

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE NAPERVILLE PARK DISTRICT AND
THE COUNTY OF DU PAGE, FOR THE INTERGOVERNMENTAL COOPERATION
& UTILIZATION OF AVAILABLE RESOURCES FOR PARTNERSHIP PROJECTS**

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the “AGREEMENT”) is made and entered into this 18 day of July, 2023 by and between the Naperville Park District, a body politic and corporate (“DISTRICT”) with offices at 320 W. Jackson Ave, Naperville, Illinois 60540, and the County of DuPage, a body politic and corporate (“COUNTY”) with offices at 421 N. County Farm Road, Wheaton, Illinois 60187. The DISTRICT and COUNTY are hereinafter sometimes individually referred to as a “party” or together as the “parties.”

RECITALS:

WHEREAS, the DISTRICT and COUNTY are each public agencies within the meaning of the Intergovernmental Cooperation Act, as set forth in 5 ILCS 220/1 *et. seq.*; and

WHEREAS, Article VII, Section 10, of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act authorize units of local government to enter into intergovernmental agreements pertaining to intergovernmental activities; and

WHEREAS, the Illinois General Assembly has granted the COUNTY authority to construct stormwater facilities and to enter into agreements for the purposes of constructing stormwater facilities (Illinois Compiled Statutes Chapter 55, paragraphs 5-1062.3, and 5-15001 *et. seq.*; and

WHEREAS, the DISTRICT strives to protect and improve the county's natural areas while providing high-quality educational and recreational experiences for the people who call DuPage home; and

WHEREAS, the COUNTY strives to provide the highest quality stormwater management in the department's five program areas which include Watershed Management, Floodplain Mapping, Water Quality, Regulatory Services and Flood Operations; and

WHEREAS, the COUNTY anticipates receiving federal funds through the American Rescue Plan Act (ARPA) program to complete stormwater improvements projects throughout the County;

WHEREAS, the COUNTY anticipates constructing numerous water quality and water quantity improvement projects through a variety of funding sources including internal funding and grant funded opportunities; and

WHEREAS, a partnership between the DISTRICT and the COUNTY will assist both parties in achieving the highest goals for the residents of the County; and

NOW, THEREFORE, in consideration of the promises, terms and conditions set forth herein, and in the spirit of intergovernmental cooperation, the parties agree that:

1.0 INCORPORATION OF RECITALS

1.1 The recitals set forth above are incorporated herein and made a part hereof.

2.0 SCOPE OF PROJECT

2.1 The scope of the PROJECT(s) will be determined by COUNTY and DISTRICT and vary based upon the site location(s) and needs identified by each party.

3.0 PROJECT FUNDING AND CONTINGENCIES

3.1 All PROJECT specific costs will be determined and agreed upon with site specific Intergovernmental Agreement (IGA). No funds are exchanged or committed as part of this IGA.

4.0 COUNTY and DISTRICT RIGHTS AND RESPONSIBILITIES

4.1 The DISTRICT and COUNTY agree to work cooperatively to identify, protect, restore, and manage lands and waters within the watersheds of DuPage County.

4.2 The DISTRICT and COUNTY agree to work cooperatively to develop plans and tools that help their goals.

- 4.3 The DISTRICT and COUNTY agree to participate in regular conference calls, in-person meetings and site visits to review opportunities for planning and development of shared implementation strategies on issues of mutual concern.
- 4.4 The DISTRICT and COUNTY shall each be responsible for determining proposed PROJECT locations and designs.
- 4.5 The DISTRICT and COUNTY agree that any PROJECT(s) identified within DISTRICT property shall comply with all current DISTRICT ordinances and policies.
- 4.6 The DISTRICT and COUNTY agree to enter into subsequent agreements as needed to accomplish specific projects, to secure outside funding sources such as grants, or to provide available resources for the benefit and fulfillment of Partnership priorities, which may include, but are not limited to:
1. Permitting Assistance
 2. FEQ Modeling (Hydraulic modeling)
 3. Project Identification & Development
 4. Acquiring Land (Land Acquisition)
 5. Land Maintenance Services (mowing, burning, etc.)

5.0 BLANK

6.0 INDEMNIFICATION

- 6.1 Each party to this AGREEMENT shall require that any third party vendor, consultant or contractor hired to do work on the PROJECT shall agree to defend, save, indemnify, keep and hold harmless the other parties, and all of their officers, elected officials, servants, agents and employees from all liabilities, damages, suits, costs and expenses in law or equity, including costs of suit, expenses for legal services and defense and judgments and settlements that may at any time arise or be claimed by any person, including the agents, servants and employees

of the parties, for personal injury, death or property damage or any and all other claims or suits of any nature whatsoever that might arise or result, directly or indirectly, from the negligent acts or omissions, or the intentional acts of the third party related to its work on the PROJECT. All contracts entered into by each party to this AGREEMENT with any third party vendor, consultant or contractor shall include a provision specifically naming the other parties as third-party beneficiaries of the hold harmless and indemnification to be provided by the third party vendor, consultant or contractor under this paragraph.

