



Board of Commissioners
Regular Business Meeting
910 N Gary Ave
Premier Room

February 26, 2024

6:00pm

- 1. Call To Order**
- 2. Roll Call – Pledge of Allegiance**
- 3. Listening Post**
- 4. Changes or Additions to the Agenda**
- 5. Consent Agenda**

All items listed are included in the Consent Agenda. There will be no separate discussion of these items. Members of the public may petition in writing that an item be removed from the Consent Agenda.

 - A. Approval: Regular Minutes: February 12, 2024
- 6. Discussion Items**
 - A. Fountain View Fitness Annual Report
 - B. Wayne Township IGA - Parking Lot
 - C. Strategic Planning Process
 - D. Weekly Happenings
- 7. Action Items**
 - A. Approval: Intergovernmental Agreement - Carol Stream Park District and the Village of Carol Stream for Klein Creek Section 1 - Memorial Park
 - B. Approval: Intergovernmental Agreement - Carol Stream Park District and the Village of Carol Stream for Community Park Stormwater Management
- 8. Closed Session**
- 9. Action Pertaining to Closed Session**
- 10. Adjournment**



Board of Commissioners
Regular Meeting
February 12, 2024
6:00pm

Call to Order	Commissioner Jeffery called the meeting to order at 6:00 pm.								
Roll Call/Pledge of Allegiance	Present: Commissioners Powers, Sokolowski, Jeffery, and Bird. Commissioner Gramann, Del Preto and Witteck were absent. Staff: Executive Director Rini, Directors Bachewicz, Hamilton, Scumaci, and Quinn, Superintendent Adamson, and Executive Assistant Greninger.								
Listening Post	Director Bachewicz introduced Recreation Manager Kelly Sisco. Kelly oversees the Before and After Care Program, Days Off Club, Summer Camps, and Preschool. She has been a Recreation Professional for 24 years, and previously worked at Addison and Salt Creek Park Districts. She lives in Carol Stream with her husband of 23 years, three kids and two dogs.								
Changes to the Agenda	None								
Consent Agenda	<p>Commissioner Powers made a motion to accept the consent agenda as read. Seconded by Commissioner Bird.</p> <ul style="list-style-type: none"> A. Approval: Regular Minutes: January 22, 2024 B. Ratify: December 2023 Bills C. Ratify: January 2024 Bills D. Ratify: 2023 Year End Treasurers Report <p>Voice Vote. All in favor. None Opposed. Motion Passes.</p> <p>Commissioner Sokolowski made a motion to approve the consent agenda as read. Seconded by Commissioner Powers.</p> <p>Roll Call Vote:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Commissioner Bird: Aye</td> <td style="width: 50%;">Commissioner Powers: Aye</td> </tr> <tr> <td>Commissioner Del Preto: Absent</td> <td>Commissioner Sokolowski: Aye</td> </tr> <tr> <td>Commissioner Gramann: Absent</td> <td>Commissioner Witteck: Absent</td> </tr> <tr> <td>Commissioner Jeffery: Aye</td> <td></td> </tr> </table> <p>Motion Passes 4-0-3</p>	Commissioner Bird: Aye	Commissioner Powers: Aye	Commissioner Del Preto: Absent	Commissioner Sokolowski: Aye	Commissioner Gramann: Absent	Commissioner Witteck: Absent	Commissioner Jeffery: Aye	
Commissioner Bird: Aye	Commissioner Powers: Aye								
Commissioner Del Preto: Absent	Commissioner Sokolowski: Aye								
Commissioner Gramann: Absent	Commissioner Witteck: Absent								
Commissioner Jeffery: Aye									
Discussion Items	<ul style="list-style-type: none"> A. Capital Improvement Program Prioritization Exercise Results Executive Director Rini reviewed the results of the prioritization exercise conducted at the last Board Meeting. The score for projects were averaged and the order of priority was determined as follows. <ul style="list-style-type: none"> 1. Playground Replacements 2. New 39 Passenger Bus 3. FVRC Lower Locker Room Floors 								

4. Pickleball at Armstrong Park
5. CCWP Bucket Feature Painting
6. Fitness Center Carper/Flooring
7. Evergreen Shoreline Stabilization
8. SRC Marquee
9. Vehicle/Equipment Replacement
10. Benjamin School District Partnership

We have heard from Superintendent Woell from District 25 and they have stepped back from the turf field proposal. This will drop from the Capital Improvement list all together. Staff will explore funding and grant options for these nine projects and keep the Board informed on the budgeting progress.

B. Meet us at the Park

Staff would like Board direction to continue the summer Meet Us at the Park events; suggesting Carolshire Park on June 24 and Kent Park on August 26. Both events will run from 6-7pm and we have already check with Carol Stream Police “Blue Scoops” to make sure those dates work for them. Board consensus was to move forward with the plan as discussed.

C. Corporate Counsel RFQ

We have used the same sole proprietor law firm for over 25 years. His legal advice has been helpful over the years, but there are increasing times we have been outsourced to a full service firm in order to meet our needs. Executive Director Rini consulted with over 20 park districts. Three firms represent most of the park districts in the state of Illinois: Ancel Glink, Tressler, and Robbins Schwartz. We would like two or three Commissioners to volunteer to sit on a Selection Committee along with Executive Director Rini, Directors Quinn and Hamilton. The selection committee will prepare questions and interview the three firms, then make a recommendation to the entire Board. The new Counsel will be selected and appointed at the May 13 Annual Board Meeting. Commissioners Sokolowski, Powers, and Bird volunteered to sit on the Selection Committee. Executive Director Rini said we will get started right away.

D. Weekly Happenings

- Commissioner Powers has a health concern, but plans on staying on the Board; attending some meetings via Zoom if necessary.
- Commissioner Sokolowski noted the incredible revenue results from Rentals in January. Director Bachewicz said many tournaments are booking early and the room rentals have been coming in with larger groups.
- Commissioner Bird attended the Intergovernmental Meeting with Director Hamilton last week. One take away was about the DuPage County 2-1-1 hotline for health and social service resources used by millions of people across North America and now in DuPage County. Clients contact 2-1-1 for free and confidential crisis and emergency counseling, disaster assistance, food, health care and insurance assistance, stable housing and utilities payment assistance, employment services, and veteran, family and childcare services. They also talked about food insecurity in DuPage County, and the



	<p>Park District could help with that year-round. Director Hamilton suggested the Parks staff could build nice-looking wooden boxes for each facility. We get a lot of traffic and we could even ask programs to donate and take pictures for a feel good activity, maybe put a competitive spin on it at times.</p> <ul style="list-style-type: none"> • Executive Director Rini said the Foundation received memorial donations over \$2,800 in lieu of flowers after Commissioner Jeffery's father passed. We need to improve the website to make it easier for people to make donations online. Commissioner Jeffery thanked everyone for all their support during this difficult time. Executive Director Rini added that the Foundation received \$10,900 from our annual appeal to vendors. Commissioner Jeffery suggested we ask them to continue fundraising for the 39 passenger bus on our priority list. Executive Director Rini added the Foundation Board will attend the March 11 meeting to present a donation check for the scholarship fund. • Executive Director Rini proposed Commissioner Witteck to serve as the Carol Stream Park District's representative to the Carol Stream Rotary. She attends as an involved citizen but would be willing to represent the Park District in the future. Commissioners agreed with this plan.
Action Items	None
Closed Session	None
Action Pertaining to Closed Session	None
Adjournment	Commissioner Powers made a motion to adjourn the meeting. Seconded by Commissioner Bird. Voice Vote taken. Motion passed 4-0-3. Meeting adjourned at 6:41 pm.

