

INTERGOVERNMENTAL AGREEMENT
between the
LAKE COUNTY STORMWATER MANAGEMENT COMMISSION
AND THE
VILLAGE OF BUFFALO GROVE
FOR THE
NORTHWOOD SUBDIVISION STORMWATER IMPROVEMENTS PHASE 1 AND HORATIO GARDENS
DRAINAGE IMPROVEMENTS PROJECTS

This is an agreement by and between the LAKE COUNTY STORMWATER MANAGEMENT COMMISSION (herein referred to as "SMC"), 500 West Winchester Road, Libertyville, Illinois 60048 and the Village of Buffalo Grove, (herein referred to as "Local Sponsor", 50 Raupp Boulevard, Buffalo Grove, Illinois 60089.

RECITALS

Whereas, SMC and the Village of Buffalo Grove desire to work together on stormwater infrastructure projects to resolve drainage and flooding-related problems impacting the Village of Buffalo Grove by, among other things, applying for support via the Department of Commerce and Economic Opportunity – Stormwater Capital Improvement Program ("DCEO-STOCIP").

Whereas, the parties hereto anticipate accomplishing their goals by and through support from the DCEO-STOCIP program in the form of a grant which the parties anticipate will be subject to the SMC DCEO-STOCIP Policies and Procedures including final grant agreement provisions between the State of Illinois, Department of Commerce and Economic Opportunity and Lake County like those addressed in the template agreement hereto as Attachment B and which the SMC will assist the DCEO by administering.

Whereas, because the projects depend upon an award being granted through the DCEO-STOCIP program, the parties desire to enter into this agreement to support the award of such a grant.

Agreement

Now, therefore, for good and valuable consideration, the sufficiency of which the parties hereby acknowledge, the parties hereby agree as follows:

- 1. Recitals.** The foregoing recitals are incorporated as part of the parties' agreement.
- 2. Project Description.** The Northwood Subdivision Stormwater Improvements Project-Phase 1 and Horatio Gardens Drainage Improvement Project ("PROJECTS") are located north of Armstrong Avenue, south of Pope Boulevard, east of Weiland Road and west of Wisconsin Central/Canadian National Railroad in the Village of Buffalo Grove and unincorporated Vernon Township, Illinois and are expected to consist of storm sewer removal and installation, earth excavation, and road reconstruction/rehabilitation ("PROJECT SCOPE"), which is more fully described in Attachment A. The purpose of the PROJECTS is to reduce flood damages and impacts within the Village of Buffalo Grove and unincorporated Vernon Township while also improving associated infrastructure. The scale and scope of associated improvements beyond the flood reduction improvements are entirely under the control of the Local Sponsor, provided their inclusion does not jeopardize the use of DCEO funding.
- 3. Funding.** The PROJECTS are contingent upon a DCEO-STOCIP grant being awarded and budget appropriation by the Lake County Board. It is expressly understood and agreed that in the event that the DCEO-STOCIP grant is not awarded and SMC and the Village of Buffalo do not enter into a subsequent agreement per the RECITALS above providing for reimbursement of grant funds to the Village, then the Village of Buffalo Grove shall not have any funding or other responsibility under this agreement or for the Projects. Additionally, if Vernon Township is unable to participate, the Horatio Gardens project may be removed from this agreement through an amendment as described below and/or may be removed from

any subsequent agreement. Should such a grant be awarded and provided that all grant funds applied for are obligated by a funding agreement between SMC and the Village of Buffalo Grove, the parties agree that funding for the PROJECTS shall be as follows:

