

CITY OF WARRENVILLE
MEMORANDUM

TO: Mayor, City Council, and City Administrator White
FROM: Kristine Hocking, Assistant Community Development Director ^{KH}
SUBJECT: FPDDC INTERGOVERNMENTAL AGREEMENTS (IGA) FOR
UTILITY IMPROVEMENTS AND TRAIL PROJECTS
DATE: March 10, 2025

Purpose of Memo

The purpose of this memo is to i) provide historical information regarding the previous Forest Preserve District of DuPage County’s (FPDDC) IGAs, ii) provide information related to the new FPDDC utility extension request, iii) provide details regarding the two new IGA’s, and iv) a staff recommendation.

Historical Information

In January 2016, the City and the FPDDC entered into an intergovernmental agreement regarding the extension of City watermain to serve the fleet maintenance facility on the north side of Mack Road near Williams Road. This watermain would also serve future FPDDC facilities along Mack Road including the existing facilities management building and other natural resources buildings. The watermain and water service was constructed in 2017. Another IGA regarding future trail projects was also approved. The trail IGA implementation timetable has ended. The FPDDC continues to cooperate in the design and funding of the Mack Road Bridge and Path project that was part of the trail IGA.

Grounds and Natural Resources Maintenance Campus – Utility Request

The FPDDC has determined that a campus to contain all of the Grounds & Natural Resources Management Maintenance operations is the most efficient use of the limited land available. To serve this new building and other existing buildings, the FPDDC consultant suggested long individual water service connections to the existing main. After careful review by City staff and consultants, it was determined that long water services are not allowed per the IEPA due to water quality. Thus, the existing watermain would have to be extended and looped. In addition, the FPDDC asked if sanitary sewer could serve the existing and future buildings (Exhibit A of Utility IGA). City staff and its consultant analyzed the request in relation to water pressure, water quality, fire flow, sanitary sewer capacity and pipe slope and determined that the new campus and building could be served by the City utilities.

IGA – Utility Extension

An IGA is required to formally authorize the connection of the FPDDC project to City utilities. This IGA follows a similar format to the 2016 Watermain IGA. Important information includes:

- The City will review construction plans to ensure compliance with City standards and Stormwater Ordinance requirements.

- All fees will be waived. There are no recapture fees associated with the extensions. The FPDDC will pay for water meters and utility usage per the City Code.
- The FPDDC will fund and construct the new watermain and sanitary sewer facilities and will connect to the new buildings. The FPDDC will hire a consultant to oversee the construction. Construction will commence in summer 2025.
- The City will inspect all constructed utilities.
- The new watermain and sanitary sewer will be conveyed to the City via an easement agreement after construction.

IGA – Trail Cooperation

This IGA includes trail projects that would require FPDDC cooperation. All of the trail projects include the requirement of an easement on FPDDC property. This IGA follows a similar format to the 2016 Trail IGA. The trail projects include:

- Batavia Road Multi-Use Trail Extension West of Butterfield Road
 - A trail extension of an existing multi-use trail approximately 500 feet west to connect to the Cenacle Trail in Blackwell Forest Preserve.
 - The City would lead the design and construction of the project. The City would be responsible for funding and maintenance.
 - The FPDDC would be a co-sponsor on grant applications and would grant any permanent or temporary easements required.
 - 10-years to implement.
 -
- Diehl Road Multi-Use Trail Extension Across West Branch DuPage River to McDowell Trail
 - The FPPDC agrees to cooperate with granting easements when the Diehl Road Bridge is to be reconstructed. At that point is when a trail extension bridge would be the most feasible.
 - The project is partially within the City limits, but not on City property being entirely in County right-of-way and FPDDC property.
 - DuPage County Division of Transportation would lead this project.
 - City would be a co-sponsor on grant applications.
 - No timetable to implement.
 -
- Blackwell West of Route 59 Trail Connection
 - A trail connection between Fox Hollow and Maple Hill either through FPDDC property or along Route 59.
 - The City would lead the design and construction of the project. The City would be responsible for funding and maintenance.
 - The FPDDC would be a co-sponsor on grant applications and would grant any permanent or temporary easements required.
 - 20-years to implement.

Staff Recommendation

The Utility Extension IGA requires the FPDDC to abandon approximately 0.25 miles of existing watermain and install approximately 0.75 miles of new public water main. This will improve the water quality to the existing FPDDC fleet building. The FPDDC will install approximately 0.65 miles of new sanitary sewer. The Trail Cooperation IGA memorializes the FPDDC commitment to cooperate in the implementation of a number of high priority trail improvement projects on FPDDC property.

Staff believes it is in the best interest of the City, in order to continue to foster good cooperation with neighboring governmental entities, to approve the proposed Utility Extension and Trail Cooperation IGA's substantially in the form attached. Staff recommends City Council approval of the IGA's.

