

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF KANE
AND THE KANE COUNTY FOREST PRESERVE DISTRICT
CONVEYANCE OF STEARNS ROAD GREENWAY PARCELS**

This Agreement, entered into by and between the County of Kane, a body corporate and politic of the State of Illinois (hereinafter "County"), and the Forest Preserve District of Kane County, a municipal corporation of the State of Illinois (hereinafter the "District"). The County and the District are each sometimes hereinafter individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the County and the District are public agencies within the meaning of the Illinois Intergovernmental Cooperation Act, as provided in the Illinois Compiled Statutes, 5 ILCS 220/1 *et. seq.*; and are units of local government within the meaning of the Constitution of Illinois, 1970, Article VII, Section 10; and,

WHEREAS, the County owns certain real estate acquired and utilized as an environmental greenway for the rehabilitation, protection, and maintenance of environmentally sensitive features located in Sections 1, 2, 3 & 4 of the Township of St. Charles near South Elgin, County of Kane, State of Illinois which greenway parcels are commonly referred to as the McLean Boulevard Fen, the Direct Impact Mitigation Site, the South Elgin Sedge Meadow, the South Elgin Sand Hill Annex and Adaptive Management Plan (AMP) mitigation site; (hereinafter the "Greenway Parcels") as are generally depicted and indicated as the "Restoration Areas"; in Exhibit "A" which is attached hereto and incorporated herein; and,

WHEREAS, the County acquired the real estate that comprises the Greenway Parcels in conjunction with the acquisition of right of way for the Stearns Road Bridge Corridor project as part of the requirements of the Stearns Road Bridge project's, Environmental Vision Document, its Federal Environmental Impact Statement and its Federal Highway Administration Record of Decision wherein the County was obliged to acquire, protect, restore, rehabilitate and remediate the Greenway Parcels and convey the same to the District at no cost thereto; and

WHEREAS, the County has caused the preservation, restoration, rehabilitation, remediation and protection of the Greenway Parcels; and

WHEREAS, the County desires to convey and the District desires to accept the Greenway Parcels so that the District can utilize and plan for the future use thereof and accessibility thereto for the benefit of the citizens of Kane County; and

WHEREAS, the County and the District consequently entered into an intergovernmental agreement and subsequent amendments thereto, as follows:

- Intergovernmental Agreement Between the County of Kane and the Kane County Forest Preserve District (Stearns Road Extended) on September 12, 2000; and
- Intergovernmental Agreement Between the County of Kane and the Kane County

Forest Preserve District for the Realignment of Stearns Road, Dunham Road and Illinois State 25 on September 12, 2000; and

- Amendment #1 to an Intergovernmental Agreement with the Kane County Forest Preserve District for Realignment of Stearns Road, Dunham Road and Illinois Route 25 on November 9, 2004; and
- Amendment #1 to an Intergovernmental Agreement with the Kane County Forest Preserve District for Right-Of-Way Acquisition Stearns Road Bridge Corridor on November 9, 2004; and
- Amendment #2 to an Intergovernmental Agreement with the Kane County Forest Preserve District for Realignment of Stearns Road, Dunham Road and Illinois Route 25 on July 12, 2005; and
- Third Restatement to an Intergovernmental Agreement Between the County of Kane and the Kane County Forest Preserve District for Realignment of Stearns Road, Dunham Road and Illinois Route 25 on May 8, 2007;
- Second Amendment of the Intergovernmental Agreement Between the County of Kane and the Kane County Forest Preserve District (Stearns Road Extended) on April 8, 2008; and
- Amendment #3 to the Intergovernmental Agreement with the Kane County Forest Preserve District for Stearns Road Extended on December 9, 2008; and

WHEREAS, the District requested and the County designed and constructed for pedestrians and bicyclists use, the Stearns Road Multi-Use Path (MUP) Bridge over the Fox River, separate from and at a lower elevation than the Stearns Road Vehicle Bridge deck over the Fox River in order to more easily connect pedestrians and bicycles to the existing Fox River Trail; and

WHEREAS, on June 2, 2017, the United States Department of the Army Corps of Engineers determined that the wetland mitigation projects associated with the Stearns Road Bridge Corridor Greenway Parcels was successfully completed and that the terms and conditions of the County's permit had been fulfilled and the County was obligated to complete transfer of the mitigation areas to the District within 90 days of the County's receipt of this notification; and

WHEREAS, in response to the condition of the Brewster Creek stream embankment adjacent to the easterly AMP mitigation site, the County designed and constructed the Stearns Road AMP Brewster Creek Stream Embankment Restoration in 2022; and

WHEREAS, the County and the District desire to co-operate amongst themselves in order to facilitate their respective statutory responsibilities and duties.

