

**INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF ELMHURST AND  
ELMHURST PARK DISTRICT FOR THE CONSTRUCTION, OPERATION AND  
MAINTENANCE OF STORMWATER IMPROVEMENTS IN  
YORK COMMONS PARK, ELMHURST, DUPAGE COUNTY, ILLINOIS**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into this 22<sup>nd</sup> day of FEBRUARY, 2018, by and between City of Elmhurst, an Illinois municipal corporation ("City"), and Elmhurst Park District, an Illinois park district and unit of local government ("Park District"). City and Park District are hereinafter sometimes referred to individually as a "Party," and collectively as the "Parties."

**RECITALS**

WHEREAS, the City owns, operates, and maintains a storm sewer collection system, including certain ancillary facilities and improvements, throughout its corporate boundaries; and

WHEREAS, the City and its residents have experienced, and continue to experience, severe flooding during heavy rain events; and

WHEREAS, in or about April 2012, the City caused to be created the "City of Elmhurst Comprehensive Flooding Plan Stormwater Sewer System Analysis Elmhurst Illinois" prepared by Christopher B. Burke Engineering, Ltd. ("Comprehensive Flooding Plan"); and

WHEREAS, the Comprehensive Flooding Plan recommended, in part, the use of certain parks owned and operated by the Park District as possible stormwater detention sites, including the park located at 665 S. York St., Elmhurst, Illinois and commonly referred to as "York Commons Park"; and

WHEREAS, the City is committed to accomplishing the goals set forth in the Comprehensive Flooding Plan; and

WHEREAS, following the creation of the Comprehensive Flooding Plan, the Park District retained V3 Companies to perform a peer review of the Comprehensive Flooding Plan and to otherwise assist and advise the Park District with respect to the potential implementation of stormwater improvements in certain parks owned and operated by the Park District, including York Commons Park; and

WHEREAS, based on reviews performed by the Parties and their respective engineers, and consultation among the Parties and their respective engineers, the Parties reasonably believe that the construction, operation and maintenance of certain stormwater improvements in portions of York Commons Park is expected to reduce the frequency and severity of flooding within the Parties' respective corporate boundaries; and

WHEREAS, based on the foregoing, the Park District has determined that it is in the public's interest to grant certain easement rights to the City in order to facilitate the construction,

operation, and maintenance of certain stormwater improvements in portions of York Commons Park (“York Commons Park Stormwater Detention Site”); and

WHEREAS, the Parties previously entered into a Lease Agreement (“1979 Lease”) that allowed, in part, the Park District to share the use of the City’s maintenance facility for a term ending on April 30, 2029; and

WHEREAS, in exchange for the right to construct, operate and maintain certain stormwater improvements in the York Commons Park Stormwater Detention Site, the City has agreed to extend the term of the 1979 Lease, upon and subject to the terms and conditions set forth herein; and

WHEREAS, the City, by virtue of its power as a home rule unit of government as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois, and Park District, by virtue of its powers set forth in Sections 8-1 and 8-11 of the Park District Code (70 ILCS 1205/8-1 and 8-11), are authorized to enter into this Agreement; and

WHEREAS, a cooperative intergovernmental agreement is appropriate and such an agreement is authorized and encouraged by Article 7, Section 10 of the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*); and

WHEREAS, the Parties wish to define and establish their respective rights, responsibilities and obligations with respect to the construction, operation, and maintenance of the stormwater improvements installed in the York Commons Park Stormwater Detention Site.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and made a part hereof as though fully set forth herein, the same constituting the factual basis for this Agreement.

2. Stormwater Improvements. The City shall, at its sole cost and expense, design and construct certain mutually agreed upon stormwater improvements in the York Commons Park Stormwater Detention Site, which improvements shall specifically include the installation of an automated shutoff valve to the inlet to said improvement to prevent said improvement from exceeding the 100 year elevation. (“Stormwater Improvements”). The Stormwater Improvements shall be based upon, and shall in all respects fully comply with, the Approved Plans and Specifications (as that term is defined in Paragraph 5.C. below), a copy of which is attached hereto and incorporated herein by reference as Exhibit A. The Parties specifically acknowledge that the plans and specifications attached hereto as Exhibit A at the time of execution of this Agreement may be preliminary in nature and may not be the Approved Plans and Specifications defined in Paragraph 5.C. below. Accordingly, the Parties agree that the Approved Plans and Specifications, once completed and agreed upon by both Parties, shall be

attached to this Agreement as Exhibit A and shall replace any preliminary plans and specifications attached hereto at the time of execution. The Parties, through their respective Executive Director and City Manager, shall execute an appropriate document confirming the attachment of the Approved Plans and Specifications to this Agreement.

