

RESOLUTION NO. 2012-18

**A RESOLUTION TO AMEND THE PRIVATE PROPERTY  
INFILTRATION AND INFLOW REIMBURSEMENT PROGRAM  
ESTABLISHED BY RESOLUTION NO. 2011-13  
OF THE VILLAGE OF FOX POINT**

WHEREAS, elimination of unnecessary introduction of clear water and deleterious substances into the public sanitary sewer system is necessary to reduce the occurrence of overflows and backups in the sanitary sewer conveyance system; to reduce the costs of operating the sanitary sewer system; to comply with applicable regulations, rules, stipulations and other laws and lawful orders of the State of Wisconsin, the federal government, and the Milwaukee Metropolitan Sewerage District (MMSD); and reduces the likelihood of failure of the sanitary sewer system; and

WHEREAS, under the direction of the Village of Fox Point Director of Public Works, the Village has engaged in a systematic program of identifying properties with prohibited discharges into the sanitary sewer system, and through administration of funds made available by the MMSD, the Village assists property owners in eliminating such noncompliant conditions; and

WHEREAS, the Village Director of Public Works has reported that the vast majority of property owners in the Village have cooperated with this program voluntarily, however a small percentage of property owners have refused to do so, and have not granted the Village the right to enter their property and inspect for prohibited connections; and

WHEREAS, the Village incurs significant costs whenever the Village is required to obtain an inspection warrant, and execute the warrant against property, where voluntary access is denied; and

WHEREAS, the MMSD has established a funding mechanism to the participating municipalities for infiltration and inflow reduction efforts on private property; and

WHEREAS, by Resolution No. 2011-13, the Village established a Private Property Infiltration and Inflow Reimbursement Program; and

WHEREAS, upon recommendation from the Village Director of Public Works, the Village Board finds that it is not appropriate to reimburse property owners for correction of unlawful connections if the owners of those properties have unreasonably inhibited the Village enforcement efforts, by failing to voluntarily comply and refusing inspection.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Village Board of the Village of Fox Point, Milwaukee, Wisconsin, that the Resolution to establish a Private Property

Infiltration and Inflow Reimbursement Program, Resolution No. 2011-13, Section 3 entitled "Percentage of Cost Eligible for Reimbursement," subsection (d) entitled "Exceptions," is hereby amended as follows:

d. Exceptions.

(1) The Village Director of Public Works shall have the authority to grant exceptions to the reimbursement limitations noted above on request of the property owner, if it appears that the limit on reimbursement is unduly burdensome on an individual property owner due to unique circumstances affecting the lot, if the Director of Public Works finds there is a particularly strong public benefit that would be achieved by completing the work.

(2) If the current or a predecessor owner of the subject property has ever denied or failed to voluntarily grant the Village's reasonable request to inspect the subject property for clear water connections, the subject property owner shall not be eligible for funding under this program.

SEVERABILITY.

The several sections of this resolution and the attachment hereto are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the resolution. The remainder of the resolution shall remain in full force and effect. Any other resolutions whose terms are in conflict with the provisions of this resolution are hereby repealed as to those terms that conflict.

EFFECTIVE DATE.

This resolution shall take effect immediately upon passage and posting or publication as provided by law.

I hereby certify that on this 14th day of AUGUST, 2012, this resolution was adopted by a vote of 7 ayes and 0 nays by the Village Board for the Village of Fox Point, Fox Point, Wisconsin.

VILLAGE OF FOX POINT



Michael A. West, Village President

ATTEST:



Tanya O'Malley, Village Clerk

## RESOLUTION NO. 2011-13

**A RESOLUTION TO ESTABLISH A PRIVATE PROPERTY  
INFILTRATION AND INFLOW REIMBURSEMENT PROGRAM**

WHEREAS, the Village of Fox Point is served by the Milwaukee Metropolitan Sewerage District (the "MMSD"); and

WHEREAS, the MMSD 2010 Capital Budget established a project (M03044, I/I Reduction on Private Property, Phase II) to serve as a funding mechanism to the participating municipalities for infiltration and inflow reduction efforts on private property; and

WHEREAS, the MMSD project provides \$8,000,000 the first year and is anticipated to provide subsequent annual budgets projected at a total of \$151,000,000 from 2011-2021, for efforts to address private property infiltration and inflow into the sewerage system operated by the MMSD; and

WHEREAS, the Village of Fox Point is eligible to receive a portion of said MMSD funds, currently estimated in the amount of \$148,856 for 2011, which includes funding for private property infiltration and inflow reduction efforts, and stormwater best management practices, including carryover from 2010 funding; and

WHEREAS, over the course of the MMSD program through 2021, the Village anticipates being eligible for comparable annual funding through the MMSD reimbursement programs; and

WHEREAS, the Village hereby intends to establish a policy regarding its participation in this MMSD reimbursement program, and the method by which private property owners can receive reimbursement under this program.

NOW, THEREFORE, be it hereby resolved by the Village Board of the Village of Fox Point, Milwaukee County, Wisconsin, that the following policies shall direct the Village Administration of the MMSD program to reduce infiltration and inflow on private property within the Village of Fox Point:

1. Application Process.

- a. Filing. Property owners may apply by filing an approved application form with the Village Director of Public Works. Applications must be filed in the

calendar year in which the work will be performed, or in November or December of the immediately preceding calendar year.

