



DATE: December 1, 2025

MEMO TO: Paul Frank, Chair
Planning Committee

FROM: John Nelson
Chief Operations Officer

Agenda Item # 11.6

RECOMMENDATION: Recommend approval of a Resolution approving an Easement Agreement with the Village of Lindenhurst for the Rose Tree Lane Drainage Outfall Project at McDonald Woods Forest Preserve.

STRATEGIC DIRECTIONS SUPPORTED: Conservation, Organizational Sustainability

FINANCIAL DATA: The easement is for a Village of Lindenhurst project. The total project cost estimate is \$795,000. The Village has received a grant through the Lake County Stormwater Management Commissions (LCSMC) DCEO-STOCIP Program in the amount of \$695,000. The Village and the District intend to equally fund the local share of costs, with the District's share not to exceed \$50,000. The District has allocated \$50,000 from the capital improvement plan (CIP) budget for Habitat Restoration (11104100-803200-60004).

BACKGROUND: In June 2024, the Planning Committee provided policy direction to staff to continue coordinating with the Village of Lindenhurst to negotiate and prepare an Agreement that will address land rights (permanent and temporary easements), grant agreements with LCSMC, financial costs, and other matters related to this project to address a long-standing infrastructure and erosion concern at McDonald Woods.

District and Village staffs have successfully negotiated an Easement Agreement for this project and recommend its approval now, so that the Village can proceed with construction in winter 2025-206. The general terms of the easement agreement are:

- Village shall complete the project pursuant to a construction contract with agreed terms and pursuant to agreed plans.
- Village and District shall equally fund the local share for the project, provided that the District's share will not exceed \$50,000.
- District shall grant a temporary easement to the Village (for its benefit and for the benefit of its contractors) for construction.
- Village will own the new storm sewer, and shall be responsible for the long-term maintenance, repair and replacement of the storm sewer pipe.
- District shall grant the Village a permanent easement for long-term access to, operation, and maintenance and access to the storm sewer.

REVIEW BY OTHERS: Director of Natural Resources, Director of Land Preservation, Manager of Board Operations, Corporate Counsel.

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**A RESOLUTION APPROVING AN EASEMENT AGREEMENT
WITH THE VILLAGE OF LINDENHURST FOR THE ROSE TREE LANE DRAINAGE
OUTFALL PROJECT AT MCDONALD WOODS FOREST PRESERVE**

WHEREAS, the Lake County Forest Preserve District (the “District”) owns property that is near Rose Tree Lane in Lindenhurst, Illinois, known as the McDonald Woods Forest Preserve (the “Property”); and

WHEREAS, the Village of Lindenhurst (“Village”) has proposed to make certain road improvements to a portion of Rose Tree Lane and related improvements, including the replacement of existing, deteriorated stormwater improvements that serve the Village’s public street system with new stormwater improvements, including drainage outfall improvements (the “Project”); and

WHEREAS, a portion of the Project would be constructed, operated, and maintained on the Property; and

WHEREAS, Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, authorizes the District to grant easements upon, under or across District property for the construction, operation, and maintenance of public service, including for the purpose of conveying stormwater from public streets; and

WHEREAS, District staff has negotiated an easement agreement with the Village in the form attached hereto as Exhibit A (the “Easement Agreement”) that provides for, among other matters (i) the District to grant a temporary easement to the Village for the construction of the Project, (ii) the District to grant a permanent easement to the Village to perpetually maintain, repair and replace the new stormwater improvements being installed as part of the Project, (iii) the Village to construct and complete the Project in accordance with a construction contract that includes legally required protections for the performance of a public works project on District property, and (iv) the District’s payment of a local share under the grant obtained by the Village, which local share will not exceed the lesser of (a) 50% of the total local share and (b) \$50,000.00 (collectively, the “Easement Requirements”); and

WHEREAS, it is in the best interests of the District to approve the Easement Agreement in substantially the form attached hereto, grant the easements to the Village and complete the Land Conveyances as provided in the Intergovernmental Agreement; and

WHEREAS, the District has adopted an Ordinance Regarding Licenses and Easements (the “License and Easement Ordinance”) which sets forth the general requirements for granting easements;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois **THAT**:

Section 1. Recitals. The recitals set forth above are incorporated as a part of this Resolution by this reference.