3. Extension of Maintenance Facility Lease. The City and Park District previously entered into a lease agreement that allowed, among other things, the Park District to share use of the City's maintenance facility, now located at 985 South Riverside Drive, Elmhurst, Illinois, for a fifty (50) year term ending April 30, 2029 ("1979 Lease"). As consideration for the rights granted City under this Agreement, the City agrees to extend the term of the 1979 Lease for approximately fifty (50) years from the date of execution of this Agreement, such that the 1979 Lease shall end on February 28, 2065. The City further agrees that the term of the 1979 Lease, as amended and extended by this Agreement, shall automatically renew for an additional forty-three (43) year term beginning on March 1, 2065 and ending February 29, 2108, unless the Park District provides written notice to the City that it no longer desires to share use of the maintenance facility.

4. Easements. To facilitate the construction, operation and maintenance of the Stormwater Improvements, the Park District shall grant to the City certain temporary construction easement rights and certain perpetual access and maintenance easement rights in and to the York Commons Park Stormwater Detention Site to be used for stormwater management purposes. The temporary construction easement and perpetual access and maintenance agreement shall be in substantially the form attached hereto as Exhibit B and incorporated herein by reference, subject to such additional modifications as mutually agreed to by the Parties in writing.

5. Review of City's Plans and Specifications.

A. The City shall submit to the Park District for review and comment the proposed plans and specifications for the Stormwater Improvements to be constructed by the City in the York Commons Park Stormwater Detention Site pursuant to this Agreement. The City shall submit the plans and specifications, including but not limited any construction documents, at the following intervals: (i) sixty-five percent (65%) complete, including preliminary design; (ii) 95% complete; and (iii) final plans and specifications. The proposed plans and specifications shall be prepared in accordance with all applicable City ordinances, County of DuPage Ordinances, and State and Federal statutes, rules, and regulations. The City shall conduct at least one public informational meeting regarding the proposed plans and specifications, and shall attend and participate in such other public meetings reasonably requested by the Park District.

B. The Park District shall review the plans and specifications prepared by the City, and such other items or documents reasonably required by the Park District to complete its review. Provided the plans and specifications are complete, and the City has provided any other items or documents reasonably requested by the Park District to complete its review, the Park District shall review and notify the City of any errors in,

objections to, or other comments regarding the plans and specifications within ten (10) business days of the Park District's receipt of the complete set of proposed plans and specifications and any other items or documents reasonably requested.

C. The City and the Park District shall work cooperatively to address any errors, objections or other comments raised by the Park District, and the City shall incorporate any changes or modifications reasonably requested by the Park District. The City shall have ten (10) business days following its receipt of any errors in, objections to, or other comments raised by the Park District to notify the Park District regarding any requested changes or modifications the City deems unreasonable. The City and the Park District must agree on a final set of plans and specifications for the Stormwater Improvements to be constructed by the City in the York Commons Park Stormwater Detention Site. Once agreed upon by the Parties, the final plans and specifications shall be known as the "Approved Plans and Specifications." Notwithstanding the foregoing, Park District's review and agreement as to any plans and specifications, including but not limited to the Approved Plans and Specifications, shall not constitute, nor be construed as, a certification or warranty as to the accuracy, appropriateness, or effectiveness of any plans and specifications or the Approved Plans and Specifications.

D. Park District shall have no liability for any errors, omissions, or other defects in any plans or specifications, including the Approved Plans and Specifications, and its approval shall not constitute a limitation on or waiver by Park District of its rights under this Agreement or a defense by the City to the exercise by Park District of its remedies for City's breach of its obligations under this Agreement or as a basis for the City to avoid its indemnification obligations under this Agreement.