RESOLUTION NO. 2025-__

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE
FOREST PRESERVE DISTRICT OF DUPAGE COUNTY REGARDING
CERTAIN TRAIL IMPROVEMENT PROJECTS**

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the City desires to enter into an intergovernmental agreement with the Forest Preserve District of DuPage County ("***District***") setting forth the parties' respective roles and obligations regarding three potential trail improvement projects should the trail improvement projects move forward in the future ("***Trail Improvement Agreement***"); and

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

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

WHEREAS, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve the Trail Improvement Agreement with the District;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Resolution as if fully set forth in this Resolution.

SECTION 2: Approval of Trail Improvement Agreement. The Trail Improvement Agreement by and between the City and the District is approved in substantially the form attached to this Resolution as **Exhibit A**.

SECTION 3: Execution. The City Council hereby authorizes and directs the Mayor and the City Clerk to execute, on behalf of the City, the Trail Improvement Agreement.

SECTION 4: Effective Date. This Resolution shall be in full force and effect following its passage and approval in the manner provided by law.

[VOTING AND APPROVAL PAGE FOLLOWS]

PASSED THIS ____ day of _____, 2025.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED THIS ____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A

TRAIL IMPROVEMENT AGREEMENT

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE FOREST PRESERVE DISTRICT OF DU PAGE COUNTY
AND THE CITY OF WARRENVILLE REGARDING THE DESIGN, FUNDING, IMPLEMENTATION,
AND MAINTENANCE OF WATERMAIN AND SANITARY SEWER FACILITIES**

This Intergovernmental Agreement (hereinafter "AGREEMENT") is made and entered into this _____ day of _____, 2025, by and between the Forest Preserve District of DuPage County, a body corporate and politic, (hereinafter "DISTRICT") and the City of Warrenville, an Illinois Home Rule Municipality, (hereinafter "CITY"). The DISTRICT and the CITY are hereinafter sometimes individually referred to as a "party" or together as the "parties."

WITNESSETH:

WHEREAS, the DISTRICT owns property commonly known as Blackwell Forest Preserve (hereinafter "Blackwell"); and

WHEREAS, the DISTRICT is constructing a new grounds and natural resources management complex (hereinafter "GNRMC") within Blackwell, North of Mack Road and located in unincorporated DuPage County, Winfield Township; and

WHEREAS, the DISTRICT desires to connect to municipal watermain and municipal sanitary sewer facilities to serve the GNRMC and the existing, proposed new, and the future replacement of DISTRICT facilities and buildings along Mack Road identified on Exhibit B (collectively with the GNRMC, the "District Buildings"); and

WHEREAS, the CITY owns and operates municipal watermain and municipal sanitary sewer facilities in the vicinity of the proposed GNRMC; and

WHEREAS, the DISTRICT requests authorization from the CITY to connect to the CITY'S existing watermain and sanitary sewer facilities, construct new watermain and sanitary sewer facilities, and connect the DISTRICT'S GNRMC and other DISTRICT facilities to the CITY'S new watermain and sanitary sewer facilities (collectively, the "Improvements"); and

WHEREAS, the new watermain and sanitary sewer facilities will be conveyed to the CITY via an Easement Agreement for the CITY to operate and maintain the new watermain and sanitary sewer facilities; and

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

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

NOW, THEREFORE, in consideration of the mutual 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 part hereof.

2.0 FEES

2.1 Unless specified otherwise in this document, all parties agree to waive standard and customary fees to each other for construction and permitting of the Improvements as well as for any easement and license fees, including tree fees, and other incidental costs associated with implementation of this intergovernmental agreement.

3.0 CITY'S EXISTING WATERMAIN AND SANITARY SEWER:

3.1 The CITY has an existing watermain located on the west side of Williams Road, south side of Mack Road, west side of the DISTRICT'S native plant nursery within Blackwell, and on the north side of Forestview Drive North ("Existing Watermain"). The CITY has an existing sanitary sewer located on the south side of Forestview Drive North ("Existing Sewer Main")(collectively, the Existing Watermain and Existing Sewer Main are the "Existing City Facilities"). A graphic illustration of the Existing City Facilities are attached hereto and incorporated herein as **Exhibit A**. The CITY has provided pressure/flow data and design plans/details for the Existing City Facilities. The DISTRICT understands the rate of flow and level of pressure ultimately provided is controlled by the capacity limits of the CITY'S existing watermain distribution system currently located at the intersection of Williams Road and Batavia Road, and accepts that rate of flow and level of pressure as-is.