- a. **Project Expense Match.** A Project Expense Match (“PEM”) of \$364,031.25 will be paid by the Local Sponsor to SMC to support administrative and engineering services required for the Northwood Subdivision Stormwater Improvements Project-Phase 1. The PEM shall be paid to SMC in-full within the later of 120 days of the execution of an Intergovernmental Agreement or upon receipt of a DCEO grant agreement and obligation of full grant funds by agreement between SMC and Local Sponsor for the PROJECTS, as identified in paragraph 5. The PEM is based upon the following: The low/moderate income percentage in the census block of the project expressed as a decimal (0.1175) subtracted from one (1), the difference of which is multiplied by the maximum 15% Project Expense Match rate allowed per program policy, expressed as a decimal (0.15), multiplied by the amount of grant funding requested for the Northwood Subdivision Stormwater Improvements Project-Phase 1 (\$2,750,000), or, expressed numerically: $(1-(0.1175)) \times 0.15 \times \$2,750,000 = \$364,031.25$.
 - b. The parties understand that the PROJECTS, will proceed only if funded by a grant from DCEO, and all grant funds, up to an amount of \$2,750,000 for the Northwood Subdivision Project and up to an amount of \$2,750,000 for the Horatio Gardens Project, are obligated by agreement between SMC and Local Sponsor. Parties understand that project funding is contingent upon SMC’s receipt of funding from DCEO, Local Sponsor’s compliance with the terms of any applicable DCEO-SMC Grant Agreement, compliance with terms and conditions of DCEO-STOCIP program, completion of any construction grant reimbursement requirements, and compliance with all applicable federal and state laws and regulations.
 - c. This agreement and project funding do not prohibit the Local Sponsor from applying for additional funding for this project phases or future project phases with SMC or any other agency.
 - d. In the event DCEO does not award a grant or the parties fail to enter into a subsequent agreement as identified in Paragraph 5, SMC shall reimburse the LOCAL SPONSOR for costs associated with engineering design for the Horatio Gardens Drainage Improvement Project, up to an amount of \$202,200.00 or up to the amount expended at the time the parties determine a subsequent agreement will not occur, as evidenced by LOCAL SPONSOR’s documentation of such costs with its submission of an invoice to SMC. In the event DCEO awards a grant for the PROJECTS, engineering design costs for the Horatio Gardens Drainage Improvement Project shall be included as a reimbursable item and included in the overall project cost for the Horatio Gardens Drainage Improvement Project.
4. **Project Management and Responsibilities for Project.** The LOCAL SPONSOR will be the Project Manager for the PROJECTS.
 5. **Project Completion and future agreement.** Should the DCEO award a grant supporting the PROJECTS, the Local Sponsor agrees to proceed with completion of the PROJECTS within the timeframe required by said grant and, further, the parties agree to enter into an agreement substantially similar to the one attached hereto as Attachment B, adjusted as may be required to comply with any and all grant requirements as well as any other applicable contractual or legal requirements.
 6. **Project Agreements.** If the Local Sponsor is unable to reach independent agreements with the Township, Park District and other associated agencies which are required to complete the specified scope of work, this agreement may be nullified by the Local Sponsor.
 7. **Amendments.** This Agreement will be in effect until 12/31/2026, or until the date of execution of the project funding agreement identified in Paragraph 5, whichever is sooner, and may be modified or amended by mutual consent of the Parties, expressed in writing and signed by the Parties, provided the amendments comply with the final grant agreement with DCEO.
 8. **Severability.** If any provision of the Agreement is declared invalid, its other provisions shall not be affected thereby.
 9. **Applicable Law; Claims.** This Agreement and all subsequent amendments thereto, if any, shall be governed and construed in accordance with the laws of the state of Illinois. Any claim against SMC arising out of this Agreement must be filed exclusively with the Nineteenth Judicial Circuit Court of Illinois.

- 10. Headings.** Article and other headings contained in this Agreement are for reference purposes only and are not intended to define or limit the scope, extent or intent of this Agreement or any provision hereof.
- 11. Entire Agreement.** SMC and Local Sponsor acknowledge that this Agreement, including its Exhibits and Attachments, constitutes the entire agreement between them and that no promises, terms, or conditions not recited, incorporated or referenced herein, including prior agreements or oral discussions, shall be binding upon either SMC or Local Sponsor.
- 12. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart. Duplicated signatures, signatures transmitted via facsimile, or signatures contained in a Portable Document Format (PDF) document shall be deemed original for all purposes.
- 13. Notices.** All notices required or permitted hereunder shall be in writing, and delivered either personally or by certified or registered mail, return receipt requested, to the following addresses or sent by electronic mail ("e-mail") to the following contact addresses:

