



Legislation Text

File #: SM-R-0075-23, **Version:** 1

MEMORANDUM OF UNDERSTANDING BETWEEN DUPAGE COUNTY STORMWATER MANAGEMENT,
THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY, AND THE DUPAGE RIVER SALT CREEK
WORKGROUP FOR CONSTRUCTION AND PERPETUAL MAINTENANCE OF A FISH PASSAGE SYSTEM AT
FAWELL DAM IN THE McDOWELL GROVE FOREST PRESERVE IN NAPERVILLE, ILLINOIS

WHEREAS, the Illinois General Assembly has granted the COUNTY authority to develop watershed plans, undertake measures to control and protect against flooding, manage stormwater, 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, pursuant to 65 ILCS 5/11-109-1, the COUNTY has the authority to maintain waterways and flood control structures under its ownership and jurisdiction; and

WHEREAS, the COUNTY owns and operates Fawell Dam for flood control and property protection purposes situated in the McDowell Forest Preserve in Naperville, Illinois, a preserve owned by the FPDDC; and

WHEREAS, the COUNTY is a regional stormwater authority and improving water quality within DuPage County Waterways is part of the COUNTY's mission; and

WHEREAS, aquatic life surveys of the West Branch DuPage River commissioned by the DRSCW have shown that species downstream of Fawell Dam are more abundant than those upstream of Fawell Dam; and

WHEREAS, the Parties have complimentary missions that include the preservation and enhancement of existing aquatic and riparian environments in DuPage County; and

WHEREAS, the Parties have identified a potential solution for improving aquatic life and are in agreement that fish passage through Fawell Dam can improve aquatic life upstream of Fawell Dam by placing a fish passage system (hereafter called "the Ladder") in one of the dam's culverts, plus related components (hereafter collectively called the "PROJECT"); and

WHEREAS, the DRSCW has negotiated a special condition into the National Pollutant Discharge Elimination System (NPDES) permits for its agency members that prescribes constructing the PROJECT by December 31, 2024, and

WHEREAS, the PROJECT may be completed more effectively and economically with the cooperation and joint efforts and resources of the COUNTY, FPDDC, and the DRSCW; and

WHEREAS, the Parties are committed to working jointly to problem solve and implement solutions to the placement and operation of the Ladder.

WHEREAS, on July 01, 2015, the DRSCW's Executive Board authorized the DRSCW to negotiate and enter into a Memorandum of Understanding with the COUNTY and FPDDC establishing roles for designing and implementing certain projects within DuPage County; and

WHEREAS, on November 21, 2023, the FPDDC's Board authorized the FPDDC to enter into a Memorandum of Understanding with the DRSCW and the COUNTY as to the PROJECT defined herein;

NOW, THEREFORE, BE IT RESOLVED by the DuPage County Board that the attached AGREEMENT between the COUNTY and THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY, and the DUPAGE RIVER SALT CREEK WORKGROUP is hereby accepted and approved, and that the Chair of the DuPage County Board is hereby authorized and directed to execute the AGREEMENT on behalf of the COUNTY.

BE IT FURTHER RESOLVED that the DuPage County Clerk be directed to transmit certified copies of this Resolution and the attached AGREEMENT, by and through the Stormwater Management Department, to the DRSCW, 10S404 Knoch Knolls Rd.; Naperville, IL 60565; the FPDDC, 3S580 Naperville Rd., Wheaton, IL 60189; and Nicholas Alfonso/State's Attorney's Office.

Enacted and approved this 14 day of November, 2023 at Wheaton, Illinois.

DEBORAH A. CONROY, CHAIR
DU PAGE COUNTY BOARD

Attest: _____

JEAN KACZMAREK, COUNTY CLERK