4.0 WATERMAIN AND SANITARY SEWER SYSTEM EXTENSIONS

4.1 Project Scope, Design, Funding and Construction Responsibility: The DISTRICT will design, obtain the necessary permits, fund, and construct in accordance with the City's specifications public watermain extensions to the Existing Watermain to service the DISTRICT'S GNRMC and other DISTRICT facilities along Mack Road ("New Watermain Extension"). The DISTRICT will design, obtain the necessary permits, fund, and construct public sanitary sewer extension to the Existing Sewer Main to service the DISTRICT'S GNRMC and other DISTRICT facilities along Mack Road ("New Sewer Main Extension") (collectively, the New Watermain Extension and New Sewer Main Extension are the "City Facilities Extensions"). A graphic illustration of the City Facilities Extensions is attached hereto and incorporated herein as **Exhibit B**.

4.2 Construction Timing/Staging: The City Facilities Extensions will be constructed in one phase. The DISTRICT will use its best efforts to complete the construction of the City Facilities Extensions no later than December 31, 2025. Water and sanitary services running from the GNRMC and other DISTRICT facilities along Mack Road to the City Facilities Extensions are not anticipated to be constructed until 2026.

- 4.3 Permits, Review and Inspection Fees: The DISTRICT will (i) submit plans and specifications for the new watermain and sanitary sewer facilities for CITY review and approval and (ii) obtain all applicable CITY, Township, County, and State permits for this work. The CITY will waive all CITY building permit, storm water management permit, and/or engineering review and inspection fees related to the new watermain and sanitary sewer facilities and connections thereto..
- 4.4 Recapture Agreement: There will be no recapture fees associated with the watermain or sanitary sewer systems.
- 4.5 Watermain and Sanitary Easements on DISTRICT Property: The DISTRICT will grant a permanent exclusive City utility easement sufficient to authorize the construction, repair, maintenance, replacement, abandonment, or removal of the City Facilities Extensions within a portion of Blackwell in the form of an Easement Agreement acceptable to the City and recorded by the DISTRICT. The Easement Agreement shall include, without limitation, provisions prohibiting (i) any other underground utilities running parallel to the City Facilities Extensions within the easement; (ii) new trees, hardscapes, stockpile materials, structures, and permanent long-term storage of vehicles within the easement. The Easement Agreement shall be recorded after the City Facilities Extensions have been inspected by the CITY and determined to being compliance with the permits and City specifications but prior to the CITY's final acceptance of the new watermain and sanitary sewer facilities. Upon final acceptance of the watermain and sanitary sewer improvements by the CITY, the DISTRICT shall transfer ownership of the watermain and sanitary sewer facilities to the CITY via a Bill of Sale, which acceptance and bill of sale must be approved by the City Council of the CITY. The District shall be responsible for recording easement documents with the DuPage County's Recorders Office and pay all fees associated with recording those documents.
- 4.6 Design and Construction Oversight Consultant: The DISTRICT intends to issue a Request for Proposal (RFP) for engineering consultant design and oversight of the DISTRICT grounds and natural resources management complex watermain and sanitary sewer extension project to construct the City Facilities Extensions ("Project"). The CITY expects the DISTRICT will contract with a consultant or consultants and contractors with experience in the design and construction of this type of Project. Therefore, the DISTRICT will allow the CITY to review and comment on the draft RFP and bid documents they prepare for this Project, for both engineering and construction. The DISTRICT will incorporate CITY recommendations into the language of the RFP that are reasonable, defensible, and will help ensure respondents to the RFP and requests for bids are qualified to perform the required engineering design, provide the required level of construction oversight, and perform the required construction.
- 4.7 Final Acceptance, Guarantee, and Future Maintenance of City Facilities Extensions: CITY watermain service to any DISTRICT Mack Road buildings will not be activated until the GNRMC City Facilities Extensions are inspected and approved by the CITY. The DISTRICT will guarantee the proper installation and operation of all DISTRICT constructed public watermain related improvements for a one year maintenance period

that will commence on the date of CITY takes ownership of the City Facilities Extensions through the execution of the bill of sale. The DISTRICT shall be responsible for repairing or replacing defective materials or work identified by the CITY during the one-year maintenance period. Once the maintenance period expires, the City will be responsible for normal maintenance, repair, and replacement of the City Facilities Extensions.

