



DATE: January 8, 2024
MEMO TO: Paras Parekh, Chair
Planning Committee
FROM: Kevin Kleinjan
Director of Planning

Agenda Item # 10.3

RECOMMENDATION: Recommend approval of a Resolution approving an Amended and Restated Intergovernmental Agreement with the Libertyville Township Road District providing for the granting of temporary easements and the conveyance of fee simple interest in District property required for the Oak Spring Road Bridge Replacement project at Wilmot Woods Forest Preserve.

STRATEGIC DIRECTIONS SUPPORTED: Public Access and Connections, Leadership

FINANCIAL DATA: There is no financial impact at this time. The Libertyville Township Road District (Road District) is financing this project in part with grant funds administered through the Illinois Department of Transportation (IDOT). For the Road District to meet IDOT's current contract letting schedule, there is not sufficient time for the parties to obtain and review appraisals of the property values. As such, to meet the schedule, the District's conveyance to the Road District must be a donation. District staff is exploring whether it can, consistent with IDOT's definition of a "donation", require the Road District to reimburse the District for up to \$5,000 in legal fees for negotiation and preparation of the Amended and Restated Intergovernmental Agreement.

BACKGROUND: The Road District is nearing the completion of its Phase I Engineering Study for replacement of the Oak Spring Road bridge over the Des Plaines River. The Forest Preserve District owns property on both sides of Oak Spring Road in the vicinity of the bridge and the right-of-way. The proposed bridge abutments are expected to extend beyond the limits of the existing right-of-way.

The Road District has expressed its need to acquire (i) fee simple interest in approximately 0.1 acres of Forest Preserve District property for the use of the new bridge abutments, (ii) a temporary construction easement in 0.7 acres of Forest Preserve District property for the construction of the new bridge abutments, and (iii) a temporary construction easement within the District's existing canoe launch parking lot for construction staging during the project. Upon completion of the project, the Road District will restore the easement areas, including repaving the entire entrance drive and parking lot. This parking lot is nearing the end of its useful life and is on the District's list for re-surfacing within the next 5 years.

On November 21, 2022, the Road District and the Forest Preserve District entered into an Intergovernmental Agreement (IGA), under which the Forest Preserve District agreed to provide the Road District with the requested temporary easements and fee simple property.

However, the Road District is now asking that the IGA be renegotiated, amended, and restated. At the time the IGA was negotiated, the Road District did not have a complete understanding of the Illinois Department of Transportation's (IDOT) right-of-way acquisition process requirements which must be followed for the Road District to obtain State and federal funding for the project. On December 13, 2023, the District received the attached letter from the Road District requesting an amended and restated IGA that responds to several issues that need to be addressed before the ROW acquisition can be certified by IDOT including:

- 1) Any provision which gives the District the right to terminate the easement thereby causing a disruption of the project is not permitted under any circumstances.
- 2) The provision regarding the review/approval of the parking lot reconstruction cannot exceed the construction standards contained in IDOT's Standard Specifications for Road and Bridge Construction.
- 3) Insurance requirements to be provided by the Road District's general contractor cannot exceed those contained in IDOT's Standard Specifications.

The proposed Amended and Restated Intergovernmental Agreement (the "Restated Agreement") would remove the District's right to terminate any easements and require that the parking lot reconstruction follow IDOT's Standard Specifications. In addition, the terms of the Restated Agreement would replace the District's insurance requirements with requirements listed in IDOT's Standard Specifications. Also, to be consistent with the requirement that this conveyance be a "donation," the Restated Agreement provision requiring the Road District to restore the parking lot is more accurately stated as a restoration obligation, rather than as consideration for the value of the property rights conveyed.

REVIEW BY OTHERS: Chief Operations Officer, Director of Finance, Manager of Board Operations, Corporate Counsel.



LIBERTYVILLE TOWNSHIP

ROAD DISTRICT

MARTIN J. NEAL
Highway Commissioner

December 13, 2023

Randy Seebach
Lake County Forest Preserve District
1899 W. Winchester Rd.
Libertyville, IL 60048-5367

RE: Request for Amended and Restated IGA
Route: Oak Spring Road
Limits: over Des Plaines River
Lake County
Job No.: R-55-001-97
Parcel: 0001, 0002, 0003, 0006 & 0007

Dear Mr. Seebach:

As you have been previously informed, Libertyville Township Road District (Township) proposes to reconstruct and replace the bridge on Oak Spring Road over the Des Plaines River in Libertyville Township, Illinois. This improvement requires the acquisition of property owned by the Lake County Forest Preserve District (District).

While we previously negotiated and approved an IGA between the Township and the District, we did so without a complete understanding of the requirements of the Illinois Department of Transportation (IDOT) which is responsible for the certification of the right-of-way (ROW) acquisition process which is necessary to obtain the state and federal funding the Township needs to complete this project.

IDOT has identified several issues that need to be addressed in order for the Township to have the acquisitions from the District approved by IDOT, as follows:

- Any provision which gives the District the right to terminate the easements thereby causing a disruption of the project are not permitted under any circumstances.
- The provision regarding the review/approval of the parking lot reconstruction cannot exceed the construction standards contained in IDOT's Standard Specifications for Road and Bridge Construction (Adopted January 1, 2022) (Standard Specs).
- The insurance requirements to be provided by the general contractor cannot exceed those contained in the Standard Specs.

