

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF DUPAGE, ILLINOIS AND THE WHEATON PARK DISTRICT FOR POLLING LOCATION PARKING LOT IMPROVEMENTS

This INTERGOVERNMENTAL AGREEMENT (the “AGREEMENT”) is made this ____ day of January, 2025, by and between the COUNTY OF DUPAGE, a body politic and corporate, with offices at 421 North County Farm Road, Wheaton, Illinois (hereinafter referred to as the “COUNTY”) and WHEATON PARK DISTRICT, a body politic and corporate, with offices at 102 E. Wesley Street, Wheaton, Illinois 60187 (hereinafter referred to as the “DISTRICT”).

R E C I T A L S

WHEREAS, the DISTRICT and the COUNTY are public agencies within the meaning of the Illinois “Intergovernmental Cooperation Act” and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois; and

WHEREAS, the purposes of the “Intergovernmental Cooperation Act” and Article 7 of the Constitution of the State of Illinois include fostering cooperation among government bodies; and

WHEREAS, the Illinois General Assembly has granted the DISTRICT authority to operate, maintain and keep in repair necessary DISTRICT facilities, and to enter into agreements for those purposes pursuant to 70 ILCS 1205/8-1; and

WHEREAS, the COUNTY applied for and has been awarded a grant from the Illinois State Board of Elections, as part of the United States Election Assistance Commission’s FY2025 Polling Place Accessibility Federal Grant (“Grant”), in the gross total amount of \$675,233.88 (SIX HUNDRED SEVENTY-FIVE THOUSAND, TWO HUNDRED THIRTY-THREE AND 88/100 DOLLARS) (“Grant Funds”). The Grant Funds are intended to fully reimburse the District for all PROJECT (as more fully defined and described in Section 2 below) costs; and

WHEREAS, the PROJECT will benefit local citizens by improving the existing parking areas of the Blanchard Building and Central Athletic Complex Building (“Polling Locations”), to ensure that residents of DuPage County with disabilities have full and equal opportunity to vote at these polling locations; and

WHEREAS, in order to coordinate their respective roles in the PROJECT, the COUNTY and the DISTRICT have agreed to the terms and conditions set forth in this AGREEMENT; and

WHEREAS, the DISTRICT shall undertake the PROJECT and the COUNTY shall reimburse the DISTRICT for PROJECT expenses from Grant Funds disbursed to the COUNTY by the State of Illinois on behalf of the United States Election Assistance Commission, in an amount not to exceed the gross total amount of \$675,233.88 (SIX HUNDRED SEVENTY-FIVE

THOUSAND, TWO HUNDRED THIRTY-THREE AND 88/100 DOLLARS) in accordance with the terms and conditions of this AGREEMENT; and

NOW, THEREFORE, in consideration of the premises, the mutual covenants, terms, and conditions herein set forth, and the understandings of each party to the other, the parties do hereby mutually covenant, promise and agree as follows:

1.0 INCORPORATION AND CONSTRUCTION.

- 1.1 All recitals set forth above are incorporated herein and made a part thereof, the same constituting the factual basis for this AGREEMENT.
- 1.2 The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.
- 1.3 The COUNTY and DISTRICT shall be referred to herein collectively as the "Parties," or individually as a "Party."

2.0 PROJECT DESCRIPTION.

- 2.1 The PROJECT involves the removal, replacement and repair of the Polling Locations' existing parking areas. The Project is more fully described in the grant application attached as **Exhibit A** to this Agreement.
- 2.2 The PROJECT shall be undertaken essentially in accord with the plans, as prepared by the DISTRICT's Staff which have been mutually approved by the DISTRICT and the COUNTY, and which document is attached hereto and incorporated herein as **Exhibit B**.

3.0 FUNDING.

- 3.1 The PROJECT'S gross total expenses are estimated at \$675,233.88 (SIX HUNDRED SEVENTY-FIVE THOUSAND, TWO HUNDRED THIRTY-THREE AND 88/100 DOLLARS).
- 3.2 It is the intention of the Parties that all PROJECT costs will be fully reimbursed from State Grant Funds received by the County. The COUNTY, by this AGREEMENT, does not assume responsibility for paying any PROJECT costs and shall only be responsible for reimbursing the DISTRICT'S PROJECT costs to the extent the COUNTY receives Grant Funds. The DISTRICT agrees that the COUNTY'S reimbursement of the PROJECT'S costs is contingent upon the COUNTY'S receipt of Grant Funds and that the DISTRICT shall only receive reimbursement for PROJECT costs to the extent the COUNTY receives Grant Funds.

- 3.3 Allowable PROJECT expenses may include third-party professional services (architect/engineering fees, construction management, etc.), construction (labor and materials), bidding related costs, advertising, permit fees, and other related construction costs. Notwithstanding the foregoing, allowable expenses shall not include administrative costs, overhead, payroll or accounting services. Nothing in this Agreement shall be construed to permit the County to reimburse the District for expenses which have been expressly found to be outside the acceptable expenditures permitted under the grant, such as barricades.