 President
 Jacqueline Jeffery

 Secretary
 Sue Rini

February 26, 2024
 Date

To: Board of Commissioners
From: Renee Bachewicz, Director of Recreation
Date: February 26, 2024
Discussion: Fountain View Fitness Annual Report **Agenda Item #: 6A**

The Fountain View Fitness 2023 Annual Report will be presented.

To: Board of Commissioners
From: Sue Rini, Executive Director
Date: February 26, 2024
Discussion: Wayne Township IGA – Parking Lot

Agenda Item # 6B

The Intergovernmental Agreement between the Carol Stream Park District and Wayne Township for usage of the Township's parking lot to supplement parking for Red Hawk Park is up for renewal. Staff considers the parking made available through this IGA critical to usage for recreational activities at the park. Similarly, the Township wishes to continue the agreement in order to support the cost of maintaining the parking lot, and mowing/landscaping services for Township offices.

A draft of the IGA is attached. Outside of some 'editing' to clarify the definition of parking lot maintenance, the agreement stays the same. The questions that staff are currently entertaining include:

- Should the IGA be renewed for another 20 years, or 10 years?
 - A longer agreement could be used to lock in the percentage of shared costs for parking lot maintenance.
 - The original agreement was amended 6 years ago to shift an additional 10% of the maintenance costs to the Park District because of increased usage.
 - Without language that restricts a change in the percentage of shared costs, a longer-term agreement has no benefit. We are uncertain if the Township would agree to such language.
- The Township has asked for a 10% increase to the 40/60 (Park District/Township) split of maintenance costs.
 - They have asked us to evaluate the amount of time we are now using the parking lot; staff is collecting that information.
- The Township has installed a barn in the parking lot to accommodate food pantry storage; this has reduced available parking by 8-10 spots.
 - This will be included in our evaluation of the amount of usage the District now has.

Staff is happy to answer any questions the Board may have as they proceed with the negotiations prior to seeking formal approval.

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CAROL STREAM PARK DISTRICT AND WAYNE TOWNSHIP FOR
PARKING LOT USE AND OTHER PURPOSES**

THIS AGREEMENT is made effective/retroactive to March 5, 2024, and ending date of March 4, 2034/2044, between the Carol Stream Park District, hereinafter referred to as the “Park District” and Wayne Township, hereinafter referred to as the “Township”, both Illinois units of local government.

WHEREAS, the Township is the owner of a parking lot, as described in *Exhibit A* attached hereto; and

WHEREAS, the Park District has developed public recreational facilities adjacent and around such property and the Park District’s use of the parking lot will directly enhance the use of those recreational facilities; and

WHEREAS, it is the desire of the Township and the Park District to encourage, promote and expand public recreational opportunities by providing parking to the public for access to and from public recreational facilities, and as further provided herewith, for the parking lot to be itself used for recreational purposes other than parking; and

WHEREAS, this Intergovernmental Cooperation Agreement is authorized by the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act of the State of Illinois, providing for the execution of agreements and implementation of cooperative ventures between public agencies of the State of Illinois (5 ILCS 220/1 et seq.); and

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, it is agreed by and between the parties as follows:

I. No Third Party Beneficiary.

This Agreement is entered into solely for the benefit of the contracting parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity, who is not a party to this Agreement, or to acknowledge, establish or impose any legal duty to any third party. Nothing in this

Agreement shall allow patrons of Red Hawk Park to use the Township's building, restrooms, or other facilities other than the parking lot as set forth in this Agreement.

II. Use of Parking Lot.

- A. The Park District's patrons, staff and maintenance personnel using Red Hawk Park shall be provided access to and use of a portion of the Township parking lot, as depicted in the attached *Exhibit A* provided. Park District staff and maintenance personnel may use the parking lot only while performing work at Red Hawk Park or at the Township grounds. Park District patrons shall not park in any areas other than those designated in Exhibit A, shall not park in any areas marked or signed as 'no parking' areas, and shall not obstruct entrances/exits to the Township building or garage doors.
- B. The Park District's primary use of the parking lot shall be for parking for youth and adult sports practices, games, and tournaments, including but not limited to soccer, football, lacrosse, and cross country from March through November weekdays after 5:00 PM and weekends starting at 8:00 AM.
- C. Any other use of the parking lot by the Park District shall be submitted in writing to the Township, and is subject to their approval.
- D. The parties agree that the Township's parking needs shall take precedence over those of the Park District and in the event, capacity is insufficient, the parking requirements of the Township shall be given first priority.
- E. The Parties will coordinate, as much as possible, to avoid parking capacity problems between Park District use and Township use. The Park District's Director of Recreation or their designee will serve as the contact person for the Township. The Township will share the schedule of senior overnight trips or other events that could conflict with the Park District's March through November use. Schedules will be used to minimize any potential conflict with planned Park District use. Where necessary, scheduled Park District use of the parking lot may be altered to prevent capacity parking problems.
- F. When pre-approved by the Township, the Park District may also use the parking lot for non-parking recreational purposes such as bicycle clinics, walking/running/ biking events, or other such recreational activities that will not conflict with Township use. The Park District will coordinate with the Township to arrange for the temporary 'closing' or securing of the parking lot for such special recreation use.

III. Parking Lot Maintenance.

- A. The Park District shall reimburse the Township for any maintenance beyond ordinary wear and tear, or damage caused by Park District personnel or agents, and shall use reasonable judgment and discretion to keep the parking lot reasonably clear of debris during Park District use. The Township reserves the right to require that the Park District share on a pro rata basis, **(defined as 40 % Park District share; 60% Township share)**, the cost of regular maintenance (repave, sealcoat or restripe). The Township shall provide the Park District with specifications and/or requests for bids for review and comment by the Park District before the Township issues request for bids. However, the Township exclusively shall have final decision making authority regarding the specifications, requests for bids, scope of work, award of contract, etc.
- B. For the balance of the term of this Agreement, the Park District shall share, pro rata, **(defined as 40% Park District share; 60% Township)** in the cost of repaving, sealcoating and/or re-striping the parking lot. The Township shall provide the Park District a minimum of one year advance notice for plans to repave, sealcoat or restripe to allow for budgeting of funds provided, however, that this notice is a courtesy notice only and shall not constitute a condition precedent to the Park District's obligation to pay its share of such costs, said obligation to pay remaining even in the absence of notice from the Township. The Township will determine if, the repaving/sealcoating and re-striping is necessary, based on standard engineering practices for determining the need to repave/sealcoat and restripe; with Township making final decision and using Township engineering consultant. The Township shall provide the Park District with specifications and/or requests for bids for review and comment before issuing a request for bids. However, the Township exclusively shall have final decision-making authority regarding the specifications, requests for bids, scope of work and award of contract.
- C. The Park District shall use reasonable efforts to clean up all litter after each use of the parking lot. Park staff will inspect the parking lot on weekends and Monday morning and perform additional clean up as required.
- D. Parking lot maintenance does not include any snow or ice removal or salting of the parking lot or the grounds surrounding the Township. The Park District may, at its sole expense, engage snow removal services using its staff or contractors in the event that snow falls at the time of a Park District scheduled event.