Section 2. Approval of Easement Agreement. The Easement Agreement is hereby approved in substantially the form attached hereto. The President and Secretary of the District are authorized to execute on behalf of the District (i) the Easement Agreement, in substantially the form attached hereto, and (ii) whatever other documents are necessary to effectuate the transactions contemplated by such Easement Agreement, provided that such documents have first been reviewed and approved by Corporate Counsel. In the event that any provision of the Easement Agreement conflicts with the License and Easement Ordinance, the conflicting provision of the License and Easement Ordinance is hereby waived.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this _____ day of _____, 2025

AYES:

NAYS:

APPROVED this _____ day of _____, 2025

Jessica Vealitzek, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

Prepared by and after
recording return to:
Matthew E. Norton
Burke, Warren, MacKay &
Serritella, P.C.
330 N. Wabash Ave.,
Suite 2100
Chicago, Illinois 60611

Above Space For Recorder's Use Only

**Easement Agreement
between
Lake County Forest Preserve District
and
Village of Lindenhurst**

This Easement Agreement (this "Agreement") is dated and executed as of the ____ day of _____, 2025 (the "Effective Date"), and is by and between the Lake County Forest Preserve District, a body politic and corporate organized and existing under the Downstate Forest Preserve District Act, 70 ILCS 805/.001 et seq. (the "District"), and the Village of Lindenhurst, an Illinois municipality (the "Village"). The District and Village may be referred to individually as a "Party" or collectively as the "Parties" throughout this Agreement. In consideration of the provisions below and other consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Village agree as follows:

1. Background.

A. The District holds fee simple title to certain property commonly known as McDonald Woods Forest Preserve (the "Subject Property"). There currently exists within the southwest corner of the Subject Property, near the intersection of Beck Road and Rose Tree Lane, a certain storm sewer pipe that conveys stormwater flows into the Subject Property (the "Existing Storm Sewer"). The Existing Storm Sewer is generally depicted on Exhibit A attached to this Agreement. The Village owns and operates the Existing Storm Sewer. The Existing Storm Sewer has deteriorated so that it no longer is sufficiently capturing and conveying stormwater and so that it is allowing, and threatening to further allow, stormwater to significantly erode soil within the Subject Property and adjacent properties within the Village.

B. The Village desires to (a) remove the Existing Storm Sewer and, (b) install, own, operate, maintain, and replace a new storm water outfall structure and drainage improvements and other related infrastructure and appurtenances (collectively, the "New Storm Sewer") all over portions of the Subject Property legally described in Exhibit B-1 attached hereto and depicted on Exhibit C attached hereto as the

“Permanent Easement Premises”), and (b) temporarily enter and use the surface of the portion of the Subject Property legally described on Exhibit B-2 attached hereto and depicted on Exhibit C as the “Temporary Easement Premises”, for the limited purpose of staging equipment, storing materials, and performing the work described above (collectively, the Permanent Easement Premises and the Temporary Easement Premises are the “Easement Premises”). Collectively, the removal of the Existing Storm Sewer and the installation, ownership, operation, and maintenance of the New Storm Sewer within the Easement Premises is the “Project”.

C. The Village has received approval for a grant for the Project through the Lake County Stormwater Management Commission (“SMC”) in the amount of \$695,000. The Village has advised the District that, as a condition of such grant, the Village will be required to pay a local share of the cost of the Project, which local share is estimated by the Village to be \$100,000. The District and the Village desire that the District pay the Village a portion of such local share equal to the lesser of (i) fifty percent (50%) of such local share and (ii) \$50,000 (the “District’s Local Share Contribution”).

2. Grant of Easements. Subject to this Agreement, the District hereby grants to the Village, for its use and for the use of its Contractor (defined below) pursuant to a Construction Contract (defined below): (a) a non-exclusive temporary construction easement on and over the Temporary Easement Premises for the sole purposes of performing construction staging and other construction activity related to the Project (the “Temporary Easement”) and (b) a non-exclusive permanent easement on, over, and under the Permanent Easement Premises for the sole purposes of removing the Existing Storm Sewer and installing, operating, and maintaining the New Storm Sewer water outfall structure and drainage improvements (the “Permanent Easement”) (collectively, the Temporary Easement and the Permanent Easement are the “Easements”). The Easements include the right to trim, cut, fell, and remove all trees, shrubs, roots, underbrush, obstructions, and any other vegetation, structures, appurtenances, or obstacles within the limits of the Easement Areas which interfere with the Project or the above purposes of the Easements.

3. Terms of Easements. The Easements shall be effective on the Effective Date. The term of the Temporary Easement shall expire two hundred and seventy (270) days after the Village begins constructing the Project, subject to the Village’s unilateral right to extend the expiration date by an additional one hundred and eighty (180) days by providing notice to the District at least fifteen(15) days prior to the expiration of such 270-day period. The term of the Permanent Easement shall be perpetual.