5.0 MACK ROAD MAINTENANCE COMPLEX IMPROVEMENTS AND CITY WATER AND SANITARY SEWER CONNECTIONS

- 5.1 It is understood that the purpose of the new watermain and sanitary sewer facilities is to provide CITY domestic and fire protection water service and sanitary sewer service for the District Buildings. All of these buildings and facilities are or will be located in unincorporated Winfield Township. While the DISTRICT has determined that the maintenance, construction and possible future replacement of District Buildings are important to the safe and efficient maintenance of the forest preserve system, the DISTRICT and CITY recognize the “rural” character of the area they are and would be located in. In order to allow the DISTRICT to carry out its mission and minimize the impact improvements to the Mack Road Maintenance Complex may have on the surrounding neighborhood, and specifically, properties located in the City of Warrenville, the DISTRICT and CITY agree as follows:
- 5.2.1 DISTRICT buildings connected to CITY Water: Unless otherwise approved by both the CITY and the DISTRICT, only the District Buildings will be allowed to be connected to CITY water service. Once the City Facilities Extensions are completed and the District Buildings are connected, the CITY will, subject to the provisions of this AGREEMENT and the City Code, provide ongoing public water and sanitary service to the District Buildings.
- 5.2.2 Countywide Stormwater and Floodplain Ordinance Compliance: The DISTRICT will design and implement all new construction and reconstruction at the Mack Road Maintenance Complex in compliance with the DuPage Countywide Stormwater and Floodplain Ordinance in effect at the time of the implementation of any such project. The DISTRICT will obtain a DuPage County Stormwater Management Permit/Certification from DuPage County Stormwater Management for the planned new GNRMC prior to construction commencing on said facility.
- 5.2.3 Tap-on Fees and Water and Sewer Use Charges: The DISTRICT will pay applicable water meter and water and sanitary sewer use charges outlined in sections 7-4B-5 and 7-4C of the CITY’S City Code as now existing or hereafter amended. These fees are based on the size of the domestic water meter service pipe. The CITY agrees to waive all water and sanitary sewer tap-on fees for all of the District Buildings.

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 (a) name the CITY and the DISTRICT as non-contributory co-insureds on the liability insurance policy of the vendor, consultant or contractor and (b) 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 including the agents, servants and employees of the parties, for personal injury, death judgments and settlements that may at any time arise or be claimed by any person, 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 Government 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 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 facsimile transmission 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 CITY shall be directed to the City Administrator, City of Warrenville, 3S258 Manning Avenue, Warrenville, IL 60555. Notices served upon the DISTRICT shall be directed to the Executive Director, Forest Preserve District of DuPage County, P.O. BOX 5000 Naperville Road, Wheaton, IL 60189-5000. 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 the 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 the 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 multiple counterparts, and each copy 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 exclusively 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 set their hands and seals as of the date written above.

CITY OF WARRENVILLE

FOREST PRESERVE DISTRICT OF
DU PAGE COUNTY

David Brummel, Mayor

Daniel Hebreard , President

ATTEST:

ATTEST:

City Clerk

Secretary

4903-2165-3021, v. 2

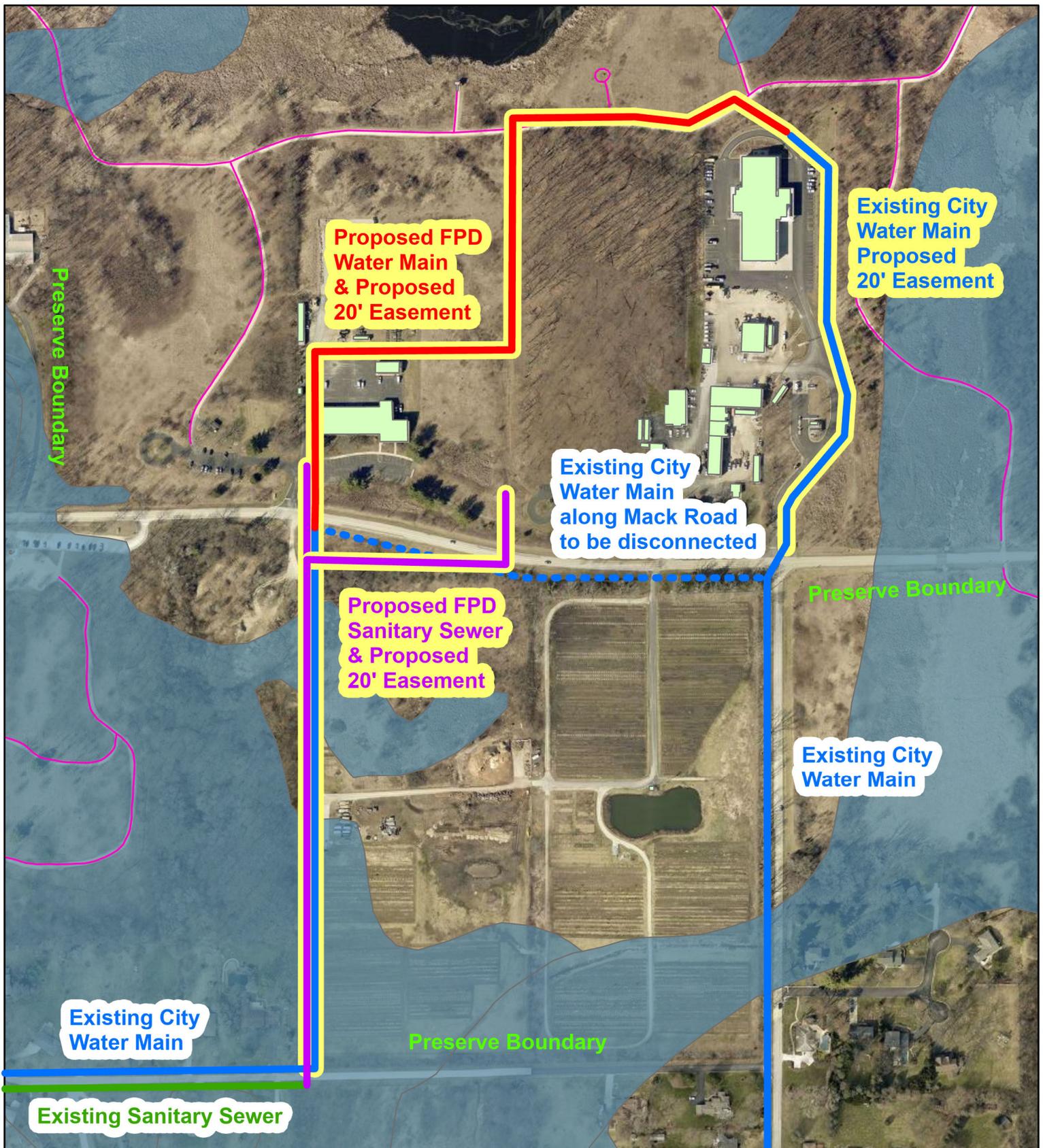
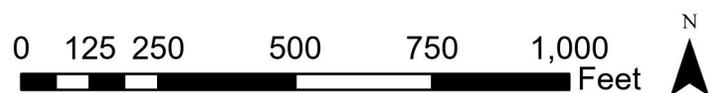