If to Local Sponsor contact:

Kyle Johnson, Assistant Public Works Director/Village Engineer
 Village of Buffalo Grove
 51 Raupp Boulevard
 Buffalo Grove, IL 60089
 Phone: 847-459-2545
 Email: KJohnson@vbg.org

If to SMC contact:

Mike Prusila, Planning Supervisor
 Lake County Stormwater Management Commission
 500 W. Winchester Road
 Libertyville, IL 60048
 Phone: 847-377-7700
 Email: mprusila@lakecountyil.gov

IN WITNESS WHEREOF, the Stormwater Management Commission and Village of Buffalo Grove have caused this Agreement to be executed by their duly authorized representatives.

VILLAGE OF BUFFALO GROVE

 Eric N. Smith, President,
 Village of Buffalo Grove

 Date

STORMWATER MANAGEMENT COMMISSION:

 Kurt Woolford, Executive Director
 Lake County Stormwater Management Commission

 Date

Attachment A
[PROJECT SCOPE]

The Northwood Subdivision Stormwater Improvements Phase 1 Project consists of drainage and associated infrastructure improvements to the area bounded by roughly Pauline Avenue, Canadian National Railway, Armstrong Drive, and Weiland Road within the Village of Buffalo Grove.

The Horatio Gardens Drainage Improvements Project consists of drainage and associated infrastructure improvements to the area bounded by roughly Pauline Avenue, Canadian National Railway, Pope Boulevard, and Weiland Road within Vernon Township.

Attachment B
[Template IGA agreement]

**ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
STORMWATER CAPITAL IMPROVEMENT PROGRAM (DCEO-STOCIP)
INTERGOVERNMENTAL AGREEMENT
between the
LAKE COUNTY STORMWATER MANAGEMENT COMMISSION
AND THE**

FOR THE

This is an agreement by and between the LAKE COUNTY STORMWATER MANAGEMENT COMMISSION (herein referred to as "SMC"), 500 West Winchester Road, Libertyville, Illinois 60048 and [Local Sponsor] _____, (herein referred to as "Local Sponsor", [insert address] _____).

**ARTICLE I
AWARD AND SMC/LOCAL SPONSOR – SPECIFIC PROJECT INFORMATION**

1.1 Purpose. The DCEO-STOCIP Program’s primary role is to assist in implementing regional stormwater infrastructure projects to resolve multi-jurisdictional drainage and flooding-related problems discovered through interactions of SMC personnel with the public, local governments, and other project partners. Projects will be consistent with the program requirements set forth by DCEO and the SMC DCEO-STOCIP Policies and Procedures and this document. The intent of DCEO-STOCIP is to resolve major flooding problems through the allocation of capital infrastructure funding across Lake County’s four major watersheds: the Fox River, Des Plaines River, North Branch Chicago River, and Lake Michigan. Over the life of the program the funding distribution will take into account the equalized assessed valuation (EAV) of the property within each major watershed; while utilizing the CMAP Principles of Inclusive Growth, Resilience, and Prioritized Investment with regard to distribution to local government and political jurisdictions; and give consideration of the SMC Enhanced Environmental Justice areas.

1.2 Project Description. The [ENTER PROJECT NAME HERE] ("PROJECT") is located _____ (refer to Exhibit 1). The PROJECT scope consists of _____ (refer to Exhibit 2).

1.3 Amount of Grant Contribution. Through this Agreement, SMC agrees to contribute, by means of reimbursement, eligible project expenses in an amount not to exceed \$_____ from the Illinois Department of Commerce and Economic Opportunity (DCEO) Grant for implementation of the PROJECT. SMC Reimbursement is contingent upon funding from DCEO, Local Sponsor’s compliance with the terms of the DCEO-SMC Grant Agreement, compliance with terms and conditions of DCEO-STOCIP program, and compliance with all applicable federal and state laws and regulations.