IV. Grounds Maintenance.

The Park District will provide, or provide contracted services, with all costs of such services being borne by the Park District, grounds and landscaping maintenance for the Township's office grounds as described in Exhibit B. This will include mowing, line trimming, shrub trimming and landscape bed maintenance. Excluded are tree maintenance, tree removal or

planting, septic system maintenance, and planning of annuals. The Park District will maintain grounds and landscaping beds to the same reasonable standard used at Park District facilities.

- A. The Park District shall provide labor and equipment for grounds and landscape maintenance. The Park District may provide additional services other than those listed in Section IV, above to the Township upon written request of the Township. If the Park District agrees to provide such additional services, the compensation for such additional services shall be determined by agreement between the Park District and the Township and shall be subject to the terms and conditions of this Agreement.
- B. It is mutually understood that the Park District does not by virtue of services rendered to the Township expressly or impliedly undertake to perform or assume any duty owed by the Township to any of the Township's employees, patrons, visitors or other third persons with respect to the safe/healthful maintenance and/or operation of the facilities/properties where Park District's services are performed. The Park District will provide the services in the same manner as it provides generally for its own park properties. If during the course of performing the services, the Park District observes any item needing repair, it will timely advise the Township. The Township shall make or cause to be made all necessary repairs and re-construction at its sole cost and expense, and in a timely manner to protect the safety and well-being of Township property users and Park District employees providing the services and any additional services hereunder. The Park District shall be notified prior to any repairs being made.
- C. The Township shall be responsible, at its sole cost and expense, for maintaining in good repair and condition all improvements, including without limitation buildings, equipment, fences, benches, water and storm water management apparatuses on Township property. The Park District shall be responsible for any damages to Township property, buildings and vehicles made by Park District employees during the execution of their work. The Park District shall pay for or make necessary repairs. The Park District shall be notified prior to any repairs being made.

V. Indemnification.

To the fullest extent permitted by law, each Party agrees to indemnify, defend and hold the other Party and its respective officers, officials, agents, and employees harmless from and against all claims, damages, liability, loss and expenses (including reasonable attorney fees), by reason of the acts or omissions of the Indemnifying Party or its officers, officials, agents, employees, invitees or contractors. The requirement of this section shall survive the termination or expiration of this Agreement.

VI. Insurance.

Both Parties are required to maintain commercial general liability coverage or insurance for the duration of this agreement. In the event that either party purchases insurance from an

insurance company, it shall keep in force at all times during the term of this Agreement Commercial General Liability Insurance specifically including bodily injury, personal injury and property damage limits of not less than \$1,000,000 per occurrence, written on an occurrence basis and at all times naming each party to this agreement, its public officials, employees, and agents as additional insured. In the event that either party is self-insured, member of an intergovernmental pool or provides for its risk financing by a means other than commercial insurance, it shall keep in force at all times during the term of the Agreement, General Liability coverage specifically including Police Professional Liability, bodily injury, personal injury and property damage limits of not less than \$1,000,000 per occurrence provided on an occurrence basis and at all times specifically extending that coverage to each party to the Agreement, its public officials, employees, and agents as additional insured. Each party shall annually provide the other with proof of such insurance, including naming the other as additional insureds as required by this Section.

VII. Miscellaneous.

- A. In the event the Township seeks to convey any portion of the property, the Township shall notify the Park District of any hearing or scheduled vote to consider whether conveyance should occur. The Parties agree that a copy of this IGA or a memorandum of its existence may be recorded with the DuPage County Recorder of Deeds.
- B. The parties shall meet periodically, but not less than yearly, for the purpose of discussing this Agreement, any issues regarding this Agreement, and to make practical adjustments to the interactions between the parties regarding this Agreement. It is agreed that the parties will target the month of March for an annual meeting.
- C. In the event the Township believes the Park District to be in default under this Agreement, the Board of trustees shall notify the Park District in writing and allow the Park District sixty (60) days from the date of receipt of the notice, to cure the default. If the default is then not cured, the Township may terminate the Agreement by serving written notice to the Park District effect one-half year (180 days) after receipt of the notice by the Park District. The Park District shall have the same default and termination rights and obligation as the Township. Either party may terminate this Agreement without cause, provided at least one year's (365 days) written notice is given to the other party. Notices shall be addressed to:

Executive Director
Carol Stream Park District
849 W. Lies Road
Carol Stream, IL 60188

Township Supervisor
Wayne Township
21W031 North Avenue
West Chicago, IL 60185

- D. This Agreement shall be signed in counterparts, one provided to each of the parties hereto.
- E. This Agreement may be amended only in writing upon the signatures of all parties.

- F. If any one provision of this Agreement shall be held invalid for any reason, such invalidity shall not render any of the other provisions of this Agreement invalid or of no effect.
- G. The Recitals of this Agreement are incorporated into the agreement of the parties by this reference and are expressly made a part of this Intergovernmental Agreement.
- H. This Intergovernmental Agreement contains the entire agreement between the parties regarding the Park District's use of the Township parking lot, and there are no other agreements, oral or otherwise, between the parties regarding the Park District's use of the Township property.

Dated: _____

CAROL STREAM PARK DISTRICT, an Illinois
Unit of Local Government,

By: _____
President, Board of Commissioners

ATTEST:

Secretary, Board of Commissioners

WAYNE TOWNSHIP, an Illinois Township,

By: _____
Harry R. Ramey, Supervisor

ATTEST:

By: _____
Brandi Ramundo, Township Clerk

To: Board of Commissioners
From: Sue Rini, Executive Director
Date: February 26, 2024
Discussion: Strategic Planning Process

Agenda Item # 6C

Now that the Community Needs Assessment has been completed, the next step is to prepare a Strategic Plan. The District's last plan was done for 2018-2022; it was extended through 2023 due to the Pandemic. The Plan was done utilizing a fellow executive director as a facilitator. It allowed for engagement from staff, Board, and partners but also required significant staff time to complete.

In order to complete the Strategic Plan, the 2024 budget included funding to hire a consultant for the process. Staff is identifying several consultants who come highly recommended from other agencies, and work frequently with park districts in developing their strategic plans.

The selection of a firm can be done through a formal Request for Qualification (RFQ) and interview process, or through a letter stipulating the requirements for the submission of a proposal (see sample attached).

Either way, the first step will be to select two or three Board members to work with Directors Rini, Scumaci, and Bachewicz to form a Selection Committee.

Here is a brief outline the process we are suggesting:

- Board selects two or three Commissioners along with Directors Bachewicz, Scumaci, and Rini to serve on a Selection Committee.
- Selection Committee will prepare RFQ/Letter for request of submission, and questions.
- RFQ or Letter is sent to consulting firms.
- Selection committee selects two or three firms and conducts interviews.
- Selection Committee will discuss, and make a recommendation to the Board/staff.

Staff is asking the Board to select two or three Commissioners to serve on the Selection Committee.

SAMPLE ONLY – Letter for request of submission

Carol Stream Park District is pleased to invite you to submit a proposal to facilitate our 2024 strategic planning process. Briefly, we have the following requirements:

Provide an overview of the process. Including...

- a. The structure you would apply to the Plan
- b. A description of Board and staff involvement; number of hours/meetings with Board and staff.
- c. How you will utilize the District's 2023 Community Needs Assessment (completed by Park District Staff.)
- d. The process for gathering input from stakeholder interviews, focus groups or public input.
- e. Use of progress reports, periodic updates.
- f. Final report format, delivery.
- g. Timeline and Fixed Fee from beginning to completion.

Please submit your proposal no later than _____.