4.0 DISTRICT'S RESPONSIBILITIES.

- 4.1 The DISTRICT shall be responsible for the preparation of the plans, specifications, and bid documents for the PROJECT, together with the advertisement and award of all PROJECT-related public bids. The DISTRICT shall select, and contract with, all vendors providing professional services for the PROJECT.
- 4.2 The DISTRICT shall be responsible for securing all local, county, state, and federal permits necessary for completion of the PROJECT.
- 4.3 The DISTRICT shall be responsible for submitting copies of all plans, specifications, bid documents, permit applications and related correspondence to the COUNTY in a timely manner to ensure sufficient review by the COUNTY. The purpose of the COUNTY'S review shall be for the sole purpose of verifying whether PROJECT work components qualify as allowable expenses per the Grant and the Grant Project Agreement.
- 4.4 The DISTRICT shall submit one invoice to the COUNTY following 50% PROJECT completion, and a final invoice at final regulatory sign-off for the PROJECT, consistent with the terms of the Grant. These invoices shall be supported with documentation required by the Grant and the COUNTY shall remit payment to the DISTRICT within 30 days of submission of invoice, provided the COUNTY has received the Grant Funds to cover the amount of the invoice.
- 4.5 The DISTRICT shall make direct payments to all parties providing services related to this PROJECT. This requirement will not affect the COUNTY'S obligation to reimburse the DISTRICT from Grant Funds in the amounts herein agreed to, to the extent that they become available.
- 4.6 The DISTRICT'S contractors and consultants shall be solely responsible for the safety of all individuals performing work on the PROJECT. The DISTRICT shall take such measures as are necessary to ensure that its contractors and consultants maintain the PROJECT areas in a safe condition and install appropriate barricades and warning signs, and strictly enforce all applicable safety law, rules and regulations. This provision is not intended to create any new burden or liability for the DISTRICT beyond the usual burdens and liabilities for a municipality or other unit of government in the construction of public improvements.

- 4.7 The DISTRICT shall provide the COUNTY unlimited, but reasonable, access to the PROJECT area to observe and review PROJECT work and work documents (i.e., plans, change orders, field orders, manager diaries, etc.) for the limited purpose of determining eligibility for reimbursement pursuant to the State Grant the Grant Program Agreement. The DISTRICT shall also provide the representatives of the State or Federal government where the grant agreement requires such access.

5.0 COUNTY'S RESPONSIBILITIES.

- 5.1 The COUNTY reserves the right to review the PROJECT'S plans, specifications and bid documents prior to the DISTRICT'S advertisement for contract services, together with any subsequent change orders, addendums, or revisions thereto, for the purpose of verifying that PROJECT components qualify for reimbursement through the State grant and to monitor PROJECT billing requirements. The COUNTY shall promptly notify the DISTRICT of any work component or proposed expense that the COUNTY believes to be ineligible for reimbursement pursuant to the Grant.
- 5.2 The COUNTY shall not be responsible for or have control over the design, construction, means, methods, techniques or procedures with respect to any work performed for the PROJECT. This section is intended merely to relieve the COUNTY from such liabilities in this PROJECT. The COUNTY'S role in conducting any review or granting any consent or approval relates solely to the item's eligibility for reimbursement under the Grant.
- 5.3 The COUNTY shall administer the Grant, including the preparation and submittal of all Grant reporting requirements. The COUNTY shall hold and maintain PROJECT records and document for the mandatory retention period as required by the State Grant.
- 5.4 Upon receipt of the DISTRICT'S invoice, and all necessary supporting documentation, the COUNTY shall promptly reimburse the DISTRICT for approved costs associated with the PROJECT from Grant Funds to the extent such funds are, or later become, available to the COUNTY. The total reimbursement amount paid by the COUNTY to the DISTRICT shall not exceed \$675,233.88 (SIX HUNDRED SEVENTY-FIVE THOUSAND, TWO HUNDRED THIRTY-THREE AND 88/100 DOLLARS) or such lesser amount equal to the amount of Grant Funds actually received for the PROJECT. In the event PROJECT costs total less than State Funds, the DISTRICT's total reimbursement amount shall be one hundred percent (100%) of the actual total PROJECT costs.

6.0 GOVERNMENT REGULATIONS.

- 6.1 The Parties shall comply with all local, county, state and federal requirements now in force, or which may hereafter be in force, pertaining to the PROJECT and the grant.