NOW, THEREFORE, in consideration of the foregoing preambles, the mutual covenants contained herein and for good and valuable consideration, the sufficiency of which is agreed to by the Parties, both the County and the District covenant, agree and bind themselves as follows, to wit:

1. The preambles as set forth hereinabove are incorporated into and made a substantive part of this Agreement.

2. The County agrees to convey to the District and the District agrees to accept and acquire in fee simple from the County the Greenway Parcels as they are generally depicted in Exhibit "A" and as more specifically depicted and legally described in Exhibit "B".
3. The District estimated the cost to complete the necessary future enhancements to the Greenway Parcels to be \$572,275.00 as depicted in Exhibit "C". The County will pay the District Five Hundred Seventy Two Thousand Two Hundred Seventy Five Dollars and no cents (\$572,275.00) for the necessary future enhancement of the Greenway Parcels, upon receipt of an invoice from the District.
4. The County shall be solely responsible for necessary periodic safety inspections of the MUP Bridge over the Fox River pursuant to the requirements of the National Bridge Inspection Standards (NBIS) for structure inspection procedures, frequency of inspections, qualifications of personnel, and inspection reports. The County will share inspection results with the District.
5. The District shall be solely responsible for conducting any other periodic, routine safety inspections beyond those required by the NBIS inspections conducted by the County.
6. The District shall be solely responsible for the cost of normal maintenance of the MUP Bridge over the Fox River, including but not limited to bridge deck resurfacing or replacement. However, based upon the results of the NBIS structure safety inspections, should the County determine that major structural bridge repair and/or replacement of the MUP Bridge over the Fox River is necessary, the cost of the major bridge repair and/or replacement associated solely with the MUP Bridge structure will be shared 50/50 between the District and the County. The County will be solely responsible for the cost of major structural bridge repair and/or replacement associated with the Stearns Road Vehicle Bridge structure over the Fox River.
7. The District shall be solely responsible for the routine inspection and cost of normal maintenance of the 2022 Stearns Road Brewster Creek Stream Embankment Restoration located adjacent to the easterly AMP mitigation site. However, with a 2-year advanced notice by the District to the County, the cost of major repair to and/or replacement of the Brewster Creek Stream Embankment Restoration will be shared 50/50 between the District and the County.
8. Closing for the conveyance and possession of the Greenway Parcels from the County to the District shall occur on or before January 1, 2025. Said closing shall be at the offices of the County or the District or as otherwise agreed to by the Parties. The closing and possession date is legally significant to both the County and the District. The Parties understand that when this Agreement is signed by both the County and the District, closing and possession may only be changed by mutual agreement of the Parties.
9. The County, at its sole cost, shall prepare plats of survey and legal descriptions for each the Greenway Parcels as described in Exhibit "A" and shall also prepare the signature of the County, which will be executed by the County at or prior to closing, a warranty deed

in the same form and substance as set forth in Exhibit "D" and any other documents as required by the District and the Internal Revenue Code. The County shall also be responsible for obtaining title commitment(s) for title insurance from the Chicago Title Insurance Company for the Greenway Parcels at the sole cost of the County. The plats of survey and the legal descriptions of the Greenway Parcels prepared by the County have been made available to the District as provided in Exhibit "B". The District shall execute any documents associated with the conveyance of the Greenway Parcels as may be reasonably required by the County, the Illinois Department of Natural Resources, United States Fish and Wildlife Service and the United States Department of the Army Corps of Engineers.

10. The County shall convey to the District, by a recordable warranty deed(s), conveying good, marketable and merchantable title to the Greenway Parcels as depicted in Exhibit "A" and as more particularly described by the plats of survey and legal descriptions therefor as set forth in Exhibit "B", subject only to the following described exceptions: covenants conditions and restrictions of record provided they are not violated nor contain a reverter or right of re-entry, zoning laws and ordinances, easement for public utilities, drainage ditches, feeders, laterals, drainpipe tile or other conduit, and, if applicable, installments or assessments due after the date of closing.
11. In the event that the County cannot obtain title insurance over any "Schedule B" exceptions that may appear on the title commitment(s) for the Greenway Parcels (except those exceptions provided in paragraph 5 above), any amount sufficient to secure the release of said exceptions shall be paid by the County at closing. In the event that the title commitment for the Greenway Parcels shows encroachments or exceptions not acceptable to the District, the County shall have said exceptions removed prior to closing, or alternatively obtain a policy of insurance to insure over said exceptions. If the County is unable to either remove said exceptions or have said exceptions insured over, the District may terminate this Agreement as it relates to the parcel burdened by the encroachments or exceptions in question at no further expense to either the County or the District.
12. Any rents, deposits or other assessments, if any, on the Greenway parcels shall be prorated.
13. The County agrees to leave the Greenway Parcels in a clean and orderly condition. All refuse and personal matter on the Greenway Parcels shall be removed at the County's expense prior to the date of possession.
14. The County represents that no notice has been received of any zoning, building, fire or health code violations, environmental regulation or of any pending special assessment proceedings affecting the Greenway Parcels.
15. Any and all notices given pursuant to this Agreement shall be in writing and signed by the attorney for the District and the attorney for the County and shall be given by certified mail or in person at the addresses herein below. Notice to any one of a multiple person Party shall be notice to all:

To the County: Kane County Engineer and Director of the Kane
County Division of Transportation
41W011 Burlington Road
St. Charles, Illinois 60175

Attorney for the County: Christopher Weldon
weldonchristopher@kanecountyil.gov

To Forest Preserve District: Executive Director
1996 South Kirk Road
Geneva, Illinois 60134

Attorney for the District: Gerald Hodge
ghodge@kfkllaw.com

16. The date of this Contract shall be the last date of acceptance of this Agreement as provided herein below.
17. County hereby represents and warrants to the District as follows, which representations and warranties shall be deemed remade by County to the District at the closing, and which shall survive the closing:
 - (a) To County's knowledge, there is no pending or threatened litigation affecting the Greenway Parcels or to the best knowledge and belief of County is any such litigation contemplated by any party;
 - (b) The County has received no notice of, and has no actual knowledge of, any change that is contemplated with respect to the zoning of the Greenway Parcels, the availability of utility services to the Greenway Parcels, violation of any existing law, municipal or county ordinance or other governmental regulation, contemplated or threatened condemnation, or any other matter which would affect the Greenway Parcels;
 - (c) The County has the authority to execute and perform the terms of this Agreement; and,
 - (d) The County has not received notice of any violations of local, state or federal laws including environmental laws, rules or regulations concerning the Greenway Parcels.
18. From and after the date hereof and so long as this Agreement is in effect, the County shall not, without District's prior written consent, execute any lease, license, contract or other agreement affecting the Greenway Parcels that will survive the Closing.
19. This Agreement may be amended only in writing upon the signatures of all the Parties.
20. This Agreement is executed and submitted by the County as of the date set forth below. A

duplicate original of this Contract, duly executed by the District shall be delivered to the County not later than 5 business days from such date.

21. This Agreement shall be effective upon approval by the respective legislative bodies of the County and the District.
22. The Parties acknowledge and agree that in the event that any section, paragraph, subdivision or sentence of this Agreement shall be for any reason held invalid or to be unconstitutional, such decision or holding shall not affect the validity of the remainder of this Agreement.

IN WITNESS WHEREOF, the County of Kane has executed this Agreement as of the ____ day of _____ 2024 at Geneva, Illinois.

COUNTY OF KANE

BY: _____
Corinne Pierog, County Board Chairman

ATTEST:

John A. Cunningham, County Clerk

IN WITNESS WHEREOF, the District has executed this Agreement as of the ____ day of _____ 2024 at Geneva, Illinois

KANE CITY FOREST PRESERVE DISTRICT

BY: _____
Chris Kious, President

ATTEST:

Myrna Molina, Secretary

EXHIBIT LIST

EXHIBIT “A” Greenway Parcels General Depiction.

EXHIBIT “B” Greenway Parcels Legal Descriptions

EXHIBIT “C” Cost Estimate

EXHIBIT “D” Warranty Deed

EXHIBIT "D"

Name: The Forest Preserve District
of Kane County

Project: Stearns Road

Parcel No.

Section No.

RECORDER'S USE

WARRANTY DEED

THE GRANTOR, THE COUNTY OF KANE, a body corporate and politic of the State of Illinois ("Grantor") of 719 South Batavia Avenue, Geneva, Illinois 60134, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, conveys and warrants to the FOREST PRESERVE DISTRICT OF KANE COUNTY, a downstate forest preserve district created and existing under and by virtue of the laws of the State of Illinois and duly authorized to transact business in the State of Illinois of 1996 S. Kirk Road, Geneva, Illinois, as GRANTEE, the following described real estate, to wit:

LEGAL DESCRIPTION(S) TO COME

IN WITNESS WHEREOF, said Grantor has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its County Board Chairman this ____ day of ____ 2024.

THE COUNTY OF KANE

By: _____
County Board Chairman

ATTEST:

By: _____
Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I the undersigned, a Notary Public in, and for said County and State aforesaid, DO HEREBY CERTIFY that Corinne Pierog, personally known to me to be the County Board Chairman of the COUNTY of KANE, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such County Board Chairman, she signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Kane County Board, as her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____ day of _____ 2024.

seal

Notary Public


This transaction is exempt under paragraph (b) of Section 4 of the Real Estate Transfer Tax Act.

Dated: _____, 2024

Grantor or Representative

Return to:

Director
Forest Preserve District of Kane County
1996 South Kirk Road
Geneva, IL 60134

 Subsequent Tax Bill to:

Director
Kane County District of Kane County
1996 South Kirk Road
Geneva, IL 60134

Prepared By: _____
J. Patrick Jaeger
Attorney at Law
P.O. Box 485
Geneva, IL 60134