To: Board of Commissioners
From: Sue Rini, Executive Director
Date: February 26, 2024
Approval: Intergovernmental Agreement - Carol Stream Park District and the Village of Carol Stream for Klein Creek Section 1 – Memorial Park
Agenda Item # 7A

Issue

Should the Board approve an Intergovernmental Agreement between the Carol Stream Park District and the Village of Carol Stream for Klein Creek Section I – Memorial Park.

Background/Reasoning

Through grant funding, the Village of Carol Stream constructed a pathway from Kuhn Road to Memorial Park. The project included the installation of a retaining wall, and bioengineering measures to stabilize the stream banks and maintain the regulatory flow of flood waters along the easement in Memorial Park.

Supporting Documents

The attached agreement includes the explanation of who is responsible for long term care, and which costs are shared. Both Corporate Counsel and PDRMA Attorneys have reviewed the agreement.

Cost

The only hard costs to the District reside in minimal legal fees for corporate counsel's review of the document. The Village will bear all costs related to the construction and long-term maintenance for the pathway, retaining wall and bioengineering measures. The Village and the Park District will share the costs associated with long-term maintenance of the native vegetation that falls within the boundaries of the Park District Property incorporated within and adjacent to the bioengineering measures. These costs would otherwise have been borne solely by the Park District.

Public/Customer Impact

This partnership between two bodies of local government create a financial savings to the residents and benefits local citizens with both increased flood protection and improved water quality of its local waterbodies.

Recommendation

That the Board of Commissioners approve the Intergovernmental Agreement between the Carol Stream Park District and the Village of Carol Stream for Klein Creek Section I- Memorial Park.

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CAROL STREAM PARK DISTRICT AND THE VILLAGE OF CAROL STREAM FOR THE KLEIN CREEK STREAMBANK STABILIZATION – SECTION I PROJECT

This INTERGOVERNMENTAL AGREEMENT is made between the CAROL STREAM PARK DISTRICT, an Illinois unit of local government with offices at 849 W. Lies Road, Carol Stream, IL 60188 (hereinafter referred to as the PARK DISTRICT) and the VILLAGE OF CAROL STREAM, an Illinois municipal corporation and home rule unit of government, with offices at 500 N. Gary Avenue, Carol Stream, IL 60188 (hereinafter referred to as the VILLAGE). The PARK DISTRICT and VILLAGE are collectively referred to herein as the PARTIES.

RECITALS

WHEREAS, the VILLAGE and the PARK DISTRICT are public agencies within the meaning of the Illinois “Intergovernmental Cooperation Act”, 5 ILCS 220/1 et seq., and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois; and

WHEREAS, the purposes of the “Intergovernmental Cooperation Act” and Article 7 of the Constitution of the State of Illinois includes fostering cooperation among government bodies; and

WHEREAS, the PARK DISTRICT is the owner of Lot 236 of the “Plat of the Resubdivision of Various Lots” with Recording Number R1959-920494, commonly known as Memorial Park, with an address of 342 Thunderbird Trail (P.I.N. 02-32-116-002); and

WHEREAS, according to said plat the VILLAGE has a “20 Foot Easement for Maintaining Drainage” on said lot; and

WHEREAS, the scope of work encompassing the Klein Creek Streambank Stabilization – Section I project, including the construction of the paved trail, shall hereinafter be referred to collectively as the PROJECT; and

WHEREAS, the PARK DISTRICT and the VILLAGE have determined that the implementation of the PROJECT benefits local citizens with both increased flood protection and improved water quality of its local waterbodies; and

WHEREAS, the VILLAGE agrees to manage and bear the following costs concerning the PROJECT: The costs for the long-term, routine maintenance of the structural (e.g. retaining wall) and bioengineering measures (e.g. vegetated rock toe, stream barbs) constructed for the purpose of stabilizing the streambanks and maintaining the regulatory flood flows, as well as those costs associated with the paved asphalt trail installed by the VILLAGE; and

WHEREAS, the VILLAGE and PARK DISTRICT agree to share in the costs associated with the long-term, routine maintenance of the native vegetation that falls within the boundaries of PARK DISTRICT property incorporated within and adjacent to the bioengineering measures

during the expected life of the PROJECT; and

NOW, THEREFORE, in consideration of the promises, the mutual covenants, terms, and conditions herein set forth, and the understandings of each party to the other, the PARTIES do hereby mutually covenant, promise and agree as follows:

1.0 INCORPORATION AND CONSTRUCTION.

- 1.1 All recitals set forth above are incorporated herein and made a part thereof, the same constituting the factual basis for this AGREEMENT.
- 1.2 The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

2.0 PROJECT DESCRIPTION.

- 2.1 Section I: The PROJECT restored and stabilized the eroded streambanks of approximately 3,600 linear feet of Klein Creek between Thunderbird Trail and Kuhn Road. The stabilization measures constructed within the PARK DISTRICT's property, commonly known as Memorial Park, included the bioengineering techniques of vegetated rock toe and stream barbs, as well as the structural measure of using pre-cast modular retaining walls. The PROJECT also planted native vegetation above the vegetated rock toe to improve the riparian buffer. The PROJECT was constructed according to the civil engineering plans developed by Engineering Resource Associates, titled "Klein Creek Streambank Stabilization Section 1: Thunderbird Tr. To Kuhn Rd", with the latest revision dated 04-12-2022.
- 2.2 Klein Creek Trail: Included in the definition of the PROJECT is the 8-foot-wide, asphalt-concrete trail constructed starting from the sidewalk along Thunderbird Trail, through Memorial Park, and on top of the retaining wall, all occurring on the southeast bank (i.e. Shawnee Drive) of Klein Creek.

3.0 PROJECT EXPENSES.

- 3.1 The VILLAGE shall be responsible for bearing any costs related to the long-term, routine maintenance of the structural (e.g. retaining wall) and bioengineering measures (e.g. vegetated rock toe, stream barbs), constructed as part of this PROJECT within its "Easement for Maintaining Drainage". The long-term routine maintenance encompasses any activities required to maintain their function as designed in the Civil Engineering Plans titled Klein Creek Streambank Stabilization – Section I: Thunderbird Trail to Kuhn Road" dated April 12, 2022 and permitted under Stormwater Management Certification No. 21-09-0014.
- 3.2 The PARK DISTRICT shall reimburse the VILLAGE for half (50%) of the annual

expenses incurred for the long-term management of the native vegetation, including trees and shrubs, within the PARK DISTRICT's property commonly known as Memorial Park, and commencing only after said vegetation has been established and accepted by the VILLAGE as part of its PROJECT. The long-term management shall include, but not be limited to, prescribed fire, vegetation enhancement, exotic and weedy species control, and monitoring. The PARK DISTRICT shall provide such reimbursement within thirty (30) days of invoice from the VILLAGE.

- 3.3 The VILLAGE shall be responsible for bearing any costs related to the long-term maintenance of the pavement structure for the 8-foot-wide asphalt-concrete trail, including, but not limited to, ancillary amenities such as decorative landscape walls, lighting, and decorative pavement edge treatments.

