

INTERGOVERNMENTAL AGREEMENT BETWEEN COUNTY OF DUPAGE, ILLINOIS
AND THE CITY OF WOOD DALE FOR THE WARD 1 STORMWATER IMPROVEMENTS-
PHASE 1 PROJECT

This INTERGOVERNMENTAL AGREEMENT is made this 14th day of April 2026 between the COUNTY OF DUPAGE, a body politic and corporate, with offices at 421 N. County Farm Road, Wheaton, Illinois (hereinafter referred to as the COUNTY) and the CITY OF WOOD DALE, a body politic and corporate, with offices at 404 N. Wood Dale Road, Wood Dale, Illinois 60191 (hereinafter referred to as the CITY).

R E C I T A L S

WHEREAS, the CITY 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 COUNTY authority to take action to manage stormwater and control flooding and to enter into agreements for the purposes of stormwater management and flood control (Illinois Compiled Statutes, Chapter 55 paragraphs 5/5-1062.3 and 5/5-15001 *et. seq.*); and

WHEREAS, the COUNTY has adopted the DuPage County Stormwater Management Plan which recognizes the reduction of stormwater runoff and improving water quality as an integral part of the proper management of storm and flood waters; and

WHEREAS, the CITY has developed a conceptual design report for the design and construction of a stormwater detention pond and the modification of an existing detention pond to provide treatment and removal of pollutants to Addison Creek (herein referred to as the “PROJECT”); and

WHEREAS, the COUNTY and the CITY have determined that the construction of the PROJECT will benefit local citizens by improving the water quality to Addison Creek, a tributary to Salt Creek; and

WHEREAS, the CITY has requested COUNTY participation in cost sharing of the PROJECT through a grant from the COUNTY’S Water Quality Improvement Program in an amount not to exceed one hundred thousand dollars (\$100,000); and

WHEREAS, the CITY shall pay all PROJECT expenses up front and will be reimbursed

for qualified expenses per this AGREEMENT; and

WHEREAS, the CITY shall share any available data collected from the PROJECT for the purposes of fostering community education and improving upon similar future projects; 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.

2.0 PROJECT DESCRIPTION.

- 2.1 The PROJECT involves modification of an existing dry detention pond and construction of a new stormwater detention pond to improve water quality in Addison Creek by filtering stormwater, reducing concentrations of nitrogen, phosphorus, biochemical oxygen demand (BOD), and suspended solids. The existing dry-bottom pond will be excavated to provide additional stormwater storage and converted to a wetland-bottom pond, which will enhance pollutant removal and ecological function. The new detention pond will also be designed as a wetland-bottom feature. The goal of the CITY is to treat stormwater before entering Addison Creek which will reduce pollutant loadings to Addison Creek and the Salt Creek.
- 2.2 The PROJECT shall be developed essentially in accord with the conceptual design report, City of Wood Dale- Ward 1 Stormwater Improvements- Phase 1, dated December 31, 2025, as prepared by Robinson Engineering, Ltd., which document is incorporated herein by reference but is not attached hereto due to space limitations. The project shall be maintained and monitored by the CITY or their consultant.

3.0 FUNDING.

3.1 The total water quality related PROJECT costs are estimated to be two million three hundred and one thousand six hundred and forty-five dollars (\$2,301,645). The cost share is as follows, unless otherwise agreed to in writing as provided in Paragraph 3.2 below:

CITY OF WOOD DALE	\$2,201,645
COUNTY OF DUPAGE	<u>\$100,000</u>
TOTAL	\$2,301,645

3.2 The CITY shall be responsible for bearing any cost overruns or expenses in excess of the funding listed in Paragraph 3.1, regardless of the cause, unless the CITY and COUNTY agree to apportion such extra costs before they are incurred.

3.3 This AGREEMENT shall in no way obligate the CITY to undertake this PROJECT if the CITY in its sole discretion determines that it is no longer in the CITY'S best interest to proceed with this PROJECT. However, in the event the PROJECT is not substantially completed by March 31, 2028, the CITY shall promptly reimburse the COUNTY any monies paid by the COUNTY to the CITY pursuant to this AGREEMENT. The CITY'S right to retain the COUNTY'S reimbursement of PROJECT costs is expressly conditioned upon the CITY'S timely and satisfactory completion of the PROJECT.

3.4 The CITY may only seek COUNTY reimbursement for allowable PROJECT expenses. Allowable PROJECT expenses incurred and paid by the CITY in relation to the PROJECT shall include third-party professional services related to the construction of the PROJECT (construction management, etc.), construction (labor and materials), bid advertising, etc. Notwithstanding the foregoing, allowable expenses shall not include the CITY'S administrative costs, overhead, payroll, land acquisition, legal or accounting services.

4.0 CITY'S RESPONSIBILITIES.

4.1 The CITY 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 CITY shall select, and contract with, all vendors providing professional services for the PROJECT.

4.2 The CITY shall be responsible for successful completion of all phases of the PROJECT, from design and construction through maintenance.

4.3 The CITY shall be responsible for securing all local, county, state, and federal permits necessary for completion of the PROJECT.