1.4 Required Project Expense Match. A Project Expense Match ("PEM") of \$_____ will be paid by the Local Sponsor to SMC to support administrative and engineering services. The PEM shall be paid to SMC by _____. If this Agreement is terminated, PEM costs shall be determined as set forth in Section 6.6.c.

1.5 Project Management and Responsibilities for Project. Program management and assigned responsibilities for all PROJECT phases is detailed in the Scope of Work Tasks set forth on Attachment A and incorporated herein. The [SELECT ONE: LOCAL SPONSOR / SMC] is the Project Manager for the PROJECT.

1.6 Project Budget and Expense Responsibilities. PROJECT expense responsibilities for all Scope of Work Tasks (Attachment A) are specified in the Project Budget in accordance with DCEO Capital Budget Line Item Categories as set forth in Attachment B and incorporated herein.

1.7 Project Schedule. The Project Schedule associated with all Scope of Work Tasks (Attachment A) is specified on Attachment C and incorporated herein.

**ARTICLE II
PURPOSE FOR GRANT**

2.0 Purpose for Grant. [INSERT PURPOSE FOR GRANT] Implementation of this PROJECT would provide flood mitigation benefits for the properties, businesses, and roadways as shown in the damage analysis table below.

ARTICLE III
SMC TERMS AND CONDITIONS

3.1 Regulatory Compliance. The PROJECT shall comply with any and all terms and obligations imposed by any grant that may be awarded pursuant to the DCEO-STOCIP program, as well as the Lake County Watershed Development Ordinance (WDO) or local standards if more restrictive, and all regulations, laws, and statutes. It is the responsibility of the Local Sponsor to ensure that all necessary permits are secured prior to the implementation of the PROJECT. Work within public road rights-of-way shall not be performed without appropriate permits or authorization from the jurisdictional Road Authority.

3.2 National Flood Insurance Program (NFIP). Local Sponsor shall be a member and in good standing with the NFIP and comply with SMC policies.

3.3 Landowner Agreements. The Local Sponsor shall enter into appropriate legally binding arrangements to ensure that any and all land rights that may be necessary for operation and maintenance procedures contemplated by this PROJECT are possible in perpetuity during and after the PROJECT's completion. All easements must be obtained prior to the start of construction. Documentation showing that the Local Sponsor has obtained the necessary deed or plat restrictions to construct and maintain the PROJECT shall be provided to SMC prior to start of the PROJECT. The cost of obtaining landowner agreements shall not be included in the PROJECT Budget (Attachment B), although the value of the PROJECT land rights may be added to the overall PROJECT cost. PROJECTS must be located on real property in which the Local Sponsor has interest evidenced by valid title or easement, extending in perpetuity. Neither SMC funding nor any DCEO-STOCIP funding awarded for this PROJECT shall be used to pay for any easements or deed or plat restrictions necessary to implement the PROJECT on property that is benefiting from the PROJECT, any such costs shall be the sole responsibility of the Local Sponsor.

3.4 Operation and Maintenance Plan. The Project Manager shall develop an Operation and Maintenance Plan (O & M Plan) for the PROJECT implemented under this Agreement to ensure its long-term viability. The O & M Plan shall include annual inspections and appropriate maintenance activities and shall be provided along with the project final report as described in Section 3.8 below. The O & M Plan shall identify the financial resources necessary for the implementation of the O & M Plan. Local Sponsor shall have the responsibility for maintenance of the PROJECT in perpetuity. O & M costs incurred that are not included in [Attachment B, Item DCEO-10, "Other Construction Expenses,"] or occur after the term of this Agreement, as specified in Section 6.1, are not eligible for reimbursement.

3.5 PROJECT Implementation. Only Project Expenses specified in [Attachment B] that are incurred during the term of this Agreement and, if the DCEO awards a grant for this PROJECT, after DCEO approval and execution of the project Agreement, can be reimbursed.

3.6 PROJECT Modification. Modifications to the Scope of Work Tasks on Attachment A and Project Schedule on Attachment C must be approved in writing by SMC and may require approval of DCEO.