4.0 VILLAGE'S RESPONSIBILITIES.

- 4.1 The VILLAGE shall be responsible for managing the long-term, routine maintenance of the structural (e.g. retaining wall) and bioengineering measures (e.g. vegetated rock toe, stream barbs) constructed as part of this PROJECT within its "Easement for Maintaining Drainage".
- 4.2 The VILLAGE shall be responsible for the long-term management of the native vegetation, including trees and shrubs, planted as part of this PROJECT within its "Easement for Maintaining Drainage".
- 4.3 The VILLAGE shall be responsible for the long-term maintenance of the pavement structure for the 8-foot-wide asphalt-concrete trail.
- 4.4 The VILLAGE shall be responsible for the construction contract administration of VILLAGE contracts pertaining to the long-term maintenance of the PROJECT, including, but not limited to, the establishment of the native vegetation in accordance with all applicable PROJECT permits. The VILLAGE shall also be responsible for verifying that each VILLAGE contractor complies with the insurance requirements in Section 8.0 of this Agreement.
- 4.5 The VILLAGE and the VILLAGE'S contractors shall be solely responsible for the safety of all individuals performing work for the Village on the PROJECT. The VILLAGE shall take such measures as are necessary to ensure that its contractors maintain the PROJECT areas in a safe condition and install appropriate barricades and warning signs, and the VILLAGE shall strictly enforce or cause to have strictly enforced all applicable safety rules and regulations. This provision is not intended to create any new burden or liability for the VILLAGE beyond the usual burdens and liabilities for a municipality in the construction of public improvements.

5.0 PARK DISTRICT'S RESPONSIBILITIES.

- 5.1 The PARK DISTRICT hereby grants the VILLAGE, including the VILLAGE's

employees, consultant(s) and contractor(s), permission to enter upon PARK DISTRICT property at no cost to the VILLAGE, for the purpose of undertaking its responsibilities as defined in this Agreement. The PARK DISTRICT shall not be responsible for the means, methods, techniques, or procedures inherent to said access, nor for the safety of persons performing work on PARK DISTRICT property.

- 5.2 Except for what has been defined as the responsibility of the Village in Paragraphs 4.1 through 4.5 above, the PARK DISTRICT shall be responsible for the long-term maintenance of all real property within Memorial Park.

6.0 GOVERNMENT REGULATIONS.

- 6.1 The VILLAGE and PARK DISTRICT shall comply with all local, county, state and federal requirements now in force, or which may hereafter be in force, pertaining to each's responsibilities as defined heretofore.

7.0 INDEMNIFICATION.

- 7.1 The VILLAGE shall indemnify, hold harmless and defend the PARK DISTRICT or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, liens, proceedings and actions, including reasonable costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the VILLAGE'S PROJECT under this AGREEMENT to the fullest extent authorized under the law, but only to the extent caused by the negligent act or omission, intentional misconduct, or breach of applicable law by the VILLAGE or any contractors or subcontractors providing services in connection with the Project; provided, however, that the VILLAGE shall not be obligated to indemnify, hold harmless and defend the PARK DISTRICT for any negligent or intentional wrongful misconduct or omissions by PARK DISTRICT officials, employees, agents, contractors or personnel.
- 7.2 The VILLAGE shall require each consultant and contractor responsible for the construction, maintenance, or monitoring of the PROJECT to be constructed by the VILLAGE to name the VILLAGE and PARK DISTRICT as an additional insured party on said vendor's liability insurance policy. Further, the VILLAGE shall require that its consultants and contractors indemnify, defend and hold harmless the VILLAGE and PARK DISTRICT, its officers, employees and elected officials from and against any claims, liability or judgments resulting from, or caused by, the negligence or willful conduct of such consultant and, or contractor.
- 7.3 Nothing contained herein shall be construed as prohibiting the PARK DISTRICT, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, liens, proceedings and actions brought against them. The PARK DISTRICT'S participation in its defense shall not remove VILLAGE'S duty to

indemnify, defend, and hold the PARK DISTRICT harmless, as set forth above. Moreover, indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage maintained by the VILLAGE or its consultants, contractors or agents. The VILLAGE'S indemnification of the PARK DISTRICT shall survive the termination, or expiration, of this AGREEMENT.

7.4 The PARK DISTRICT shall indemnify, hold harmless and defend the VILLAGE or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, liens, proceedings and actions, including reasonable costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the PARK DISTRICT'S obligations under this AGREEMENT to the fullest extent authorized under the law, but only to the extent caused by the negligent act or omission, intentional misconduct, or breach of applicable law by the PARK DISTRICT or any contractors or subcontractors providing services in connection with the PARK DISTRICT's obligations under this AGREEMENT; provided, however, that the PARK DISTRICT shall not be obligated to indemnify, hold harmless and defend the VILLAGE for any negligent or intentional wrongful misconduct or omissions by VILLAGE officials, employees, agents, contractors or personnel.

7.5 Nothing contained herein shall be construed as prohibiting the VILLAGE, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, liens, proceedings and actions brought against them. The VILLAGE'S participation in its defense shall not remove the PARK DISTRICT'S duty to indemnify, defend, and hold the VILLAGE harmless, as set forth above. Moreover, indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage maintained by the PARK DISTRICT or its consultants, contractors or agents. The PARK DISTRICT'S indemnification of the VILLAGE shall survive the termination, or expiration, of this AGREEMENT.

8.0 INSURANCE

8.1 The VILLAGE agrees that it will require any contractor doing work on the PROJECT to maintain insurance in the types and amounts set forth below.

8.2 The VILLAGE and the PARK DISTRICT agree to maintain insurance, and provide additional insured coverage to each other, in the amounts provided in Sections 8.2.1 through 8.2.4 of this Agreement.

8.2.1 Commercial General and Umbrella Liability Insurance

8.2.1.1 Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 each occurrence. If such CGL insurance contains a general

aggregate limit, it shall apply separately to this project/location.

8.2.1.2 CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

8.2.1.3 The VILLAGE and PARK DISTRICT shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the VILLAGE or the PARK DISTRICT. Any insurance or self-insurance maintained by the VILLAGE or PARK DISTRICT shall be excess of the Contractor's insurance and shall not contribute with it.

8.2.1.4 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

8.2.2 Continuing Completed Operations Liability Insurance

8.2.2.1 Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella liability insurance with a limit of not less than \$5,000,000 each occurrence for at least three years following substantial completion of the work.

8.2.2.2 Continuing CGL insurance shall be written on ISO occurrence form CG 00 01 10 93, or substitute form providing equivalent coverage, and shall, at minimum, cover liability arising from products-completed operations and liability assumed under an insured contract.

8.2.2.3 Continuing CGL insurance shall have a products-completed operation aggregate of at least two times its each occurrence limit.

8.2.2.4 Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

8.2.3 Business Auto and Umbrella Liability Insurance

8.2.3.1 Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

8.2.3.2 Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

8.2.4 Workers' Compensation Insurance

8.2.4.1 Contractor shall maintain workers' compensation as required by statute and employer's liability insurance. The commercial umbrella and/or employer's liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

8.2.4.2 If the VILLAGE or PARK DISTRICT has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Contractor waives all rights against the VILLAGE and PARK DISTRICT and their officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Contractor's work.

8.2.5 Evidence of Insurance

8.2.5.1 Prior to beginning work, Contractor shall furnish the VILLAGE and PARK DISTRICT with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

8.2.5.2 All certificates shall provide for 30 days' written notice to VILLAGE and PARK DISTRICT prior to the cancellation or material change of any insurance referred to therein. Written notice to VILLAGE and PARK DISTRICT shall be by certified mail, return receipt requested.

8.2.5.3 Failure of the VILLAGE or PARK DISTRICT to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the VILLAGE or PARK DISTRICT to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

8.2.5.4 The VILLAGE and PARK DISTRICT shall have the right, but not the obligation, of prohibiting their respective Contractors or any subcontractor from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements.

