

INTERGOVERNMENTAL AGREEMENT
between
LAKE COUNTY STORMWATER MANAGEMENT COMMISSION
and the
CITY OF HIGHLAND PARK

THIS AGREEMENT is made between the Lake County Stormwater Management Commission ("SMC"), acting pursuant to a cooperative agreement with the People of the State of Illinois, Illinois Emergency Management Agency (IEMA), ("STATE"), and the City of Highland Park, Illinois ("CITY").

WITNESSTH:

WHEREAS, the SMC and the CITY are legal entities and existing under the laws of the State of Illinois, having among their powers to contract with one another to perform the undertakings described in this AGREEMENT; and

WHEREAS, the SMC has entered into a cooperative agreement with the STATE (IEMA) dated October 2, 2019 in which the STATE is authorized to acquire certain flood-prone, real property, and which the STATE thereafter transfers and conveys to the SMC, subject to certain perpetual conditions and restrictions; and

WHEREAS, the SMC has adopted a long-range hazard mitigation plan to acquire privately-owned real property, in conjunction with the STATE, located in Lake County's flood hazard areas, for public use, thereby eliminating threats to public health and damages to private dwellings and other structures caused by flooding; and

WHEREAS, the SMC has been authorized with/from the STATE, certain real property, described in Exhibit A, as a part of the Pre-Disaster Mitigation Project, located within a flood hazard area and within the corporate limits of the SMC and the CITY; and

WHEREAS, the SMC has determined that it is necessary and convenient to convey said real property described in Exhibit A, by a vote of 2/3 of its Commissioners in accordance with the Local Government Property Transfer Act (50 ILCS 605/2 (a)), to the CITY, subject to the restrictions contained in this Agreement; and

WHEREAS, the CITY has determined that it is necessary and convenient to acquire the real property described in Exhibit A from the SMC for open space public use, subject to the conditions and restrictions contained in the Deed from the STATE to the SMC and the restrictive covenants of this Agreement as described in Exhibit B, pursuant to an ordinance enacted in accordance with the Local Government Property Transfer Act (50 ILCS 605/2 (a)); and

WHEREAS, the CITY has determined and will contribute in monies and services, as the CITY's contribution to the *STATE/SMC* acquisition of the real property described in Exhibit A, twenty-five percent (25%) of the total cost of acquisition, structure removal, and site restoration, for a not-to-exceed amount of \$217,914; and

WHEREAS, the entering into, and implementation of, this AGREEMENT will further and enhance the public policy of intergovernmental cooperation.

NOW THEREFORE, for and in consideration of the benefits to be derived from the implementation of the Lake County Pre-Disaster Mitigation Project, the sufficiency of which is hereby acknowledged, the parties agree to the following terms and conditions:

1. The recitals set forth above are incorporated herein by reference and made a part hereof.
2. The parties agree that the use of the subject real property (Exhibit A) shall be restricted to open space public use, and no improvements shall be made to or on the real property other than flood hazard mitigation improvements, or those improvements permitted under the conditions and restrictions contained in the Deed Restrictions from the STATE to the SMC or the restrictive covenants described in Exhibit B. If the subject real property (Exhibit A) ceases to be used for open space public use, legal title to said real property shall revert to the SMC. These conditions and restrictions shall run with the land.
3. The SMC shall convey the subject real property to the CITY by Quit Claim deed, subject only to restrictions of record and to the restrictions provided in Paragraph 2 above and in Exhibit B. The SMC shall provide current date title insurance, at its own cost, identifying CITY as Grantee.
4. The CITY agrees that acquisition of the subject property is necessary and convenient for open space public use, subject to the restrictions set forth in Paragraph 2 above and in Exhibit B.
5. This AGREEMENT does not relieve the CITY from obtaining any necessary federal, state, or local permit(s) required for any flood hazard mitigation improvement(s) or other permitted improvement(s) to or on the subject property.
6. This AGREEMENT may only be modified, supplemented, or amended by mutual agreement, in writing, by the parties hereto.