6. Schedule of Construction. The Parties shall reasonably cooperate in coordination of the construction, operation and maintenance contemplated by this Agreement or any exhibits hereto, so as to minimize any adverse impact on Park District operations, including but not limited to Park District's use of York Commons Park or the York Commons Park Stormwater Detention Site. Prior to bidding any work to be done pursuant to this Agreement, the City shall submit a sample schedule to the Park District for such work for preliminary approval. The City shall notify the Park District at least thirty (30) days prior to commencement of construction, staging or site preparation for any construction, operation and maintenance contemplated by this Agreement or any exhibits attached hereto. The City shall also provide the Park District with a copy of the construction schedule for any construction, operation and maintenance contemplated by this Agreement or any exhibits attached hereto, as the same may be revised from time to time and otherwise give the Park District reasonable advance notice of any planned activities on or in the York Commons Park Stormwater Detention Site that may affect the Park District's conduct of its normal activities or operations, including but not limited to Park District's use of York Commons Park or the York Commons Park Stormwater Detention Site. Any construction schedule provided by the City under this paragraph shall be based upon prior consultation with the Park District, and shall be designed, to the greatest extent practicable, to minimize any adverse impact on Park District operations, including but not limited to Park District's use of York Commons Park or the York Commons Park Stormwater Detention Site.

7. Demolition of Facilities or Improvements. If it is necessary for the City to demolish any Park District facilities or improvements in order to fully implement the Approved Plans and Specifications, the City shall be responsible for the full cost of such demolition. The City shall give the Park District as much advance notice of such demolition or site preparation as practicable, but in no event less than seven (7) business days advance notice, to allow the Park District sufficient time to salvage or remove any facilities or improvements. Prior to the City's commencement of any work to be done pursuant to this Agreement or its addenda, the City shall videotape the condition of the site and perform a walkthrough of the site to establish the condition of the site before such work and/or demolition is performed.

8. Restoration of the Park Stormwater Detention Sites.

A. Following the City's completion of any Stormwater Improvements constructed in the York Commons Park Stormwater Detention Site pursuant to this Agreement, the City shall, at its sole cost and expense shall, restore all affected portions of the York Commons Park Stormwater Detention Site and any other affected portions of Park District owned property to the same or better condition as existed immediately prior to the commencement of any activity thereon by the City and as established by the preconstruction videotape walkthrough.

B. Additionally, the City, at its sole cost and expense, shall repair all damage to the York Commons Park Stormwater Detention Site, any improvements located thereon, and any other affected portions of Park District owned property, and replace all lost or destroyed items upon notice to the City and a reasonable time thereafter to perform such replacement.

C. In the event that the City's construction, operation, or maintenance of the stormwater or recreational improvements requires the removal of any existing trees at the York Commons Park Stormwater Detention Site, or in the event that any existing trees at the York Commons Park Stormwater Detention Site die as a result of the construction, operation, or maintenance of the stormwater or recreational improvements, the City shall be obligated, except as otherwise provided herein, at its sole cost and expense, to replace the affected "quality" tree or trees according to the following terms:

- i. Trees are to be evaluated based upon diameter at breast height ("DBH"). The DBH of multiple trees shall not be added together except in the case of multi-stem trees. Multi-stem trees shall have their trunks measured individually, and then an average of DBH of the trunks shall be used to get a single DBH size for evaluation purposes.
- ii. No volunteer or scrub trees shall be evaluated for reimbursement unless agreed upon by the City and the Park District.
- iii. The cost of removal shall not be deducted from the replacement values.