8.2.5.5 Failure to maintain the required insurance shall constitute a breach of the

Contractor's contract and may result in termination of the Contract.

8.2.5.6 With respect to insurance maintained after final payment in compliance with a requirement above, an additional certificate(s) evidencing such coverage shall be promptly provided to the VILLAGE OR PARK DISTRICT whenever requested.

8.2.5.7 Contractor shall provide certified copies of all insurance policies required above within 10 days of the VILLAGE'S or PARK DISTRICT'S written request for said copies.

8.2.6 Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the VILLAGE or PARK DISTRICT shall have the right to reject insurance written by an insurer it deems unacceptable.

8.2.7 Cross-Liability Coverage

If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

8.2.8 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the VILLAGE and PARK DISTRICT. At the option of the VILLAGE and PARK DISTRICT, the Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the VILLAGE and PARK DISTRICT, their officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

8.2.9 Subcontractors

Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the VILLAGE OR PARK DISTRICT, Contractor shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

8.2.10 Indemnification

Each contract entered into by the VILLAGE or the PARK DISTRICT for any work to be performed under the terms of this AGREEMENT shall contain the following provision:

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the VILLAGE and PARK DISTRICT and their officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees

(attorneys' and paralegals' fees and court costs), arising out of or resulting from the performance of the Contractor's work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting there from and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Contractor shall similarly protect, indemnify and hold and save harmless the VILLAGE and PARK DISTRICT, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Contractor's breach of any of its obligations under, or Contractor's default of, any provision of the Contract.

9.0 AMENDMENT OR MODIFICATION OF THIS AGREEMENT.

- 9.1 The PARTIES may modify or amend this AGREEMENT only by a written document duly approved and executed by both PARTIES, excluding term extensions as provided for in the following provision.
- 9.2 Notwithstanding Paragraph 9.1 above, the term for performing this AGREEMENT may be extended by written agreement, signed by both PARTIES without formal amendment pursuant to Paragraph 9.1 above.

10.0 TERM OF THIS AGREEMENT.

- 10.1 The term of this AGREEMENT shall begin on the date the AGREEMENT is fully executed, and shall continue in full force and effect for the life of the PROJECT.

11.0 ENTIRE AGREEMENT.

- 11.1 This AGREEMENT, including matters incorporated herein, contains the entire AGREEMENT between the PARTIES.
- 11.2 There are no other covenants, warranties, representations, promises, conditions or understandings, either oral or written, other than those contained herein.
- 11.3 This AGREEMENT may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.
- 11.4 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.

- 11.5 This Agreement is entered into solely for the benefit of the contracting parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a party to this Agreement, or to acknowledge, establish or impose any legal duty to any third party.

12.0 SEVERABILITY.

- 12.1 In the event any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the AGREEMENT. The remainder of this AGREEMENT shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.

13.0 GOVERNING LAW.

- 13.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.
- 13.2 The venue for resolving any disputes concerning the PARTIES' respective performance, or failure to perform, under this AGREEMENT, shall be the judicial circuit court for DuPage County.

14.0 NOTICES.

- 14.1 Any required notice shall be in writing and shall be deemed to have been properly made on the day of service if served personally, and on the third day following mailing if sent by certified mail, postage prepaid, return receipt requested to the following addresses and persons representing the VILLAGE's project manager and PARK DISTRICT's Executive Director, whose roles are occupied by the following individuals at the time of this AGREEMENT:

VILLAGE:
Gregory R. Ulreich
Civil/Stormwater Engineer
Village of Carol Stream
500 N. Gary Avenue
Carol Stream, IL 60188

PARK DISTRICT:
Sue Rini
Executive Director
Carol Stream Park District
849 W. Lies Road
Carol Stream, IL 60188

15.0 WAIVER OF/FAILURE TO ENFORCE BREACH.

- 15.1 The PARTIES agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further the failure to enforce any particular breach shall not bar or prevent the remaining party from

enforcing this AGREEMENT with respect to a different breach.

16.0 NO WAIVER OF TORT IMMUNITIES

16.1 Nothing contained in any provision of this Agreement is intended to constitute nor shall constitute a waiver of the defenses, privileges or immunities available to the PARTIES under the Illinois Local Governmental and Governmental Employees Tort Immunity Act.

IN WITNESS OF, the PARTIES set their hands and seals as of the date first written above.

CAROL STREAM PARK DISTRICT

VILLAGE OF CAROL STREAM

Jacqueline Jeffery
Board President

Frank Saverino, Sr.
Mayor

ATTEST:

ATTEST:

Sue Rini
Executive Director

Julia Schwarze
Village Clerk

To: Board of Commissioners
From: Sue Rini, Executive Director
Date: February 26, 2024
Approval: Intergovernmental Agreement - Carol Stream Park District and the Village of Carol Stream for Community Park Stormwater Management

Agenda Item # 7B

Issue

Should the Board approve an Intergovernmental Agreement between the Carol Stream Park District and the Village of Carol Stream for Community Park Stormwater Management.

Background/Reasoning

The Village of Carol Stream owns surrounding parcels of land to the Park Districts' parcels at Community Park. The renovations caused a need for additional stormwater retention (expansion of the parking lot, futsal court). The Village offered the Park District an option to utilize their wetland/detention areas for stormwater storage in lieu of sacrificing land that could be used for recreational purposes for water retention. The Park District and Village will share the cost of maintaining the stormwater area creating a mutually beneficial outcome.

Supporting Documents

The agreement is attached which includes the explanation of shared costs. Both Corporate Counsel and PDRMA Attorneys have reviewed the agreement.

Cost

The only hard costs to the District reside in minimal legal fees for corporate counsel's review of the document. The District will reimburse the Village for 50% of annual expenses incurred for the long-term management of the native vegetation once a successful establishment period has been completed. These costs would otherwise have been borne solely by the Park District.

Public/Customer Impact

This partnership between two bodies of local government create a financial savings to the residents, as well as more recreational space.

Recommendation

That the Board of Commissioners approve the Intergovernmental Agreement between the Carol Stream Park District and the Village of Carol Stream for Community Park Stormwater Management..

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CAROL STREAM PARK DISTRICT AND THE VILLAGE OF CAROL STREAM FOR THE COMMUNITY PARK STORMWATER MANAGEMENT FACILITY

This INTERGOVERNMENTAL AGREEMENT is made between the CAROL STREAM PARK DISTRICT, an Illinois unit of local government with offices at 849 W. Lies Road, Carol Stream, IL 60188 (hereinafter referred to as the PARK DISTRICT) and the VILLAGE OF CAROL STREAM, an Illinois municipal corporation and home rule unit of government, with offices at 500 N. Gary Avenue, Carol Stream, IL 60188 (hereinafter referred to as the VILLAGE). The PARK DISTRICT and VILLAGE are collectively referred to herein as the PARTIES.