7.0 INDEMNIFICATION.

- 7.1 To the extent permitted by law, each Party ("First Party") shall indemnify, hold harmless and defend the other Party ("Second Party"), and any of the Second Party's officials, officers, and employees from and against all liability, claims, suits, demands, liens, proceedings and actions, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the First Party's negligent or willful acts to the fullest extent that each Party is so authorized under the law; provided, however, that the First Party shall not be obligated to indemnify, hold harmless and defend the Second Party for any negligent or intentional wrongful misconduct or omissions by the Second Party's officials, employees, agents, contractors or personnel.
- 7.2 The DISTRICT shall require each consultant and contractor responsible for the construction, maintenance, or monitoring of the PROJECT to name the DISTRICT and COUNTY, and their respective elected and appointed officials, employees, agents and volunteers as additional insureds on said consultant's and contractor's liability insurance policy. Further, the DISTRICT shall require that its consultants and contractors indemnify, defend and hold harmless the DISTRICT and COUNTY, and their respective elected and appointed officials, employees, agents and volunteers from and against any claims, liability or judgments resulting from, or caused by, the negligence or willful conduct of such consultant and, or contractor.
- 7.3 Nothing contained herein shall be construed as prohibiting the Parties, their officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, liens, proceedings and actions brought against them. Pursuant to Illinois law, any attorney representing the COUNTY, under this paragraph or Paragraph 7.1 is to be the State's Attorney, in accord with the applicable law. The COUNTY'S participation in its defense shall not remove DISTRICT'S duty to indemnify, defend, and hold the COUNTY harmless, as set forth above. Moreover, indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage maintained by the Parties or their consultants, contractors or agents. The First Party's indemnification of the Second Party shall survive the termination, or expiration, of this AGREEMENT.

8.0 AMENDMENT OR MODIFICATION OF THIS AGREEMENT.

- 8.1 The Parties may modify or amend terms of this AGREEMENT only by a written document duly approved and executed by both Parties, excluding term extensions as provided for in the following provision.
- 8.2 Notwithstanding Paragraph 8.1, above, the term for performing this AGREEMENT may be extended by any suitable COUNTY designated form, signed by both parties without formal amendment to this AGREEMENT pursuant to Paragraph 8.1, above.

9.0 TERM OF THIS AGREEMENT.

- 9.1 The term of this AGREEMENT shall begin on the date the AGREEMENT is fully executed, and shall continue in full force and effect until the earlier of the following occurs:
 - 9.1.1 September 1, 2025, or to a new date agreed by the parties.
 - 9.1.2 The completion by the DISTRICT and COUNTY of their respective obligations under this AGREEMENT, in the event such completion occurs before September 1, 2025.

10.0 ENTIRE AGREEMENT.

- 10.1 This AGREEMENT, including matters incorporated herein, contains the entire AGREEMENT between Parties.
- 10.2 There are no other covenants, warranties, representations, promises, conditions or understandings; either oral or written, other than those contained herein.
- 10.3 This AGREEMENT may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.
- 10.4 In event of a conflict between the terms or conditions of this AGREEMENT and any term or condition found in any exhibit or attachment, the terms and conditions of this AGREEMENT shall prevail.

11.0 SEVERABILITY.

- 11.1 In the event any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the AGREEMENT. The remainder of this AGREEMENT shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.

12.0 GOVERNING LAW.

- 12.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.
- 12.2 The venue for resolving any disputes concerning the parties' respective performance, or failure to perform, under this AGREEMENT, shall be the judicial circuit court for DuPage County.

13.0 NOTICES.

- 13.1 Any required notice shall be sent to the following addresses and parties:

ON BEHALF OF THE PARK DISTRICT:

Mike Benard
Executive Director
Wheaton Park District
102 E. Wesley Street
Wheaton, Illinois 60187
(630) 945-7726

ON BEHALF OF THE COUNTY:

Scott MacKay
Deputy Clerk - Elections
DuPage County Clerk
421 North County Farm Road
Wheaton, Illinois 60187

14.0 WAIVER OF/FAILURE TO ENFORCE BREACH.

- 14.1 The Parties agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further the failure to enforce any particular breach shall not bar or prevent the remaining Party from enforcing this AGREEMENT with respect to a different breach.

15.0 NO THIRD PARTY BENEFICIARY.

- 15.1 This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and/or entity who is not a party to this Agreement or to acknowledge, establish or impose any legal duty to any third party.

16.0 NO WAIVER OF TORT IMMUNITY.

16.1 Nothing contained in any provision of this Agreement is intended to constitute nor shall constitute a waiver of the defenses and immunities available to the Parties under the Illinois Local Governmental and Governmental Employees Tort Immunity Act.

17.0 COMPLIANCE WITH GRANT

17.1 The Parties shall comply with all terms, promises, conditions, plans, specifications, maps, and assurances contained in the Grant's approved PROJECT Application.

17.2 The Parties shall comply with all applicable provisions of the Grant's Project Agreement, a copy of which is attached to and incorporated as part of this Agreement as **Exhibit C**, including, but not limited to all provisions regarding bidding, change orders, project accessibility, project implementation, project billing and monitoring, intellectual property rights and vendor certifications.

IN WITNESS OF, the Parties set their hands and seals as of the date first written above.

COUNTY OF DUPAGE

WHEATON PARK DISTRICT

Deborah A. Conroy
County Board Chair

Bob Frey,
President
Board of Park Commissioners

ATTEST:

ATTEST:

Jean Kaczmarek,
County Clerk

Michael Benard,
Secretary