Finally, IDOT needs the IGA to be revised so that the conveyance of the ROW parcels by the District to the Township is not consideration for the Township's agreement to restore the parking lot. The revised IGA may include a requirement that the parking lot be restored (in fact, such restoration is already a commitment in the Preliminary Design Report prepared in Phase I of this project); however, restoration cannot be consideration for the property conveyances – doing so would run afoul of the appraisal, fair market value, and related requirements attached to the state and federal funding process.





LIBERTYVILLE TOWNSHIP

ROAD DISTRICT

MARTIN J. NEAL
Highway Commissioner

We respectfully request that the Planning Committee of the District consider the Township's request for an amended and restated IGA, so that we can work collaboratively to complete the ROW acquisition process which will permit the Township to reconstruct and replace this bridge structure. For the Township, time is of the essence. To meet IDOT's date for letting the construction contract for the project, the conveyance from the District to the Township must be completed on or before January 19, 2024. To meet this deadline, as we understand the District's legislative process, that means the District's Board of Commissioners would have to approve an amended and restated IGA at its January 17, 2024, meeting.

Thank you for your consideration.

Very truly yours,

Martin J. Neal
Highway Commissioner

cc: Jim Hartman
Kevin Kleinjan
Ken Jones
Matt Norton
Javi Santacruz



STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR JANUARY MEETING
JANUARY 17, 2024**

MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **PLANNING COMMITTEE** presents herewith “A Resolution approving an Amended and Restated Intergovernmental Agreement with the Libertyville Township Road District for the Oak Spring Road Bridge Replacement at Wilmot Woods Forest Preserve,” and requests its approval.

PLANNING COMMITTEE:

Date: 1-8-2024 Roll Call Vote: Ayes: _____ Nays: _____
 Voice Vote Majority Ayes; Nays: 0

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

**A RESOLUTION APPROVING AN AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT WITH THE LIBERTYVILLE TOWNSHIP
ROAD DISTRICT FOR THE OAK SPRING ROAD BRIDGE REPLACEMENT AT
WILMOT WOODS FOREST PRESERVE**

WHEREAS, the Lake County Forest Preserve District (the “District”) owns certain parcels of land within Wilmot Woods Forest Preserve (the “Property”) located on each side of Oak Spring Road; and

WHEREAS, the Libertyville Township Road District (the “Road District”) has proposed the replacement of the Oak Spring Road bridge improvements along or near the Des Plaines River (the “Project”); and

WHEREAS, the District and the Road District entered into an Intergovernmental Agreement dated November 21, 2022 (the “Current Agreement”) that provides for (i) the grant of temporary construction easements within the Property, including (a) a construction staging easement within the District’s existing canoe launch parking lot adjacent to the bridge and (b) a temporary construction easement within approximately 0.7 acres for the construction of new bridge abutments, and (ii) the conveyance of fee simple interest in approximately 0.1 acres of the Property (the “Fee Simple Parcel”) for construction/replacement of the existing Oak Spring Road bridge (collectively, the “Land Conveyances ”); and

WHEREAS, the District and the Road District desire to enter into an Amended and Restated Intergovernmental Agreement in substantially the form attached hereto (the “*Restated Agreement*”) to provide for the Land Conveyances in a manner that conforms to Illinois Department of Transportation right-of-way acquisition requirements that apply as a condition of the Road District’s receipt of State and federal funding for the project; and

WHEREAS, it is in the best interest of the District to enter into the Restated Agreement in substantially the form attached hereto, which will rescind, replace, and supersede the Current Agreement; and

WHEREAS, pursuant to Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, the District has the power to grant easements and rights-of-way for public services; and

WHEREAS, in accordance with Section 2 of the Local Governmental Property Transfer Act, 50 ILCS 605/2, the Road District has adopted, or will adopt, an ordinance declaring that it is necessary or convenient for it to use and occupy the Fee Simple Parcel (the “Road District Ordinance”); and

WHEREAS, the District is authorized to enter into the Restated Agreement pursuant to the above authority and the Intergovernmental Cooperation Act, 5 ILCS 200/1 et seq., which allows any power, privilege, function, or authority exercised by a public agency, including the District and

the Road District, to be exercised, combined, transferred, and enjoyed jointly with any other public agency to the extent not prohibited by law, and pursuant to other applicable authority;

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 Restated Agreement. The Restated Agreement is hereby approved in substantially the form attached hereto or in a final form to be approved by the Executive Director consistent with this Resolution. The Executive Director is authorized to approve the final form of the Restated Agreement, including any changes necessary to satisfy the Illinois Department of Transportation's criteria or requirements for the receipt of State and/or federal funding for the project and related land acquisition. The President, Executive Director, and Secretary are authorized and directed to execute and attest, on behalf of the District, the Restated Agreement in the final form approved by the Executive Director, and whatever other documents are necessary to effectuate the transactions contemplated by the Restated Agreement. In the event that any provision of the Restated 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 (i) its passage and approval in the manner provided by law and (ii) approval by the Road District of the Road District Ordinance.

PASSED this ____ day of _____, 2024

AYES:

NAYS:

APPROVED this ____ day of _____, 2024

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____