- 4.4 The CITY shall be responsible for submitting copies of all 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 documenting whether PROJECT work components qualify as allowable expenses.
- 4.5 The CITY shall be responsible for obtaining all required land rights necessary for the completion of the PROJECT.
- 4.6 The CITY shall not be reimbursed by the COUNTY for work undertaken prior to the signing of this AGREEMENT.
- 4.7 The CITY may enter into additional agreements to secure its portion of the local PROJECT costs.
- 4.8 The CITY shall submit no more than one invoice per month to the COUNTY during the construction and maintenance phases of the PROJECT. Under no circumstances shall the COUNTY be invoiced for any amount(s) exceeding a total of one hundred thousand dollars (\$100,000). The invoice(s) shall show the quantities and cost per item and be summarized by PROJECT area.
- 4.9 The CITY shall make direct payments, or cause to have payments made, to all parties providing services related to this PROJECT. This requirement will not affect the COUNTY'S obligation to reimburse the CITY in the amounts herein agreed upon, nor shall this provision affect the CITY'S obligation to repay the COUNTY in the event the PROJECT is not undertaken or completed, as established in Paragraph 3.3.
- 4.10 The CITY shall make any data collected from the PROJECT available to the COUNTY upon reasonable request by the COUNTY.
- 4.11 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. The CITY and CITY'S contractors shall be solely responsible for the safety of all individuals performing work on the PROJECT. The CITY shall take such measures as are necessary to ensure that its contractors maintain the PROJECT areas in a safe condition and install appropriate barricades and warning signs, and the CITY shall strictly enforce or cause to have strictly enforced all applicable safety rules and regulations. This provision is not intended to create any new burden or liability for the CITY beyond the usual burdens and liabilities for a municipality in the construction of public improvements. This section is intended merely to relieve the COUNTY from such liabilities in this PROJECT. COUNTY'S role in conducting any review or granting any consent or approval relates solely to the PROJECT'S eligibility under the COUNTY'S Water Quality Improvement Program.

- 4.12 During the PROJECT and after its substantial completion, the CITY shall be solely responsible for the ownership, operation, supervision, staffing, control, and maintenance of the PROJECT.
- 4.13 The CITY must acknowledge the COUNTY using logo(s) and wording provided by the COUNTY in permanent onsite signage and other promotion of the PROJECT including, but not limited to, printed materials, press releases and presentations.

5.0 COUNTY'S RESPONSIBILITIES.

- 5.1 The COUNTY shall reserve the right to review the PROJECT'S plans and specifications, prior to the CITY'S advertisement for contract services, together with any subsequent change orders, addendums, or revisions thereto ("CONTRACT DOCUMENTS"), for the purpose of verifying that PROJECT components qualify for reimbursement through the COUNTY'S Water Quality Improvement Program. The COUNTY shall promptly provide the CITY with any recommended changes to the CONTRACT DOCUMENTS for PROJECT components to qualify for reimbursement.
- 5.2 The COUNTY shall cost share in the PROJECT as follows:
 - 5.2.1 The COUNTY shall reimburse the CITY for approved costs associated with the PROJECT which have been incurred and paid for by the CITY, as specified in Paragraph 3.1.
 - 5.2.2 The total reimbursement amount paid by the COUNTY shall not exceed one hundred thousand dollars (\$100,000).
 - 5.2.3 In the event PROJECT costs total less than two million three hundred and one thousand six hundred and forty-five dollars (\$2,301,645), the COUNTY'S total reimbursement amount shall not be more than twenty five percent (25%) of the actual total PROJECT costs, and in any case, shall not exceed one hundred thousand dollars (\$100,000). Any amounts overpaid by the COUNTY shall be promptly refunded by the CITY.
 - 5.2.4 The COUNTY shall not be obligated to pay invoices received after March 31, 2028, regardless of when the work was completed and notwithstanding that the COUNTY'S contribution limit has not been reached.
- 5.3 The COUNTY shall be allowed 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 COUNTY reimbursement, and the use of all data collected as part of the PROJECT. The COUNTY shall provide the CITY reasonable advance notice of when the COUNTY requires such access.

6.0 GOVERNMENT REGULATIONS.

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

7.0 INDEMNIFICATION.

7.1 The CITY shall indemnify, hold harmless and defend the COUNTY or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, liens, proceedings and actions, including reasonable 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 CITY'S performance under this AGREEMENT to the fullest extent the CITY is so authorized under the law; provided, however, that the CITY shall not be obligated to indemnify, hold harmless and defend the COUNTY for any negligent or intentional wrongful misconduct or omissions by COUNTY officials, employees, agents, contractors or personnel.

7.2 The CITY shall require each consultant and contractor responsible for the construction, maintenance, or monitoring of the PROJECT to name the CITY and COUNTY as an additional insured party on said vendor's liability insurance policy. Further, the CITY shall require that its consultants and contractors indemnify, defend and hold harmless the CITY and COUNTY, their officers, employees and elected officials 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 COUNTY, its 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 Section 7 is to be the State's Attorney, in accord with the applicable law. The COUNTY'S participation in its defense shall not remove CITY'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 CITY or its consultants, contractors or agents. The

CITY'S indemnification of the COUNTY 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 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 March 31, 2028, or to a new date agreed upon by the parties.

9.1.2 The completion by the CITY and COUNTY of their respective obligations under this AGREEMENT, in the event such completion occurs before March 31, 2028.

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 the 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 NO THIRD-PARTY BENEFICIARIES

12.1 This Agreement is for the sole benefit of the Parties and their respective permitted successors and assigns. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person or entity other than the Parties any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

13.0 GOVERNING LAW.

13.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.

13.2 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.

14.0 NOTICES.

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

Alan Lange
Director of Public Works
City of Wood Dale
404 N. Wood Dale Road
Wood Dale IL, 60191

Claire Kissane
Water Quality Specialist
DuPage County Stormwater Management
421 N. County Farm Road
Wheaton, Illinois 60187

15.0 WAIVER OF/FAILURE TO ENFORCE BREACH.

15.1 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.

16.0 NO WAIVER OF TORT IMMUNITIES

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

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

COUNTY OF DUPAGE

CITY OF WOOD DALE

Deborah Conroy,
Chair

Nunzio Pulice
Mayor

ATTEST:

ATTEST:

Jean Kaczmarek,
County Clerk

Lynn Curiale
City Clerk