3.7 PROJECT Coordination. The Project Manager shall provide PROJECT coordination and progress briefings as requested by [SMC/Local Sponsor] during the course of the PROJECT. Project Manager shall provide [SMC/Local Sponsor] monthly PROJECT Performance and Financial reports, based on DCEO reporting requirements, showing the progress of PROJECT implementation and financial summary for each Task/Phase of the PROJECT in accordance with the Project Schedule (Attachment C). Reports shall be submitted via email to the [SMC/Local Sponsor] Contact by the 7th day of the following month throughout the term of this Agreement. Frequency of reporting requirements may be changed by [SMC/Local Sponsor] as required or allowed by DCEO.

3.8 PROJECT Evaluation and Report. The Project Manager shall provide a final report consisting of the following: an introduction; PROJECT description including pre- and post-conditions, methods of PROJECT installation; a summary of the bid quantities installed; and a final expenditure report for the PROJECT which includes a cost summary. Attachments to the final report shall include a location map; the approved as-built plan; Operations and Maintenance Plan; photographic documentation of pre-project, during construction and final conditions; copies of all required permits; and invoices and/or cost documentation for all PROJECT work including in-kind work and materials. Report requirements are subject to change based on guidance from DCEO. SMC will provide the Local Sponsor with a DCEO approved template for the final report. A final report which complies with the provisions of this Section must be provided to SMC within 30 days after completion of the PROJECT, and no later than _____, whichever is earlier. Final reimbursement request will not be paid until the final report is received.

3.9 PROJECT Audit. SMC may audit any PROJECT for completeness of DCEO-STOCIP funded work products or deliverables, adherence to agreed schedules or extensions, and appropriateness of DCEO-STOCIP fund expenditures. Incomplete work products or deliverables, delays or beyond agreed deadlines may result in forfeiture of grant funding pursuant to the executed PROJECT agreement and/or a determination of ineligibility for the Local Sponsor, its authorized agents, representatives, and assigns to apply for future grants.

ARTICLE IV
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY (DCEO) TERMS AND CONDITIONS

This Article incorporates Terms and Conditions required by DCEO ("Grantor" for purposes of this Article) for Intergovernmental Agreements between SMC and Local Sponsors.

4.1 Lobbying Certification by Sub-awardees. Pursuant to ARTICLE XI of the DCEO Grant Agreement between SMC and Grantor, the following provisions are incorporated into this Agreement. Local Sponsor is also subject to certification and disclosure, as required by the final grant agreement from DCEO. Local Sponsor agrees that pursuant to Appendix II(I) to 2 CFR Part 200, SMC shall forward all disclosures by contractors regarding this certification to Grantor.

4.1.a. Improper Influence. Local Sponsor certifies that no Grant Funds have been paid or will be paid by or on behalf of it to any person for influencing or attempting to influence an officer or employee of any government agency, a member of Congress or Illinois General Assembly, an officer or employee of Congress or Illinois General Assembly, or an employee of a member of Congress or Illinois General Assembly in connection with the awarding of any agreement, the making of any grant, the making of any loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any agreement, grant, loan or cooperative agreement. 31 USC 1352. Additionally, Local Sponsor certifies that it has filed the required certification under the Byrd Anti-Lobbying Amendment (31 USC 1352), if applicable.

4.1.b. Federal Form LLL. If any funds, other than federally-appropriated funds, were paid or will be paid to any person for influencing or attempting to influence any of the above persons in connection with this Agreement, the undersigned must also complete and submit Federal Form LLL, Disclosure of Lobbying Activities Form, in accordance with its instructions and submit a copy to the SMC.

4.1.c. Lobbying Costs. Local Sponsor certifies that it is in compliance with the restrictions on lobbying set forth in 2 CFR 200.450. For any Indirect Costs associated with this Agreement, total lobbying costs shall be separately identified in the Program Budget, and thereafter treated as other Unallowable Costs.