- iv. Trees that are diseased, infested, or would otherwise be removed, shall not be evaluated for reimbursement (e.g., all Ash trees due to Emerald Ash Borers; American Elm currently diagnosed with Dutch Elm Disease; trees in a dead, dying, declining and/or severely damaged condition).
- v. Replacement values for trees (number of trees and/or monetary values) shall be calculated using the measured DBH modified by the species rating located at the Illinois Arborist Association website ([www.illinoisarborist.org](http://www.illinoisarborist.org)) for Northern Illinois Tree Ratings. Base tree replacements shall be made on a "1 for 1" DBH replacement (once adjustments are made).
- vi. Replacement values are calculated at \$133/inch in DBH. Replacement trees must be at least two and one half (2.5) inches in diameter and six (6) feet above the ground.
- vii. All replacement trees shall be of a variety selected by the Park District and shall be installed in a location determined by the Park District.
- viii. The Park District may also elect, in its sole discretion, to forego tree replacement and instead receive cash replacement value for some or all of the replacement trees contemplated by this paragraph 8.C. Any cash replacement value received by the Park District shall be used for tree replacement in public park locations.
- ix. Prior to the commencement of work pursuant to this Agreement or any addenda attached hereto, the Parties shall identify all dead, dying or invasive trees located at Park Stormwater Detention Site that should be removed, but, not subject to replacement under the terms provided herein.
- x. The City shall warrant the condition of the replacement trees for a period of one year.

D. All restoration, repair and replacement shall be completed to the reasonable satisfaction of Park District within thirty (30) days after the completion of the stormwater improvements or, if due to weather conditions or other circumstances which in the Park District's opinion would make any such restoration, repair and replacement inadvisable, then within such later time period as the Park District reasonably shall request.

9. Environmental Investigation and Remediation of Park District Property.

A. Within thirty (30) days after the approval and execution of this Agreement and the form temporary construction easement and perpetual access and maintenance

agreement attached hereto as Exhibit B, the City may enter the York Commons Park Stormwater Detention Site, upon prior written notice as provided below, to perform environmental testing at the City's expense.

B. The City agrees to protect, indemnify, defend and hold the Park District, and its elected and appointed officials, officers, employees, agents, and volunteers (individually and collectively, the "Park District's Indemnitees") harmless from and against any claim for liabilities, losses, costs, expenses (including reasonable attorneys' fees), damages or injuries suffered or incurred by any of the Park District Indemnitees arising out of, resulting from, relating to or connected with: (i) any environmental investigation or assessment performed at the Park Stormwater Detention Sites by the City or any of City's employees, agents, representatives, contractors and consultants, excluding, however, any claim for liabilities, losses, costs, expenses, damages or injuries for any diminution in market value of any Park Stormwater Detention Sites that may arise as a result of the discovery of environmental contamination by way of the City's environmental investigation or assessment as provided in this Agreement, provided City or any of City's employees, agents, representatives, contractors and consultants did not introduce or is not otherwise responsible for any environmental contamination discovered; and/or (ii) the willful misconduct of, or other acts or omissions of, the City or its employees, agents, representatives, contractors and consultants at any of the Park Stormwater Detention Sites.

C. In the event the City's environmental testing discloses environmental contamination or hazardous materials in the York Commons Park Stormwater Detention Site, the City may, in its sole discretion, declare within thirty (30) days after the completion of such environmental testing that it will not proceed with the construction of the Stormwater Improvements, and may declare this Agreement, including any exhibits attached hereto, null and void by sending the Park District the appropriate notice pursuant to paragraph 20 below. The City's obligations under paragraph 3 of this Agreement to extend the 1979 Lease shall not survive the termination of this Agreement pursuant to this paragraph 9.C.

D. If the City elects to proceed with the construction of the Stormwater Improvements after discovering environmental contamination or hazardous materials in the York Commons Park Stormwater Detention Site, the City shall: (i) notify the Park District of its decision to proceed; and (ii) prepare for the Park District's review and comment, at the City's sole cost and expense, an Environmental Remediation Plan ("ERP") setting forth the City's plan to handle, dispose of, and otherwise remediate the environmental contamination and hazardous materials pursuant to State and Federal law.

E. The Park District's review of and comment on the ERP is to confirm compliance with State and Federal laws and the terms of this Agreement. Following the Park District's review of and comment on the ERP, the City and the Park District shall work cooperatively to address the Park District's comments regarding the ERP to confirm compliance with State and Federal laws and the terms of this Agreement. The City and the Park District must agree to the ERP, and such agreement shall not be unreasonably

withheld. Once the ERP is agreed upon by the Parties, the Park District, as owner of the York Commons Park Stormwater Detention Site, shall fully cooperate with the City's implementation of the approved ERP with regard to any such remediation. This includes, but is not limited to, execution of any documents regarding environmental remediation at the York Commons Park Stormwater Detention Site. The City agrees that it shall undertake the performance of the ERP, and any and all necessary remediation set forth therein, at its sole cost and expense.