Exhibit A

Grounds and Natural Resources
 Management Maintenance Campus
 Project Number Z-021-030



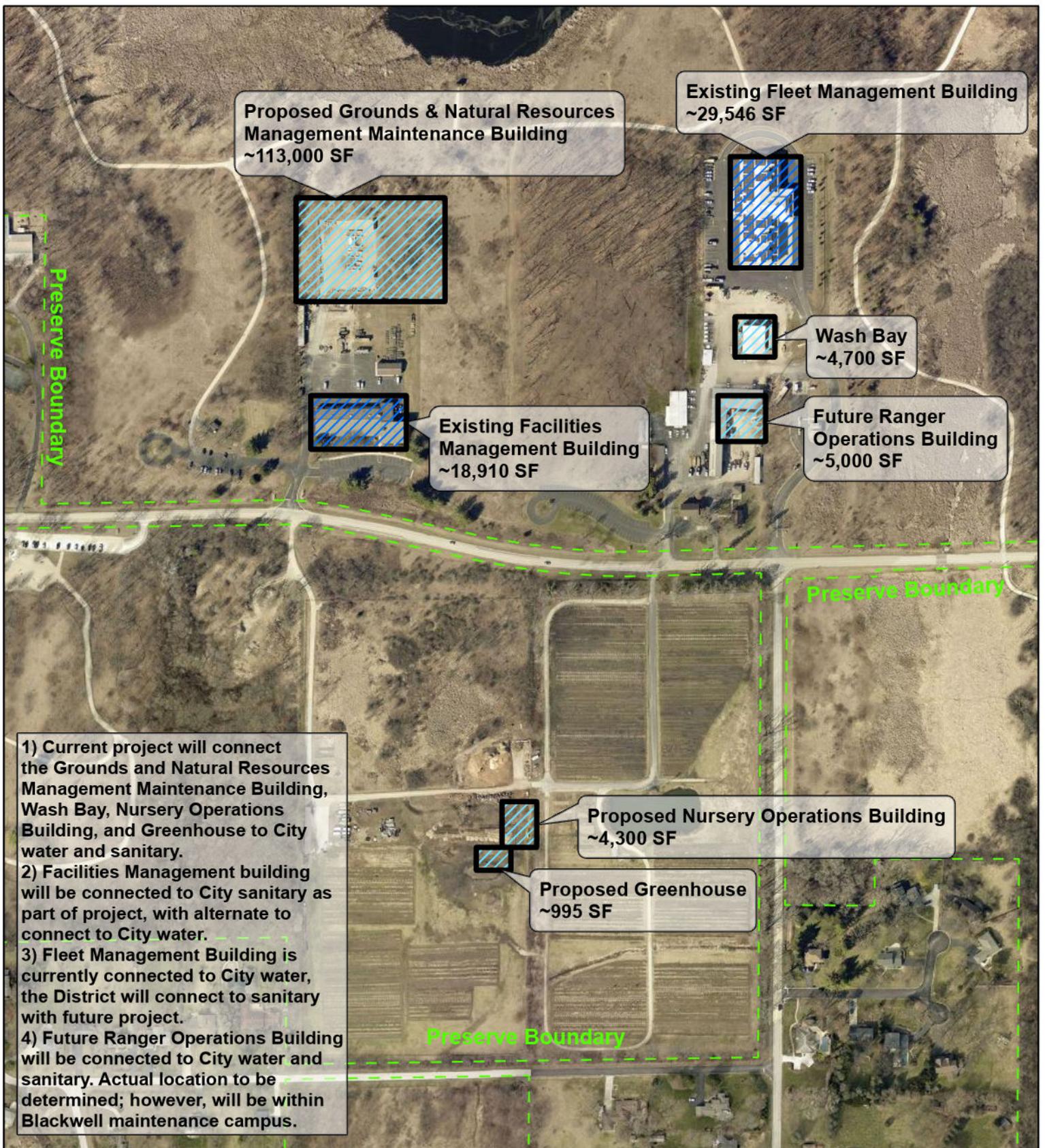
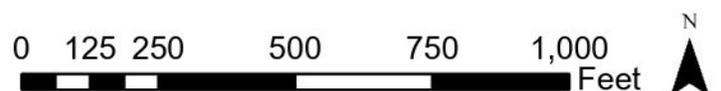


