryl Lenisa				
Tom Della Penna				
Tom Piorkowski				
Lee Trejo				
David Pileski				
TOTAL				

I do further certify that the deliberations of the Board on the adoption of said ordinance were conducted openly, that the vote on the adoption of said ordinance was taken openly, that said meeting was called and held at a specified time and place convenient to the public, that notice of said meeting was duly given to all of the news media requesting such notice, that said meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and with the provisions of the Village Code of the Village of Roselle, as amended, and that the Board has complied with all of the provisions of said Act and said Code and with all of the procedural rules of the Board.

I further state that this Certification is issued under my hand and the seal of the Village of Roselle as required in the Illinois Compiled Statues 65 ILCS 5/1-2-4.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Corporate Seal of said Village of Roselle, DuPage and Cook Counties, Illinois on the date set forth herein.

 Amanda Hausman, Village Clerk

(SEAL)

Exhibit A

Agreement

DRAFT

**AN AMENDMENT TO
A PRE-ANNEXATION AGREEMENT FOR
THE PROPERTY COMMONLY REFERRED TO AS
817 CREST AVENUE, MEDINAH, ILLINOIS
PREVIOUSLY REFERRED TO AS
22W331 CREST AVENUE, MEDINAH, ILLINOIS**

THIS AMENDMENT TO THE PRE-ANNEXATION AGREEMENT is entered into this 13th day of February, 2023 (hereinafter referred to as the "Amendment") by and between Village of Roselle (hereinafter referred to as "Roselle") and Kenneth Ouellette (hereinafter referred to as "Homeowners"), hereinafter collectively referred to as the "Parties."

Recitals

WHEREAS, the Village of Roselle is a non-home rule unit of local government organized and existing under the laws of the State of Illinois;

WHEREAS, on or about October 18, 2004 the Village entered into a Pre-Annexation Agreement (hereinafter referred to as the "Agreement") for the property commonly referred to as 22W331 Crest Avenue, Medinah, Illinois (hereinafter referred to as the "Subject Property");

WHEREAS, as a term and condition of the Agreement the Homeowners were to construct a public sidewalk along the entire frontage of the Subject Property within three (3) years of annexation;

WHEREAS, the property was annexed into the Village of Roselle on or about August 26, 2019, and as of today's date the Homeowners have failed to construct the public sidewalk as required by the terms and conditions of the Agreement;

WHEREAS, homeowner has requested for various reasons that the Village consider waiving construction of the public sidewalk, the Corporate Authorities have considered the requests and will be approving a policy relative to the construction of the public sidewalks upon annexation into the corporate limits of the Village of Roselle;

WHEREAS, the Village and the Homeowner desires to amend the Pre-Annexation Agreement to conform with Village Board direction and in lieu of the construction of the public sidewalk at this time make payment to the Village of an agreed upon sum to provide for the future installation of the public sidewalk at a date to be determined in the sole discretion of the Village; and

WHEREAS, the parties wish to memorialize their understanding as it relates to the amendment of the terms and conditions of the pre-annexation agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and obligations expressed herein and other good and valuable consideration, the sufficiency, adequacy and receipt of which are hereby acknowledged, it is hereby agreed by the parties as follows:

Section One - Recitals

The parties acknowledge that the statements and representations made in the foregoing recitals are true and correct and are hereby incorporated herein as if fully set forth herein.

Section Two – Amendment to Agreement

In lieu of the installation of the public sidewalk the Village and Homeowners agree to a payment in the amount of \$7,972.88 The payment shall be made as follows:

a one lump sum of \$7,972.88.

Section Three – Payment of Fees and Costs of Enforcement

If payment is not made within the time frame set forth herein the Village may take legal action all fees costs and attorneys fees shall be paid by the Homeowner.

Section Four – Miscellaneous

- a) The parties agree and understand that all terms and conditions of said Agreement shall remain in full force and effect except to the extent that there is conflict with the terms and conditions contained in this Amendment to that extent the terms and conditions set forth herein shall prevail.
- b) This Amendment shall become effective as of the date of the last signature below.
- c) This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and any signatures to counterparts may be delivered by facsimile or other electronic transmission and shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the parties have executed this Amendment to the Agreement as of the day and year first above written.

Village of Roselle:

Homeowners:

Mayor

Attest:

Village Clerk