10. Maintenance and Repair of the Stormwater Improvements. The City shall maintain the stormwater improvements in such a manner so as to ensure that the stormwater improvements remain in good working order and repair at all times, and will further ensure that the stormwater improvements comply at all times with applicable federal, state and local law, including the ordinances and regulations of the County of DuPage and the City of Elmhurst. The City's maintenance obligations under this paragraph 10 shall include, but are not limited to, the obligations set forth in the Detention Basin Maintenance Tasks and Schedule, attached hereto as Exhibit C and incorporated herein by reference. In the event that the Park District determines that the City is not in compliance with the terms of this paragraph 10, the Park District shall provide the City written notice of said noncompliance. Upon receipt of said notice, the City shall have thirty (30) days to commence the necessary measures to cure said noncompliance. Notwithstanding the above thirty (30) day cure period, the City shall take immediate action to cure said noncompliance in the case of an emergency likely to cause immediate harm, damage or danger to surrounding property or to the public or private health, safety or welfare. In the event that the City fails to commence the necessary measures to cure said noncompliance at the expiration of the periods set forth herein, or otherwise exhibits an unwillingness to cure said noncompliance, the Park District shall have the right, but not the obligation, to take all steps necessary to bring the stormwater improvements into good working order and repair and to ensure compliance with all applicable federal, state and local laws, including the ordinances and regulations of the County of DuPage and the City of Elmhurst, and the City shall be responsible for all reasonable costs and expenses incurred by the Park District in connection with same, including reasonable attorneys' fees. Except for emergency situations or unless otherwise agreed upon by the Parties, the City shall provide not less than thirty (30) days advance written notice before beginning any work or maintenance on the stormwater improvements. In the event of an emergency, and if prior notice is not possible, the City shall provide notice to the Park District at the earliest reasonable opportunity.

11. Indemnification and Hold Harmless. To the fullest extent permitted by law, the City agrees to indemnify, defend, save and hold harmless the Park District's Indemnitees from and against any and all liabilities, claims, losses, and/or demands for personal injury and/or property damage, including reasonable attorneys' fees, arising out of or caused by any act or omission of the City, any of its contractors or subcontractors, anyone directly or indirectly employed or engaged by any of them, or anyone for whose acts any of them may be liable, arising out of or in connection with any work or activity performed pursuant to this Agreement, the grants of easement contemplated by this Agreement, any work or activity performed on or in the York Commons Park Stormwater Detention Site which relates to or involves the stormwater improvements constructed and installed by the City, and/or any work or activity performed in connection with the City's construction, operation, or maintenance of the stormwater

improvements. (The items in the preceding sentence for which indemnification is required are hereinafter referred to as "Claims"). 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. The City shall similarly protect, indemnify and hold and save harmless Park District's Indemnitees from and against any and all claims, costs, causes, actions and expenses including but not limited to court and administrative costs, reasonable attorneys and paralegal fees (collectively, "Legal Fees") incurred by reason of the City's failure to fully perform any of its obligations under, and/or City's breach or default of or under, any provision of this Agreement. It is expressly acknowledged and agreed by the City that it is City's intention that the obligations of the City contained in this paragraph 12 with respect to Claims shall be broadly construed and applied in favor of Park District's Indemnitees, excluding indemnification of Park District's Indemnitees for their negligent, willful and/or intentional misconduct. It is further agreed by the City that failure of the City to indemnify, defend and hold harmless Park District's Indemnitees as provided in this paragraph 11 shall constitute a breach of a material term of this Agreement.

12. Subsequent Modifications. The Park District reserves the right of access to and use of the York Commons Park District Stormwater Detention Site in any manner not inconsistent with the rights granted to the City under this Agreement or any exhibits attached hereto, including but not limited to the right to install recreational, athletic and other park structures, landscaping, gardens, shrubs, driveways, sidewalks, parking lots, and ingress and egress roadways on or in the York Commons Park District Stormwater Detention Site that do not then or later conflict with the stormwater improvements or the easement rights granted hereunder. The City shall not modify any stormwater improvements constructed pursuant to the terms of this Agreement or any exhibits attached hereto, or add any additional stormwater improvements not specifically included in this Agreement or any exhibits or addenda attached hereto, without the prior, express written approval of the Park District.