Exhibit B

Grounds and Natural Resources
Management Maintenance Campus
Project Number Z-021-030



RESOLUTION NO. 2025-__

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE
FOREST PRESERVE DISTRICT OF DUPAGE COUNTY REGARDING
CERTAIN TRAIL IMPROVEMENT PROJECTS**

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the City desires to enter into an intergovernmental agreement with the Forest Preserve District of DuPage County ("***District***") setting forth the parties' respective roles and obligations regarding three potential trail improvement projects should the trail improvement projects move forward in the future ("***Trail Improvement Agreement***"); and

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

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

WHEREAS, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve the Trail Improvement Agreement with the District;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Resolution as if fully set forth in this Resolution.

SECTION 2: Approval of Trail Improvement Agreement. The Trail Improvement Agreement by and between the City and the District is approved in substantially the form attached to this Resolution as **Exhibit A**.

SECTION 3: Execution. The City Council hereby authorizes and directs the Mayor and the City Clerk to execute, on behalf of the City, the Trail Improvement Agreement.

SECTION 4: Effective Date. This Resolution shall be in full force and effect following its passage and approval in the manner provided by law.

[VOTING AND APPROVAL PAGE FOLLOWS]

PASSED THIS ____ day of _____, 2025.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED THIS ____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A

TRAIL IMPROVEMENT AGREEMENT

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE FOREST PRESERVE DISTRICT OF DU PAGE COUNTY
AND THE CITY OF WARRENVILLE REGARDING THE DESIGN, FUNDING, IMPLEMENTATION
AND MAINTENANCE OF THREE TRAIL IMPROVEMENT PROJECTS**

This Intergovernmental Agreement (hereinafter "AGREEMENT") is made and entered into this _____ day of _____, 2025 ("EFFECTIVE DATE"), by and between the Forest Preserve District of DuPage County, a body corporate and politic, (hereinafter "DISTRICT") and the City of Warrenville, an Illinois Home Rule Municipality, (hereinafter "CITY"). The DISTRICT and the CITY are hereinafter sometimes individually referred to as a "party" or together as the "parties."

WITNESSETH:

WHEREAS, the DISTRICT has an extensive recreational trail system within DuPage County, including trails within and adjacent to CITY boundaries; and

WHEREAS, the CITY has requested that the DISTRICT work cooperatively with the CITY on certain proposed future trail improvement projects within and adjacent to the CITY corporate boundaries; and

WHEREAS, the parties acknowledge that none of the path improvement projects contemplated by this AGREEMENT have been specifically authorized by either the CITY or the DISTRICT, either through budget appropriations or otherwise; and

WHEREAS, in anticipation of these future potential path improvement project, the parties have decided to delineate their duties and responsibilities regarding the design, funding, construction and maintenance of the trail improvement projects, should such trail projects be implemented; and

WHEREAS, the parties have determined that it is reasonable, necessary and in the public interest and welfare to work cooperatively regarding the trail improvement projects; and