IN WITNESS WHEREOF the parties, by their duly authorized officers, have executed this AGREEMENT, effective the date approved and executed by the Chairman of the SMC.

CITY OF HIGHLAND PARK

LAKE COUNTY STORMWATER
MANAGEMENT COMMISSION

Mayor

Chairman

Date: _____

Date: _____

ATTEST:

ATTEST:

City Clerk

Secretary

EXHIBIT A
LEGAL DESCRIPTIONS-HIGHLAND PARK

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT B
RESTRICTIVE COVENANTS

LAKE COUNTY STORMWATER MANAGEMENT COMMISSION



In reference to the property or properties in Attachment A ("Property") conveyed by the Deed between the Property Owners participating in the federally assisted acquisition project FEMA ("the Grantor"), through the Illinois Emergency Management Agency ("the Grantee") and the Lake County Stormwater Management Commission, ("the Sub-Grantee"), its successors and assigns:

WHEREAS, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, ("The Stafford Act"), 42 U.S.C. § 5121 et seq., identifies the use of pre-disaster mitigation grants under § 5133, Pre-Disaster Mitigation, to assist States and local governments in implementing cost-effective hazard mitigation measures to reduce injuries, loss of life, and damage and destruction of property;

WHEREAS, the mitigation grant program provides a process for a local government, through the STATE, to apply for federal funds for mitigation assistance to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the structures, and to maintain the use of the Property as open space in perpetuity;

WHEREAS, the STATE has applied for and been awarded such funding from the Department of Homeland Security, Federal Emergency Management Agency and has entered into a mitigation grant program Grant Agreement with FEMA and herein incorporated by reference; making it a mitigation grant program grantee.

WHEREAS, the properties are located in the City of Highland Park, and the City of Highland Park participates in the National Flood Insurance Program (NFIP) and is in good standing with NFIP as of the date of the Deed;

WHEREAS, the LAKE COUNTY STORMWATER MANAGEMENT COMMISSION, acting by and through the Lake County Stormwater Management Commission Board, has applied for and been awarded federal funds pursuant to an agreement with the STATE dated October 2, 2019, and herein incorporated by reference, making it a mitigation grant program subgrantee;

WHEREAS, the terms of the mitigation grant program statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State-local Agreement require that the COMMISSION agree to conditions that restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values;

Now, therefore, the grant is made subject to the following terms and conditions:

1. Terms. Pursuant to the terms of the **Pre-Disaster Mitigation Grant Program** statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State-local Agreement, the following conditions and restrictions shall apply in perpetuity to the Property as described in the attached deeds and in Attachment A and acquired by the COMMISSION pursuant to FEMA program requirements concerning the acquisition of property for open space:
 - a. Compatible uses. The Property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities; wetlands management; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; buffer zones; and other uses consistent with FEMA guidance for open space acquisition, Hazard Mitigation Assistance, Requirements for Property Acquisition and Relocation for Open Space.
 - b. Structures. No new structures or improvements shall be erected on the property other than:
 - i. A public facility that is open on all sides and functionally related to a designated open space or recreational use;
 - ii. A public restroom; or
 - iii. A structure that is compatible with open space and conserves the natural function of the floodplain, including the uses described in Paragraph 1.a., above, and approved by the FEMA Administrator in writing before construction of the structure begins.

Any improvements on the Property shall be in accordance with proper floodplain management policies and practices. Structures built on the Property according to paragraph b. of this section shall be floodproofed or elevated to at least the base flood level plus 1 foot of freeboard, or greater, if required by FEMA, or if required by any State, Tribal or local ordinance, and in accordance with criteria established by the FEMA Administrator.