13. Insurance. At all times while this Agreement remains in effect, each party shall procure adequate insurance and/or self-insurance to protect itself, its officers, employees and agents from any liability for bodily injury, death and/or property damage in connections with the stormwater improvements constructed pursuant to this Agreement or any exhibits attached hereto.

14. Termination.

A. The City may, in its sole discretion and prior to the construction of any Stormwater Improvements, declare this Agreement, including any exhibits attached hereto, null and void by sending the Park District the appropriate notice pursuant to paragraph 20 below.

B. The Park District may, in its sole discretion, declare this Agreement, including any exhibits attached hereto, null and void by sending the City the appropriate notice pursuant to paragraph 20 below in the event the City does not enter into an agreement for the construction of the Stormwater Improvements contemplated by this

Agreement or by any exhibits attached hereto within two (2) years from the execution date of this Agreement.

C. Notwithstanding the foregoing, the City's obligations under paragraph 3 of this Agreement to extend the term of the 1979 Lease shall survive the termination of this Agreement pursuant to this paragraph 14.

15. No Waiver. No waiver of any rights which Park District has in the event of any default or breach by City under this Agreement shall be implied from the failure by Park District to take any action on account of such breach or default, and no express waiver shall affect any breach or default other than the breach or default specified in the express waiver and then only for the time and to the extent therein stated.

16. Entire Agreement. This instrument contains the entire agreement between the Parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect, and any modifications to this Agreement must be in writing and must be signed by all Parties to this Agreement.

17. Severability. Invalidation by judgment or court order of any one or more of the covenants or restrictions contained herein shall in no way affect any other provisions which shall remain in full force and effect.

18. Law Governing. The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance.

19. Captions and Paragraph Headings. Captions and paragraph headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.

20. Notices. All notices provided for herein shall be served upon the Parties by personal delivery, email, fax or Certified United States mail, return receipt requested, at the following locations, or at such other location or locations as the Parties may from time to time designate in writing:

Notice to Park District:

Executive Director  
Elmhurst Park District  
375 W. 1<sup>st</sup> Street  
Elmhurst, IL 60126

Notice to City:

City Manager  
City of Elmhurst  
209 N. York St.  
Elmhurst, IL 60126

Notices shall be deemed given when received by the Party to whom it was sent.

21. No Waiver of Tort Immunity. Nothing contained in this Agreement is intended to constitute nor shall constitute a waiver of the rights, defenses, and immunities provided or

available to either Party under the Illinois Local Governmental and Governmental Employees Tort Immunity Act with respect to claims by third parties.

22. No Third Party Beneficiaries. This Agreement is entered into solely for the benefit of the 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.

23. Compliance with Laws. The Parties shall comply with all applicable federal, state, county, and local statutes, ordinances, rules, regulations, and codes.

24. Counterparts. This Agreement may be executed in counterparts that, taken together, will be effective as if they were a single document. Signatures transmitted by a .pdf file or facsimile shall be treated as originals.

25. Prevailing Party. The prevailing party in any suit or action to enforce the provisions of this Agreement shall be entitled to recover his or her costs in enforcing this Agreement, including reasonable attorneys' fees.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

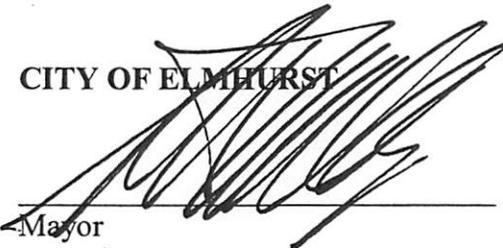
**ELMHURST PARK DISTRICT**

  
\_\_\_\_\_  
President, Board of Park Commissioners

ATTEST:

  
\_\_\_\_\_  
Secretary, Board of Park Commissioners

**CITY OF ELMHURST**

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

**EXHIBIT A**

**Approved Plans and Specifications**

**EXHIBIT B**

**Form Temporary Construction Easement and Perpetual Access  
and Maintenance Easement Agreement**

**EXHIBIT C**

**Detention Basin Maintenance Tasks and Schedule**

**A RESOLUTION APPROVING AND AUTHORIZING  
THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT  
BY AND BETWEEN THE CITY OF ELMHURST, ILLINOIS AND ELMHURST PARK DISTRICT  
FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF STORMWATER  
IMPROVEMENTS IN YORK COMMONS PARK, ELMHURST, DUPAGE COUNTY, ILLINOIS**

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**WHEREAS**, the City of Elmhurst (the "City") and the Elmhurst Park District ("Park District") are units of local government within the meaning of the Illinois Intergovernmental Cooperation Act, as specified in 5 ILCS 220/1 *et seq.*, and both the City and Park District are authorized, pursuant to Article VII, Section 10 of the 1970 Illinois Constitution, to enter into intergovernmental agreements; and

**WHEREAS**, the City proposes to utilize open land in a portion of York Commons Park ("York Commons Park Stormwater Detention Site") for stormwater detention to help alleviate flooding in the City; and

**WHEREAS**, the inclusion of a mechanical valve in the stormwater improvements deviates from the recommendation of the City's retained engineer, Christopher B. Burke Engineering, Ltd., and the City Council, but, is necessary to meet the approval of the Park District; and

**WHEREAS**, the City and Park District are desirous of entering into an Intergovernmental Agreement for the construction, operation, and maintenance of stormwater improvements at the York Commons Park (the "Agreement").

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of the City of Elmhurst, DuPage and Cook Counties, Illinois, as follows:

**Section 1:** The facts and statements contained in the preamble clauses to this Resolution are found to be true and correct and are hereby adopted as part of this Resolution.

**Section 2:** It is hereby determined that it is advisable, necessary and in the public interest that the City enter into the Agreement with Park District, in substantially the same form as the Agreement attached hereto, marked as Exhibit "1" and made a part hereof.

**Section 3:** The Mayor is hereby authorized to execute and the City Clerk is hereby authorized to attest the Agreement with Park District.

**Section 4:** This Resolution shall be in full force and effect upon its passage and approval in accordance with the law.

ADOPTED this 16<sup>th</sup> day of February, 2015.

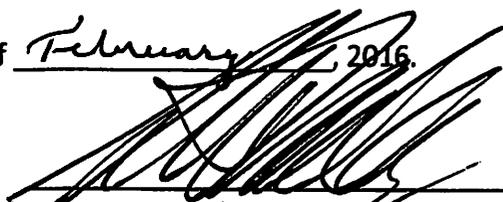
AYES: 13

NAYS: 1

ABSENT: 0

ABSTENTION: \_\_\_\_\_

APPROVED by me this 16<sup>th</sup> day of February, 2016.

  
\_\_\_\_\_  
Steven M. Morley, Mayor of the City of  
Elmhurst, DuPage and Cook Counties, Illinois

ATTESTED and filed in my office,  
this 16<sup>th</sup> day of February, 2016.

  
\_\_\_\_\_  
Patty Spencer, Clerk of the City of Elmhurst,  
DuPage and Cook Counties, Illinois

**EXHIBIT "1"**

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
CITY OF ELMHURST AND ELMHURST PARK DISTRICT  
FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF STORMWATER  
IMPROVEMENTS IN YORK COMMONS PARK, ELMHURST, DUPAGE COUNTY, ILLINOIS**

## **COUNCIL ACTION SUMMARY**

**SUBJECT:** Resolution Approving and Authorizing an Intergovernmental Agreement Between the City of Elmhurst and Elmhurst Park District for the construction, operation, and maintenance of stormwater improvements on a portion of the York Commons Park (“York Commons Park Stormwater Detention Site”).

**ORIGINATOR:** City Attorney

### **DESCRIPTION OF SUBJECT MATTER:**

Pursuant to the recommendation of the Public Works and Building Committee, the City Attorney drafted a resolution to approve and authorize an Intergovernmental Agreement Between the City of Elmhurst and Elmhurst Park District for the construction, operation, and maintenance of stormwater improvements on a portion of the York Commons Park which will provide stormwater storage on the York Commons Park Stormwater Detention Site.