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

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

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

1.0 INCORPORATION OF RECITALS

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

2.0 TRAIL IMPROVEMENT PROJECTS

2.1 BATAVIA ROAD MULTI-USE TRAIL EXTENSION WEST OF BUTTERFIELD ROAD:

- a. **Project Scope:** The DISTRICT and the CITY concur that it would be desirable to coordinate on the design and potential construction of a new multi-use trail along the north side of Batavia Road, west of Butterfield Road. The trail would extend an existing multi-use trail approximately 500 feet west to connect to the Cenacle Trail in Blackwell Forest Preserve. A graphic illustration of the of the proposed trail is attached hereto and incorporated herein as **Exhibit A**.
- b. **Design Process:** The CITY will lead the preparation of the preliminary and final design plans for this trail improvement. The CITY will submit the preliminary design and final construction documents for said improvement to DISTRICT staff for input and approval. The DISTRICT will render a decision on the plans within 30 days after the CITY submits them to the DISTRICT. DISTRICT approval will not be unreasonably withheld. If the DISTRICT cannot approve the plans as presented, the DISTRICT will provide review comments to the CITY and allow for resubmittal.
- c. **Funding Responsibility:** The CITY shall be responsible for all funding for this trail improvement project. The DISTRICT, if requested by the CITY, will be a non-financial joint grant applicant on any grant funding applications the CITY prepares and submits for this trail improvement project.
- d. **Construction Responsibility:** The CITY will be responsible for coordinating all bidding, permitting, and construction activities associated with the implementation of this trail improvement project. The DISTRICT will work cooperatively with the CITY to facilitate the efficient construction of this trail.
- e. **Timing:** The CITY will have ten years from the EFFECTIVE DATE of this AGREEMENT to make a final decision on whether or not to implement this trail improvement project. For the purposes of this Section 2.1, the CITY will be deemed to have made a “final decision” when funding for any phase of engineering, property acquisition, or construction for this trail improvement project has been included in a budget approved by City Council. If the CITY does not make a final decision to move forward the trail improvement project within this ten-year period, the DISTRICT will have no further obligation or requirement under the AGREEMENT to cooperate, or accommodate its implementation; . The CITY will coordinate with the DISTRICT to conduct a public information and input meeting regarding this path improvement project within nine years after the EFFECTIVE DATE of this AGREEMENT. The Warrenville City Council will have one year after the public information and input meeting to make a final decision on whether to allocate required CITY funding and implement said improvement.
- f. **Maintenance responsibility:** If this trail improvement project is constructed, the CITY will be responsible for maintaining said trail improvements.
- g. **Easements and Acquisitions of Right-of-Ways:** The DISTRICT will grant all permanent and temporary construction easements on DISTRICT property necessary to construct and maintain this trail improvement project to the CITY pursuant to an easement agreement negotiated and executed by the DISTRICT and the CITY. The DISTRICT will waive all fees and costs associated with the easements and the easement

agreement, including tree removal fees and legal costs. The DISTRICT shall assist with acquisition of rights-of-way from third parties with support and coordination, but no funding will be provided for acquisition of third-party properties. The City shall be responsible for recording all easement documents with the DuPage County's Recorders Office and pay any fees associated with recording those documents.

- h. **Communication:** The DISTRICT will participate in project communication and provide support as necessary for this project.

2.2 DIEHL ROAD MULTI-USE TRAIL EXTENSION ACROSS WEST BRANCH DUPAGE RIVER TO MCDOWELL TRAIL:

- a. **Project Scope:** The DISTRICT and the CITY concur that it would be desirable to coordinate on the design and potential construction of a new multi-use trail along the south side of Diehl Road, west of Davis Parkway, west of Lund Lake. A pedestrian bridge across the West Branch DuPage River would be constructed to connect to the McDowell Trail. A graphic illustration of the of the proposed trail is attached hereto and incorporated herein as **Exhibit B**.
- b. **Design, Funding, Construction:** The DuPage County Division of Transportation ("DuDOT") will design, fund, and construct this path improvement project. The DISTRICT will coordinate with DuDOT regarding the project design, funding, and construction pertaining to license and easement requests to complete improvements. The CITY and the District, if requested by DuDOT will be a non-financial joint grant applicants on any grant funding applications DuDOT prepares and submits for this trail improvement project.
- c. **Timing:** The parties anticipate that this project will occur in coordination with the replacement of the Diehl Road Bridge, whenever such bridge is due for replacement as determined by DuDot.
- d. **Easements and Acquisitions of Right-of-Ways:** The DISTRICT and CITY shall negotiate and execute any easements necessary for the construction and maintenance of this path improvement on their respective properties and agree to waive all fees associated with the easements and the easement agreements, including tree removal fees and legal costs. The DISTRICT shall assist with acquisition of rights-of-way from third parties with support and coordination, but no funding will be provided for acquisition of third-party properties.
- e. **Communication:** The DISTRICT will participate in project communication and provide support as necessary for this project including cooperation with DuDOT and the CITY.

2.3 BLACKWELL WEST OF RTE. 59 TRAIL CONNECTION :

- a. **Project Scope:** The DISTRICT and the CITY concur that it would be desirable to coordinate on the design and potential construction of a new multi-use trail connection between Fox Hollow and Maple Hill subdivisions along one of two potential configurations: 1) through DISTRICT property along the CITY's current water and

sanitary easement; or 2) through DISTRICT property along the Route 59 frontage. A graphic illustration of the of the proposed trail is attached hereto and incorporated herein as **Exhibit C**.