4. Performance of the Work.

A. Construction Contract Requirements. With respect to the Project, and all work which is being performed on the Subject Property, the Village shall (i) obtain all permits and approvals for the Project required by all applicable laws (the “Requirements of Law”) and (ii) cause the Project to be completed pursuant to, and in accordance with, one or more contracts (collectively, the “Construction Contract”) between the Village and a general contractor (the “Contractor”), in a form reasonably reviewed and approved by the District’s Executive Director, which approval shall not be unreasonably withheld or delayed. The Village shall be solely responsible for the cost of the Project, except that, upon completion of the Project in accordance with the Construction Contract, the District shall promptly pay the District’s Local Share Contribution to the Village.

The Construction Contract shall:

- (a) be awarded through a process that complies with applicable laws governing the Village,
- (b) require that the Project be completed (i) in a good and workmanlike manner, at no cost and expense to the District, (ii) in accordance with the engineering plans that are identified in

the cover sheet for such plans, which is attached to this Agreement as Exhibit D (the “Plans”), and (iii) in accordance with Requirements of Law, including without limitation all Requirements of Law that prohibit, restrict, or regulate any hazardous materials,

- (b) require the Contractor to pay prevailing wages in accordance with the Prevailing Wage Act,
- (c) require the Contractor to obtain and maintain sureties in accordance with the Public Construction Bond Act, including without limitation a performance bond or letter of credit in a penal sum not less than the contract price of the Construction Contract, guaranteeing completion of the Project in accordance with the provisions of the Construction Contract, including, without limitation, any required restoration and repair of any damage to the Easement Premises or any other property owned by the District (the “Performance Security”); however, the Performance Security or any component of it (e.g., a performance bond) may be a single bond for the benefit of both the Village and the District, and the Construction Contract will not require the Contractor to obtain two bonds for the same portion of the Project,
- (d) require the Contractor to indemnify the District against any claims arising from the Contractor’s negligence, which form of indemnification will be subject to the review and approval of the District’s Executive Director, which approval will not be unreasonably withheld or delayed,
- (e) satisfy the insurance requirements of Section 10 of this Agreement,
- (g) provide for the Contractor’s warranty that, for a period of not less than one year after the District’s acceptance, the Project will be free from defects and flaws in design, workmanship, and materials and shall conform to the requirements of the Construction Contract, and
- (g) grant the District, as a third-party beneficiary, the right to enforce the provisions of the Construction Contract that are required in this Section, including the right to invoke the Performance Security with respect to the Project being performed on the Subject Property.

Prior to performing any work on the Project, the Village shall provide to the District copies of the executed Construction Contract and Performance Security. As stated above, the Construction Contract may be comprised of more than one contract, including one or more contract that allows initial clearing other preliminary work.

B. Changed Work. If, with respect to any work on the Project, the Village or the Contractor desires to perform work that deviates from the work as depicted in the Plans (the “Changed Work”), they shall, prior to the commencement of any Changed Work, submit revised Plans depicting the Changed Work and obtain the written approval of the District’s Executive Director, which approval will not be unreasonably withheld or delayed.

5. Maintenance of Easement Premises and New Storm Sewer.

A. Easement Premises and New Storm Sewer. The Village shall (i) at all times, maintain the Easement Premises in a safe, good, and clean condition, (ii) maintain and repair the New Storm Sewer in good operating condition, and (iii) when the New Storm Sewer cannot be reasonably maintained or repaired, replace the New Storm Sewer.

B. Other District Property. In addition to its obligations under Section 6, the Village shall promptly clean all debris deposited by the Village or any agent of or contractor hired by, or on behalf of, the Village, on any property owned by the District, and shall repair any damage to any property owned by the District caused by the activities of the Village or any agent of or contractor hired by, or on behalf of, the Village, in connection with the Project. If the Village fails to clean or repair, or undertake with due diligence to clean or repair, any property owned by the District within 24 hours after the District gives the Village notice thereof, then the District may, but will not be obligated to, cause the affected property to be cleaned or repaired and the Village shall reimburse the District for all costs incurred by the District to cause the affected property to be cleaned or repaired.

C. Abatement of Dangerous Condition. If the District reasonably determines that the work performed by the Village or the Contractors for the Project threatens the public health and safety (i) the District may, but will not be obligated, to take all action that it deems necessary to abate the dangerous condition and (ii) the Village shall reimburse the District for all costs incurred by the District in the performance of such action.

6. Restoration and Vacation.

A. Upon Completion of Work. Upon completion of the Work, the Village shall, at no cost to the District, restore the Easement Premises in accordance with the Plans.