- 6.2 Pursuant to the authority conferred by Article VII of the Local Governmental and Governmental Employee Tort Immunity Act, each party to this AGREEMENT (as indemnitor) shall defend, save, indemnify, keep and hold harmless the other party (as indemnitee) and all of their officers, elected officials, servants, agents and employees from all liabilities, damages, suits, costs and expenses in law or equity, including costs of suit, expenses for legal services and defenses and settlements and judgments that may at any time arise or be claimed by any person, including the agents, servants and employees of the indemnitor or indemnitee, for personal injury, death or property damage or any and all other claims or suits of any nature whatsoever that may arise or result, directly or indirectly, or in any manner connected with the indemnitor's rights, responsibilities or actions under this AGREEMENT, when caused by an act or omission to act on the part of the indemnitor, its officers, agents, or employees, that allegedly constitutes, without limitation, negligence, creation or maintenance of a dangerous condition on public property, or intentional infliction of harm. The parties agree that, notwithstanding the language above, no party waives, by these indemnity requirements, any defenses or protections under the Local Government and Governmental Employees Tort Liability Act (745 ILCS 10/1 et seq.), or otherwise available to it, or available to the other parties, under the law and that there shall be no obligation to indemnify whenever a party has a defense or protection to a claim under the Local Government and Governmental Employees Tort Liability Act or common law.

7.0 NOTICES

- 7.1 All notices required to be given under the terms of this AGREEMENT shall be in writing and either (a) served personally during regular business hours; (b) served by electronic mail (e-mail) during regular business hours; or (c) served by certified or registered mail, return receipt requested, properly addressed with the postage prepaid and deposited in the United States mail. Notices served upon the DISTRICT shall be directed to the Executive Director, Naperville Park District, 320 W. Jackson Ave., Naperville, IL 60540. Notices served upon the COUNTY shall be directed to the Director, Division of Stormwater Management, County of DuPage, 421 N. County Farm Road, Wheaton, IL 60187 and DuPage County State's Attorney's Office, Attn: Civil Bureau, 505 N. County Farm Road, Wheaton, IL 60187. Notices served personally or by e-mail shall be effective upon receipt, and notices served by mail shall be effective upon receipt as verified by the United States Postal Service.

8.0 SEVERABILITY

- 8.1 In the event any provision of this AGREEMENT is found to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not invalidate or render unenforceable any other provision of this AGREEMENT, providing that the spirit and intent of this AGREEMENT can be given effect.

9.0 ENTIRE AGREEMENT

- 9.1 The provisions set forth herein represent the entire agreement between the parties and supersede any previous oral or written negotiations and agreements. No provision may be modified in any respect unless such modification is in writing and signed by both parties.

- 9.2 In event of a conflict between the terms or conditions or this AGREEMENT and any term or condition found in any exhibit or attachment, the terms and conditions of this AGREEMENT shall prevail.

10.0 MISCELLANEOUS TERMS

- 10.1 This AGREEMENT shall be executed in duplicate, and each party shall retain a fully executed copy, each of which shall be deemed an original.
- 10.2 This AGREEMENT shall be governed by the laws of the State of Illinois as to both interpretation and performance. The forum for resolving any disputes concerning the parties' respective performance, or failure to perform, under this AGREEMENT, shall be the Eighteenth Judicial Circuit Court for DuPage County.
- 10.3 This AGREEMENT may be amended or modified only by written instrument duly approved and signed by both parties to the AGREEMENT.
- 10.4 No course of dealing or failure of any party to enforce strictly any term, right, or condition of this AGREEMENT shall be construed as a waiver of such term, right, or condition. No express waiver of any term, right, or condition of this AGREEMENT shall operate as a waiver of any other term, right, or condition.

IN WITNESS WHEREOF, the parties have entered into this AGREEMENT as of the ____ day of ____, 2023.

**NAPERVILLE PARK DISTRICT
DU PAGE COUNTY**

COUNTY OF DU PAGE

BY: _____
Board President

BY: _____
Deborah A. Conroy, Chair

ATTEST: _____
Board Secretary

ATTEST: _____
Jean Kaczmarek, Clerk