RECITALS

WHEREAS, the VILLAGE and the PARK DISTRICT are public agencies within the meaning of the Illinois “Intergovernmental Cooperation Act”, 5 ILCS 220/1 et seq., and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois; and

WHEREAS, the purposes of the “Intergovernmental Cooperation Act” and Article 7 of the Constitution of the State of Illinois includes fostering cooperation among government bodies; and

WHEREAS, the PARK DISTRICT and the VILLAGE are the owners of Lot 1 and Lot 2, respectively, of the “Final Plat of Subdivision: Community Park” with Recording Number R2019-117223, commonly known as Community Park, with an address of 725 Thornhill Drive (P.I.N. 05-04-400-060); and

WHEREAS, an easement (Recording Number R1979-101973) grants Lots 1 and 2 of the aforementioned plat the “...right of way to drain all storm water therein for storm and flood water retention for the benefit of the adjacent real estate...”; and

WHEREAS, the PARK DISTRICT has renovated the passive and active recreational amenities of Community Park, including the construction of a stormwater management facility, the scope of which shall hereinafter be referred to collectively as the PROJECT; and

WHEREAS, the VILLAGE issued a Stormwater Management Certification (SMC 23-09-0002) on May 8, 2023 that permits the PARK DISTRICT to meet the PROJECT’s site runoff storage and post-construction best management practice requirements by expanding the existing stormwater management facility on Lot 2; and

WHEREAS, the PARK DISTRICT was thus able to maximize its use of Lot 1 for active and passive recreation, as well as reduce the cost of construction from earthwork operations; and

WHEREAS, the VILLAGE benefits from the PROJECT’s restoration of a portion of Lot 2 from an area overgrown with invasive species into a native-vegetated, wetland-bottom; and

WHEREAS, the PARK DISTRICT and the VILLAGE have determined that the implementation of the PROJECT will benefit local citizens with both increased flood protection and improved water quality of its local waterbodies; and

WHEREAS, the VILLAGE and PARK DISTRICT agree to share in the costs associated with the long-term, routine maintenance of the native vegetation incorporated within its stormwater management facility during the expected life of the PROJECT; and

NOW, THEREFORE, in consideration of the promises, the mutual covenants, terms, and conditions herein set forth, and the understandings of each party to the other, the PARTIES do hereby mutually covenant, promise and agree as follows:

1.0 INCORPORATION AND CONSTRUCTION.

- 1.1 All recitals set forth above are incorporated herein and made a part thereof, the same constituting the factual basis for this AGREEMENT.
- 1.2 The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

2.0 PROJECT DESCRIPTION.

- 2.1 The PROJECT improvements consist of reconstructing the parking lot, playground, basketball courts, and sand volleyball court, replacing the tennis courts with a futsal court, as well as adding a pavilion and extending additional paved paths throughout Lot 1. The PROJECT was permitted and constructed in accordance with the VILLAGE's Land Improvement Permit No. 23-0192-SWPP and Stormwater Management Certification No. 23-09-0002. The latter required the construction of a site runoff storage facility and post-construction best management practices due to the increase in impervious area.

3.0 PROJECT EXPENSES.

- 3.1 The PARK DISTRICT shall reimburse the VILLAGE for half (50%) of the annual expenses incurred for the long-term management of the native vegetation, including trees and shrubs, within the site runoff storage facility on Lot 2. The PARK DISTRICT's contribution shall not commence until after said vegetation has been established and accepted by the VILLAGE as part of its permit process for the PROJECT. The PARK DISTRICT shall provide such reimbursement within thirty (30) days of invoice from the VILLAGE.

4.0 VILLAGE'S RESPONSIBILITIES.

4.1 The VILLAGE shall be responsible for the long-term management of the native vegetation, including trees and shrubs, planted within the site runoff storage facility constructed on Lots 1 and 2 as part of this PROJECT. The long-term management program activities are defined in Tab 9 of the Stormwater Management Certification (SMC 23-09-0002) and include prescribed fire, vegetation enhancement, exotic and weedy species control, and monitoring.

5.0 PARK DISTRICT'S RESPONSIBILITIES.

5.1 The PARK DISTRICT hereby grants the VILLAGE, including the VILLAGE's employees, consultant(s) and contractor(s), permission to enter upon PARK DISTRICT property at no cost to the VILLAGE, for the purpose of undertaking its responsibilities as defined heretofore. The PARK DISTRICT shall not be responsible for the means, methods, techniques, or procedures inherent to said access, nor for the safety of persons performing work on PARK DISTRICT property.

5.2 Except for what has been defined as the responsibility of the Village in Paragraph 4.1 above, the PARK DISTRICT shall be responsible for the long-term maintenance of all real property within Lot 1, otherwise commonly known as Community Park.

6.0 GOVERNMENT REGULATIONS.

6.1 The VILLAGE and PARK DISTRICT shall comply with all local, county, state and federal requirements now in force, or which may hereafter be in force, pertaining to each's responsibilities as defined heretofore.

7.0 INDEMNIFICATION.

7.1 The VILLAGE shall indemnify, hold harmless and defend the PARK DISTRICT or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, liens, proceedings and actions, including reasonable costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the VILLAGE'S PROJECT under this AGREEMENT to the fullest extent authorized under the law, but only to the extent caused by the negligent act or omission, intentional misconduct, or breach of applicable law by the VILLAGE or any contractors or subcontractors providing services in connection with the Project; provided, however, that the VILLAGE shall not be obligated to indemnify, hold harmless and defend the PARK DISTRICT for any negligent or intentional wrongful misconduct or omissions by PARK DISTRICT officials, employees, agents, contractors or personnel.

7.2 The VILLAGE shall require each consultant and contractor responsible for the

construction, maintenance, or monitoring of the PROJECT to be constructed by the VILLAGE to name the VILLAGE and PARK DISTRICT as an additional insured party on said vendor's liability insurance policy. Further, the VILLAGE shall require that its consultants and contractors indemnify, defend and hold harmless the VILLAGE and PARK DISTRICT, its officers, employees and elected officials from and against any claims, liability or judgments resulting from, or caused by, the negligence or willful conduct of such consultant and, or contractor.

- 7.3 Nothing contained herein shall be construed as prohibiting the PARK DISTRICT, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, liens, proceedings and actions brought against them. The PARK DISTRICT'S participation in its defense shall not remove VILLAGE'S duty to indemnify, defend, and hold the PARK DISTRICT harmless, as set forth above. Moreover, indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage maintained by the VILLAGE or its consultants, contractors or agents. The VILLAGE'S indemnification of the PARK DISTRICT shall survive the termination, or expiration, of this AGREEMENT.
- 7.4 The PARK DISTRICT shall indemnify, hold harmless and defend the VILLAGE or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, liens, proceedings and actions, including reasonable costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the PARK DISTRICT'S obligations under this AGREEMENT to the fullest extent authorized under the law, but only to the extent caused by the negligent act or omission, intentional misconduct, or breach of applicable law by the PARK DISTRICT or any contractors or subcontractors providing services in connection with the PARK DISTRICT's obligations under this AGREEMENT; provided, however, that the PARK DISTRICT shall not be obligated to indemnify, hold harmless and defend the VILLAGE for any negligent or intentional wrongful misconduct or omissions by VILLAGE officials, employees, agents, contractors or personnel.
- 7.5 The PARK DISTRICT shall require each consultant and contractor responsible for the construction, maintenance, or monitoring of any PARK DISTRICT work in Lot 2 of Community Park (i.e. VILLAGE property) occurring prior to PROJECT completion to name the VILLAGE and PARK DISTRICT as an additional insured party on said vendor's liability insurance policy. Further, the PARK DISTRICT shall require that its consultants and contractors indemnify, defend and hold harmless the VILLAGE and PARK DISTRICT, its officers, employees and elected officials from and against any claims, liability or judgments resulting from, or caused by, the negligence or willful conduct of such consultant and, or contractor.
- 7.6 Nothing contained herein shall be construed as prohibiting the VILLAGE, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits,

demands, liens, proceedings and actions brought against them. The VILLAGE'S participation in its defense shall not remove the PARK DISTRICT'S duty to indemnify, defend, and hold the VILLAGE harmless, as set forth above. Moreover, indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage maintained by the PARK DISTRICT or its consultants, contractors or agents. The PARK DISTRICT'S indemnification of the VILLAGE shall survive the termination, or expiration, of this AGREEMENT.