- c. Disaster Assistance and Flood Insurance. No Federal entity or source may provide disaster assistance for purposes with respect to the Property, nor may any application for such assistance be made to any Federal entity or source. The Property is not eligible for coverage under the NFIP for damage to structures on the property occurring after the date of the property settlement, except for pre-existing structures being relocated off the property as a result of the project.
- d. Transfer. The COMMISSION, including successors in interest, shall convey any interest in the Property only if the FEMA Regional Administrator, through the STATE, gives prior written approval of the transferee in accordance with this paragraph.

- i. The request by the COMMISSION, through the STATE, to the FEMA Regional Administrator must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.
 - ii. The COMMISSION may convey a property interest only to a public entity or to a qualified conservation organization. However, the COMMISSION may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a), of this section, with the prior approval of the FEMA Regional Administrator, and so long as the conveyance does not include authority to control and enforce the terms and conditions of this section.
 - iii. If title to the Property is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth in this section, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:
 - a. The COMMISSION shall convey, in accordance with this paragraph, a conservation easement to an entity other than the title holder, which shall be recorded with the deed, or
 - b. At the time of title transfer, the COMMISSION shall retain such conservation easement, and record it with the deed.
 - iv. Conveyance of any property interest must reference and incorporate the original deed restrictions providing notice of the conditions in this section and must incorporate a provision for the property interest to revert to the State, Tribe or local government in the event that the transferee ceases to exist or loses its eligible status under this section.
2. Inspection. FEMA, its representatives and assigns including the state or tribe shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure compliance with the terms of this part, the Property conveyance and of the grant award.
3. Monitoring and reporting. Every three years on 6/1, the COMMISSION, in coordination with any current successor in interest, shall submit through the STATE to the FEMA Regional Administrator a report certifying that the COMMISSION has inspected the Property within the month preceding the report, and that the Property continues to be maintained consistent with the provisions of 44 C.F.R. Part 80, the property conveyance and the grant award.
4. Enforcement. The COMMISSION, the STATE, FEMA, and their respective representatives, successors and assigns, are responsible for taking measures to bring the Property back

into compliance if the Property is not maintained according to the terms of 44 C.F.R. Part 80, the property conveyance and the grant award. The relative rights and responsibilities of FEMA, the STATE, the COMMISSION, and subsequent holders of the property interest at the time of enforcement, shall include the following:

- a. The STATE will notify the COMMISSION and any current holder of the property interest in writing and advise them that they have 60 days to correct the violation.
 - i. If the COMMISSION or any current holder of the property interest fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the STATE shall enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.
 - ii. FEMA, its representatives, and assignees may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to 1 or more of the following:
 - a. Withholding FEMA mitigation awards or assistance for the STATE, and COMMISSION; and current holder of the property interest.
 - b. Requiring transfer of title. The COMMISSION or current holder of the property interest shall bear the costs of bringing the Property back into compliance with the terms of the grant; or
 - c. Bringing an action at law or in equity in a court of competent jurisdiction against any or all of the following parties: the STATE, the Tribe, the local community, and their respective successors.
5. Amendment. This agreement may be amended upon signatures of FEMA, the STATE, and the COMMISSION only to the extent that such amendment does not affect the fundamental statutory purposes underlying the agreement.
6. Severability. Should any provision of this grant or the application thereof to any person or circumstance be found to be invalid or unenforceable, the rest and remainder of the provisions of this grant and their application shall not be affected and shall remain valid and enforceable.

LAKE COUNTY STORMWATER MANAGEMENT COMMISSION
PIN(S):



Dated this _____ day of _____, _____

	Executive Director
Michael Warner (Signature)	Title (Print/Type)
Lake County Stormwater Management Commission	

STATE OF ILLINOIS, COUNTY OF _____ SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Michael Warner, personally known to me to be the Executive Director of the Lake County Stormwater Management Commission, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument, pursuant to the authority given by the Lake County Stormwater Management Commission Board of Commissioners, as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____ day of _____, _____

Notary Public

My commission expires on _____, _____

ATTACHMENT A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]