B. Upon Termination of Easements. Upon the agreed termination of the Easements, the Village shall, at no cost to the District: (i) remove any facilities from the Easement Premises, (ii) restore the Easement Premises in accordance with the Plans, and (iii) thereafter, vacate the Easement Premises. If the Village fails to remove any facilities or restore the Easement Premises as required, the District may, but will not be obligated to, perform and complete the removal and restoration and the Village shall reimburse the District for all costs incurred by the District for such work.

7. Reservation of Rights. The District reserves its right to: (a) use the Easement Premises for any authorized purpose, (b) grant other non-exclusive licenses or easements within the Easement Premises, and (c) full and normal access to the Easement Premises, so long as such use, grant, or access does not unreasonably prevent, impede, or interfere with the Village's use of the Easement Premises or other rights granted under this Agreement. The Village shall perform the Work so that it does not unreasonably interfere with the District's reserved rights.

8. No Assessments and Liens. The Village represents and warrants that it shall: (a) not assess or impose, or allow to be assessed or imposed, against the Easement Premises any special assessment, special service area tax, recapture fee, or similar assessment, tax, or fee (an "Assessment"), (b) indemnify the District from any Assessment that is imposed, (c) take all necessary action to keep the Easement Premises free and clear of all liens, claims, and demands, including without limitation mechanic's liens, in connection with the Project, and (d) cause, at no cost to the District (i) any lien that is filed against the Easement Premises in connection with the Project to be discharged and released, and (ii) evidence of this discharge and release to be recorded against the Easement Premises, all within 30 days after the date the lien is filed.

9. Indemnity.

A. The Village shall indemnify, hold harmless, defend, and release the District, its commissioners, officers, agents, and employees from and against any alleged loss, claim, damage, and expense (including, without limitation, reasonable attorneys' fees and litigation costs) that may be alleged or asserted by a third-party against any of those parties in connection with (a) the Project, the Easements, or the use of the Easement Premises or Subject Property by the Village or (b) the Village's performance of, or failure to

perform, its obligations under this Agreement (collectively, the “Village Indemnified Claims”), whether or not any such performance or failure to perform is alleged to result from the Village’s breach of this Agreement, negligence, willful misconduct, or any other standard of conduct and whether or not such Village Indemnified Claim is covered by the Insurance required in Section 10 below; however, this indemnity shall not apply to the extent any Village Indemnified Claims are caused by the willful misconduct or negligence of the District or are subject to indemnity of the District by the Contractor as provided in paragraph 4(A)(d) above.

B. The District shall indemnify, hold harmless, defend, and release the Village, its officials, officers, agents, and employees from and against any alleged loss, claim, damage, and expense (including, without limitation, attorneys’ fees and litigation costs) that may be alleged or asserted by a third-party against any of those parties in connection with (a) the use of the Subject Property by the District or (b) the District’s performance of, or failure to perform, its obligations under this Agreement (collectively, the “District Indemnified Claims”), whether or not any such performance or failure to perform is alleged to result from the District’s breach of this Agreement, negligence, willful misconduct, or any other standard of conduct and whether or not such District Indemnified Claim is covered by the Insurance required in Section 10 below; however, this indemnity shall not apply to the extent any District Indemnified Claims are caused by the willful misconduct or negligence of the Village or are subject to indemnity of the Village by the Contractor as provided in the Construction Contract.

10. Insurance. At all times while any work is being performed for the Project, the Village shall cause its contractors to, at no cost or expense to the District, procure and maintain insurance policies sufficient to protect the District, the Easement Premises, the Subject Property, and any other property owned by the District from the Indemnified Claims, the Project, and all other actions by the Contractor or its subcontractors or agents pursuant to this Agreement. The policies, coverages, limits, and insurers that issue them are subject to the District’s approval, which will not be unreasonably withheld. . The Village shall cause the District to be named as an additional insured on all such policies, and shall provide to the District certificates of insurance acceptable to the District evidencing the insurance required by this Section.

11. Easement Fee. In light of the stormwater and anti-erosion benefits of the Project that will accrue to the District and the Subject Property, the Village will not be required to pay or reimburse to the District any monetary fee, tree compensation fee, out-of-pocket costs, staff costs, or legal costs that would otherwise be payable to the District.

12. Covenants Running With the Land. The Easements and the rights granted in this Agreement, the restrictions imposed by this Agreement, and the agreements and covenants contained in this Agreement shall be easements, rights, restrictions, agreements and covenants running with the land, shall be recorded against the Easement Premises, and shall be binding upon and inure to the benefit of the District and the Village and their respective successors, assigns, and representatives, including, without limitation, all subsequent owners of the Easement Premises, or any portion thereof, and all persons claiming under them. Promptly after the full execution and delivery of this Agreement by the District and the Village, the Village shall, at no cost to the District, record this Agreement against the Easement Premises with the office of the Recorder of Deeds of Lake County, Illinois.

13. Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered: (a) personally, (b) by a reputable overnight courier, or (c) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of: (a) actual receipt, (b) one business day after deposit with an overnight courier, as evidenced by a receipt of deposit, or (c) four business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section, each Party shall have the right to change the address or the addressee, or both,

for all future notices and communications to the other Party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the District shall be addressed and delivered to the following address:

Lake County Forest Preserve District
1899 West Winchester Road
Libertyville, IL 60048
Attention: Executive Director

With a copy to:

Burke, Warren, MacKay & Serritella, P.C.
330 N. Wabash Street, 21st Floor
Chicago, IL 60611
Attention: Mathew E. Norton

Notices and communications to the Village shall be addressed and delivered to the following address:

Village of Lindenhurst
2301 East Sand Lake Road
Lindenhurst, Illinois 60046
Attention: Village Administrator

With a Copy to:

Ancel Glink, P.C.
140 S. Dearborn Street, 6th Floor
Chicago, IL 60603
Attention: Kurt S. Asprooth

Nothing in this Section will be deemed to invalidate a notice actually received by a Party, include a notice actually received, but given by a means other than as provided in this Section.

14. General Provisions.

A. Entire Agreement. This Agreement is the entire agreement between the Parties and supersedes all of their prior agreements and negotiations, written or oral, relating to the subject matter of this Agreement.

B. Governing Law; Venue. This Agreement is governed by the internal laws, but not the conflict of laws rules, of the State of Illinois. Venue for all disputes arising under this Agreement shall lie exclusively in the Circuit Court of Lake County, Illinois.

C. Assignment. Without limiting Section 12, neither this Agreement, the Parties' respective obligations, nor the Easements may be assigned by the District or Village without the prior written consent of the other Party, which may be granted or denied in the Party's sole discretion.

D. No Waiver. Any act or omission by either Party that may constitute a waiver of one or more its rights under this Agreement shall not constitute or be deemed to be a waiver of any other right that the Party has or may have in the future under this Agreement.

E. Authority. Each person signing this Agreement hereby states and covenants that he or she has read and understood this Agreement, that he or she has the authority to execute this Agreement on behalf of the Party whom he or she represents, and that such Party intends to be legally bound by the provisions of this Agreement.

F. No Third-Party Beneficiaries. No claim as a third-party beneficiary under this Agreement by any person or entity may be made, or be valid, against the District or Village.

G. Relationship of the Parties. Nothing contained in this Agreement shall be deemed or construed to create any relationship of principal and agent, or of limited or general partnership, or of joint venture between the District and Village.

H. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

I. Enforcement; Prevailing Party. The District and the Village may, in law or in equity, by suit, action, mandamus, or any other proceeding, including, without limitation, specific performance, enforce or compel performance of this Agreement. In the event of a judicial proceeding brought by one Party against the other Party, the prevailing Party in the judicial proceeding shall be entitled to reimbursement from the unsuccessful Party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with the judicial proceeding.

[Signature page follows]

Attest:

Lake County Forest Preserve District

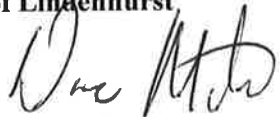
By: _____

By: _____

Attest:

Village of Lindenhurst

By: _____

By:  _____

Printed Name: _____

Printed Name: DOMINIC MARTURANO

Its: _____

Its: VILLAGE PRESIDENT

Acknowledgments

State of Illinois)
) SS
County of Lake)

On _____, 2025, this instrument was acknowledged and executed before me _____ of the **Lake County Forest Preserve District**, a body politic and corporate, and attested to by _____, _____, of said District.

Signature of Notary

Seal

My Commission expires:

State of Illinois)
) SS
County of Lake)

On November 24, 2025 this instrument was acknowledged and executed before me Dominic Maturano, Village President of the **Village of Lindenhurst**, an Illinois municipality, and attested to by MEISSA FORSBERG, Village Clerk of said Village.



Amie Miller
Signature of Notary

My Commission expires: September 23, 2028

Exhibit A

Survey with Existing Storm Sewer System

Exhibit B-1

Legal Description of Permanent Easement Premises

Exhibit B-2

Legal Description of Temporary Easement Premises

Exhibit C

Depiction of Easement Premises

Exhibit D

Cover Sheet for Plans