- b. Design Process:** The CITY will lead the preparation of the design and construction plans for this trail improvement project. The CITY will submit the preliminary design and final construction documents for said improvement to DISTRICT staff for input and approval. The DISTRICT will render an opinion on the plans within 30 days after the plans are submitted to the DISTRICT. DISTRICT approval will not be unreasonably withheld. If the DISTRICT cannot approve the plans as presented, the DISTRICT will provide review comments to the CITY and allow for resubmittal.
- c. Funding Responsibility:** The CITY shall be responsible for all funding for this multi-use trail extension. The DISTRICT, if requested by the CITY, will be a non-financial joint grant applicant on any grant funding applications the CITY prepares and submits for this trail improvement project.
- d. Construction Responsibility:** The CITY will be responsible for coordinating all bidding, permitting, and construction activities associated with the implementation of this trail improvement project. The DISTRICT will work cooperatively with the CITY to facilitate the efficient construction of this trail.
- e. Easements:** The DISTRICT agrees to grant to the CITY all permanent and temporary construction easements on DISTRICT property necessary to construct and maintain this trail improvement project pursuant to an easement agreement negotiated and executed by the DISTRICT and the and CITY. The DISTRICT will waive all fees associated with the easements, including tree removal fees. The City shall be responsible for recording all easement documents with the DuPage County's Recorders Office and pay any fees associated with recording those documents.
- f. Timing:** The CITY will have twenty years from the EFFECTIVE DATE of this AGREEMENT to make a final decision on whether or not to implement this particular trail improvement. For the purposes of this Section 2.3, the CITY will be deemed to have made a "final decision" when funding for any phase of engineering, property acquisition, or construction for this trail improvement project has been included in a budget approved by City Council. If the CITY fails to make a final decision regarding these trail improvements within this twenty-year period, the DISTRICT will have no further obligation or requirement under the AGREEMENT to cooperate or accommodate its implementation. The CITY will coordinate with the DISTRICT to conduct the above referenced public information and input meeting within nineteen years from the EFFECTIVE DATE of this AGREEMENT. Within one year following the above referenced public information and input meeting, the Warrenville City Council will make a final decision on the trail improvement.
- g. Maintenance responsibility:** If constructed, the CITY will be responsible for maintenance and for all costs and expenses of said trail improvements.

- a. **Communication:** The DISTRICT will participate in project communication and provide support as necessary including cooperation with IDOT and the CITY.

3.0 INDEMNIFICATION

3.1 Each party to this AGREEMENT shall require that any third party vendor, consultant or contractor hired to do work on the project shall (a) name the CITY and the DISTRICT as non-contributory co-insureds on the liability insurance policy of the vendor, consultant or contractor and (b) 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.

3.2 Pursuant to the authority conferred by Article VII of the Local Government 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 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.

4.0 NOTICES

4.1 All notices required to be given under the terms of this AGREEMENT shall be in writing 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 CITY shall be directed to the City Administrator, City of Warrenville, 3S258 Manning Avenue, Warrenville, IL 60555. Notices served upon the DISTRICT shall be directed to the Executive

Director, Forest Preserve District of DuPage County, P.O. BOX 500, Wheaton, IL 60189-5000. Notices served by mail shall be effective upon receipt as verified by the United States Postal Service.

5.0 SEVERABILITY

5.1 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 the AGREEMENT can be given effect.

6.0 ENTIRE AGREEMENT

6.1 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.

6.2 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.

7.0 TERM

7.1 The term of this AGREEMENT will commence upon the EFFECTIVE DATE and terminate automatically upon the first of the following to occur: (i) all of the path improvements projects contemplated by Sections 2.1, 2.2, and 2.3 of this AGREEMENT have been completed; or (ii) 25 years; provided, however, that the parties may agree to extend the term of this AGREEMENT pursuant to a written amendment in accordance with Section 8.4 of this AGREEMENT.

8.0 MISCELLANEOUS TERMS

8.1 Nothing in this AGREEMENT should be construed to require or obligate any party to construct any of the path improvements described in this AGREEMENT, even if a "final decision" as defined in Sections 2.1 and 2.3 of this AGREEMENT, has been made.

8.2 This AGREEMENT shall be executed in multiple counterparts, and each copy shall be deemed an original.

8.3 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 exclusively be the Eighteenth Judicial Circuit Court for DuPage County.

8.4 This AGREEMENT may be amended or modified only by written instrument duly approved and signed by both parties.

8.5 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 set their hands and seals as of the date written above.

CITY OF WARRENVILLE

FOREST PRESERVE DISTRICT OF
DU PAGE COUNTY

David Brummel, Mayor

Daniel Hebreard, President

ATTEST:

ATTEST:

City Clerk

Secretary



DISTRICT Property

Proposed Multi-Use Path Connection

Batavia Road

Butterfield Road

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Exhibit A - Batavia Road Path Extension



Proposed Multi-Use Path Connection

W. Branch DuPage River

DISTRICT Property

Diehl Road

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri

Exhibit B - Diehl Road Path Extension



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Exhibit C - Route 59 Path Connection