8.0 INSURANCE

8.1 The VILLAGE agrees that it will require any contractor doing work on the PROJECT to maintain insurance in the types and amounts set forth below.

8.2 The VILLAGE and the PARK DISTRICT agree to maintain insurance, and provide additional insured coverage to each other, in the amounts provided in Sections 8.2.1 through 8.2.4 of this Agreement.

8.2.1 Commercial General and Umbrella Liability Insurance

8.2.1.1 Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location.

8.2.1.2 CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

8.2.1.3 The VILLAGE and PARK DISTRICT shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the VILLAGE or the PARK DISTRICT. Any insurance or self-insurance maintained by the VILLAGE or PARK DISTRICT shall be excess of the Contractor's insurance and shall not contribute with it.

8.2.1.4 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

8.2.2 Continuing Completed Operations Liability Insurance

8.2.2.1 Contractor shall maintain commercial general liability (CGL) and, if

necessary, commercial umbrella liability insurance with a limit of not less than \$5,000,000 each occurrence for at least three years following substantial completion of the work.

8.2.2.2 Continuing CGL insurance shall be written on ISO occurrence form CG 00 01 10 93, or substitute form providing equivalent coverage, and shall, at minimum, cover liability arising from products-completed operations and liability assumed under an insured contract.

8.2.2.3 Continuing CGL insurance shall have a products-completed operation aggregate of at least two times its each occurrence limit.

8.2.2.4 Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

8.2.3 Business Auto and Umbrella Liability Insurance

8.2.3.1 Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

8.2.3.2 Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

8.2.4 Workers' Compensation Insurance

8.2.4.1 Contractor shall maintain workers' compensation as required by statute and employer's liability insurance. The commercial umbrella and/or employer's liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

8.2.4.2 If the VILLAGE or PARK DISTRICT has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Contractor waives all rights against the VILLAGE and PARK DISTRICT and their officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Contractor's work.

8.2.5 Evidence of Insurance

8.2.5.1 Prior to beginning work, Contractor shall furnish the VILLAGE and PARK

DISTRICT with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

8.2.5.2 All certificates shall provide for 30 days' written notice to VILLAGE and PARK DISTRICT prior to the cancellation or material change of any insurance referred to therein. Written notice to VILLAGE and PARK DISTRICT shall be by certified mail, return receipt requested.

8.2.5.3 Failure of the VILLAGE or PARK DISTRICT to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the VILLAGE or PARK DISTRICT to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

8.2.5.4 The VILLAGE and PARK DISTRICT shall have the right, but not the obligation, of prohibiting their respective Contractors or any subcontractor from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements.

8.2.5.5 Failure to maintain the required insurance shall constitute a breach of the Contractor's contract and may result in termination of the Contract.

8.2.5.6 With respect to insurance maintained after final payment in compliance with a requirement above, an additional certificate(s) evidencing such coverage shall be promptly provided to the VILLAGE OR PARK DISTRICT whenever requested.

8.2.5.7 Contractor shall provide certified copies of all insurance policies required above within 10 days of the VILLAGE'S or PARK DISTRICT'S written request for said copies.

8.2.6 Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the VILLAGE or PARK DISTRICT shall have the right to reject insurance written by an insurer it deems unacceptable.

8.2.7 Cross-Liability Coverage

If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

8.2.8 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the VILLAGE

and PARK DISTRICT. At the option of the VILLAGE and PARK DISTRICT, the Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the VILLAGE and PARK DISTRICT, their officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

8.2.9 Subcontractors

Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the VILLAGE OR PARK DISTRICT, Contractor shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

8.2.10 Indemnification

Each contract entered into by the VILLAGE or the PARK DISTRICT for any work to be performed under the terms of this AGREEMENT shall contain the following provision:

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the VILLAGE and PARK DISTRICT and their officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorneys' and paralegals' fees and court costs), arising out of or resulting from the performance of the Contractor's work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting there from and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Contractor shall similarly protect, indemnify and hold and save harmless the VILLAGE and PARK DISTRICT, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Contractor's breach of any of its obligations under, or Contractor's default of, any provision of the Contract.

9.0 AMENDMENT OR MODIFICATION OF THIS AGREEMENT.

9.1 The PARTIES may modify or amend this AGREEMENT only by a written document duly approved and executed by both PARTIES, excluding term extensions as provided for in the following provision.

9.2 Notwithstanding Paragraph 9.1 above, the term for performing this AGREEMENT may be extended by written agreement, signed by both PARTIES without formal amendment pursuant to Paragraph 9.1 above.

10.0 TERM OF THIS AGREEMENT.

10.1 The term of this AGREEMENT shall begin on the date the AGREEMENT is fully executed, and shall continue in full force and effect for the life of the PROJECT.

11.0 ENTIRE AGREEMENT.

11.1 This AGREEMENT, including matters incorporated herein, contains the entire AGREEMENT between the PARTIES.

11.2 There are no other covenants, warranties, representations, promises, conditions or understandings, either oral or written, other than those contained herein.

11.3 This AGREEMENT may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

11.4 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.

11.5 This Agreement is entered into solely for the benefit of the contracting parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a party to this Agreement, or to acknowledge, establish or impose any legal duty to any third party.

12.0 SEVERABILITY.

12.1 In the event any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the AGREEMENT. The remainder of this AGREEMENT shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.

13.0 GOVERNING LAW.

13.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.

13.2 The venue for resolving any disputes concerning the PARTIES' respective performance, or failure to perform, under this AGREEMENT, shall be the judicial circuit court for DuPage County.

14.0 NOTICES.

14.1 Any required notice shall be in writing and shall be deemed to have been properly made on the day of service if served personally, and on the third day following mailing if sent by certified mail, postage prepaid, return receipt requested to the following addresses and persons representing the VILLAGE’s project manager and PARK DISTRICT’s Executive Director, whose roles are occupied by the following individuals at the time of this AGREEMENT:

VILLAGE:
Gregory R. Ulreich
Civil/Stormwater Engineer
Village of Carol Stream
500 N. Gary Avenue
Carol Stream, IL 60188

PARK DISTRICT:
Sue Rini
Executive Director
Carol Stream Park District
849 W. Lies Road
Carol Stream, IL 60188

15.0 WAIVER OF/FAILURE TO ENFORCE BREACH.

15.1 The PARTIES agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this AGREEMENT with respect to a different breach.

16.0 NO WAIVER OF TORT IMMUNITIES

16.1 Nothing contained in any provision of this Agreement is intended to constitute nor shall constitute a waiver of the defenses, privileges or immunities available to the PARTIES under the Illinois Local Governmental and Governmental Employees Tort Immunity Act.

IN WITNESS OF, the PARTIES set their hands and seals as of the date first written above.

CAROL STREAM PARK DISTRICT

VILLAGE OF CAROL STREAM

Jacqueline Jeffery
Board President

Frank Saverino, Sr.
Mayor

ATTEST:

ATTEST:

Sue Rini
Executive Director

Julia Schwarze
Village Clerk