- b. Eligible Work. Reimbursement is available only for eligible work, as defined and regulated within the MMSD program, and as determined by the MMSD. The eligible work must be described in the application.
  - c. Cost Estimates. Applications must include written quotations from three contractors, showing estimated costs of eligible work.
  - d. Director of Public Works Review. Applications will be considered on a first-come, first-served basis. The Village Director of Public Works shall approve applications for eligible work that complies with the MMSD program rules, regulations and policies, subject to the additional limitations stated herein, and subject to payment approval as described in Section 8, below.
2. Televising. Before any lateral is replaced, the lateral must be televised and the televised results must be submitted to the Village Director of Public Works for review. The Village Director of Public Works will determine whether the work will be eligible for reimbursement after viewing the televising results.
  3. Percentage of Cost Eligible for Reimbursement. In order to make reimbursement through MMSD available to as many Village residents as possible, the Village shall limit the reimbursement that any one property can receive to the following:
    - a. Full cost of televising. The full cost of televising laterals shall be reimbursed through the MMSD program, up to a maximum of \$500 per property.
    - b. Fifty Percent for All other Work. All other eligible work shall be reimbursed through the MMSD program fifty percent of the total cost of the work, up to a maximum of \$5,000 per property.
    - c. Percentages Based upon Estimates. The percentage of the cost that the Village Director of Public Works may authorize for reimbursement shall be based upon the lowest cost estimate submitted by the property owner with the application, unless (1) the actual cost is less than the estimate, in which

case the percentage shall be based upon the actual cost; or (2) the Village Director of Public Works finds all estimates that are submitted are excessive, in which case the Director of Public Works may notify the property owner that the reimbursement will be based upon a lower total price.

- d. Exceptions. The Village Director of Public Works shall have the authority to grant exceptions to the reimbursement limitations noted above on request of the property owner, if it appears that the limit on reimbursement is unduly burdensome on an individual property owner due to unique circumstances affecting the lot, if the Director of Public Works finds there is a particularly strong public benefit that would be achieved by completing the work.
4. Subject to MMSD Funding. Reimbursement is available only when the Village has funding available through the MMSD program. When the MMSD program funds are exhausted or eliminated or otherwise unavailable, reimbursement pursuant to this program will be suspended pending new allocation from the MMSD.
5. After-the-Fact Applications. After-the-fact applications can be submitted to the Village Director of Public Works for projects completed prior to the date of adoption of this policy, provided the project was commenced and completed in the calendar year in which the application is filed. The Village Director of Public Works may authorize reimbursement for such projects, if the Village Director of Public Works finds that funding is available and that the project would have been approved had application been submitted prior to commencement of work.
6. Property Owner Responsible; and No Village Assumption of Risk. Although the Director of Public Works will review projects pursuant to the terms of this policy, ultimately all work conducted by private property owners, the means and methods of performing such work, the compliance with the MMSD program, the risk of funding being denied or unavailable, and all other risks, are the responsibility of the

private property owner. Any approval of an application by the Village shall not be interpreted as acceptance of any such risks or responsibilities.

7. Application Forms. The Village Director of Public Works is authorized and directed to prepare application forms for private property owners to use, to further implement this policy. The application forms shall require the property owner's agreement to hold the Village harmless and indemnify the Village for all costs and risks arising from this work that is to be conducted on the private property.
8. Application for Payment. Applications that have been approved as described in Section 1 of this policy are eligible for payment of reimbursement, pursuant to all terms and conditions of the MMSD program rules, regulations and policies, and subject to the additional limitations stated herein. Applications for payment shall be filed with the Village Director of Public Works as follows:
  - a. Filing. Property owners shall file an application for payment with the Village Director of Public Works, which must be received by the Village Director of Public Works after the work is done, and no later than three months after the work is done.
  - b. Documentation. The application for payment shall include complete documentation of the work, showing that the work was fully completed, and showing that the work was successful in accomplishing the purpose for which the work was completed. If the work involved televising, the application for payment shall include the televising video. For work that involves subgrade excavation, a complete photographic record shall be provided, demonstrating full and accurate completion of the subgrade facilities. Where subgrade facilities remain in place and connected to the system, the documentation shall demonstrate that all connections are tight and properly made, and that all pipe segments are properly connected, through clear photographic evidence. Where subgrade facilities are removed or disconnected, the photographic evidence shall clearly demonstrate the disconnection, and also demonstrate that the new discharge location is properly established and functional, with photographic

evidence of discharging stormwater in the new location. The Village Director of Public Works may deny payment of reimbursement pursuant to this policy if there is not a clear record, as described herein, that the work was properly completed.

- c. Actual Cost. The Application shall provide invoices to show the actual costs of the eligible work.
- d. Payment. Upon approval of the payment request, the Village Director of Public Works shall provide written payment authorization and payment shall be made to the applicant.

9. Subject to Change. The Village of Fox Point reserves the right to reconsider, amend, suspend, or terminate, its participation in this MMSD program, and this policy, from time to time as the Village deems appropriate.

10. Village Code Compliance Required and not Waived. Nothing herein shall be construed as limiting, modifying, revising, or affecting in any way the responsibilities of Village private property owners as described in the Village of Fox Point Village Code, or the penalties for noncompliance,.

#### SEVERABILITY.

The several sections of this resolution and the attachment hereto are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the resolution. The remainder of the resolution shall remain in full force and effect. Any other resolutions whose terms are in conflict with the provisions of this resolution are hereby repealed as to those terms that conflict.

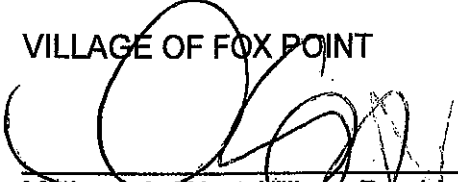
#### EFFECTIVE DATE.

This resolution shall take effect immediately upon passage and posting or publication as provided by law.



Dated this 16th day of May, 2011.

VILLAGE OF FOX POINT

  
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Michael A. West, Village President

ATTEST:

  
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Tanya O'Malley, Village Clerk

Published and/or posted this 17th day of May, 2011.