4.1.d. Procurement Lobbying. Local Sponsor warrants and certifies that it and, to the best of its knowledge, its sub-awardees have complied and will comply with Executive Order No. 1 (2007) (EO 1-2007). EO 1-2007 generally prohibits grantees, sub-awardees, and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments, if that procurement may result in a contract valued at over \$25,000. This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.

4.1.e. Certification. This certification is a material representation of fact upon which reliance was placed to enter into this Agreement and is a prerequisite for this Agreement, pursuant to 31 USC 1352. Any person who fails to file the required certifications shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

4.2 Maintenance and Accessibility of Records; Monitoring.

4.2a. Records Retention. Local Sponsor shall maintain for ten (10) years from the date of submission of the final expenditure report for the PROJECT adequate books, all financial records and, supporting documents, statistical records, and all other records pertinent to the PROJECT, the DCEO Award and this Grant Contribution, adequate to comply with 2 CFR 200.333, unless a longer retention period is specified in 2 CFR 200.333 or 44 Ill. Admin. Code §§ 7000.430(a) and (b). If any litigation, claim or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims or audit exceptions involving the records have been resolved and final action taken.

4.2.b. Accessibility of Records. Local Sponsor, in compliance with 2 CFR 200.337 and 44 Ill. Admin. Code 7000.430(e), shall make books, records, related papers, supporting documentation and personnel relevant to this Agreement available to authorized Grantor representatives, the Illinois Auditor General, Illinois Attorney General, any Executive Inspector General, the Grantor's Inspector General, federal authorities, any person identified in 2 CFR 200.337, SMC, and any other person as may be authorized by Grantor (including auditors), by the state of Illinois or by federal statute. Local Sponsor shall cooperate fully in any such audit or inquiry.

4.2.c. Failure to Maintain Books and Records. Failure to maintain books, records and supporting documentation, as described in this Section 4.2, shall establish a presumption in favor of the State and SMC for the recovery of any funds paid or contributed by the State or SMC under this Agreement for which adequate books, records and supporting documentation are not available to support disbursement.

4.3 Subcontracts/Sub-Grants.

4.3.a. Local Sponsor/Delegation. Local Sponsor may not delegate any of its duties under this Agreement without Prior Approval of SMC and, if necessary, Grantor.

4.3.b. Application of Terms. Local Sponsor shall advise any subcontractor or subgrantee of any requirements imposed on them by federal and state laws and regulations, and the provisions of any DCEO-SMC Grant Agreement, should the DCEO award a grant to support this PROJECT. In all agreements between Local Sponsor and subcontractors or subgrantees, SMC requires that all Local Sponsors adhere to the terms of the DCEO-SMC Grant Agreement.

4.3.c. Domestic Preference for Procurements. In accordance with the DCEO-SMC Grant Agreement and with 2 CFR 200.322, as appropriate and to the extent otherwise consistent with law, the Local Sponsor should, to the greatest extent practicable under this Award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this paragraph must be included in all subawards and in all contracts and purchase orders for work or products under this Agreement and the DCEO Award.

4.4 Additional Monitoring Provisions

4.4.a. Access to Documentation. The Grant Contribution will be monitored for compliance in accordance with the terms and conditions of this Agreement and the DCEO-SMC Grant Agreement, together with appropriate programmatic rules, regulations, and/or guidelines that SMC or the Grantor promulgates or implements. The Local Sponsor must permit any agent authorized by the Grantor or SMC, upon presentation of credentials, in accordance with all methods available by law, full access to and the right to examine any document, papers and records either in hard copy or electronic format, of the Local Sponsor involving transactions relating to this Award.

4.4.b. Cooperation with Audits and Inquiries, Confidentiality. Pursuant to Section 4.2, above, the Local Sponsor is obligated to cooperate with SMC and the Grantor and other legal authorities in any audit or inquiry related to the Grant Contribution. The Grantor or any other governmental authority conducting an audit or inquiry may require the Local Sponsor to keep confidential any audit or inquiry and to limit internal disclosure of the audit or inquiry to those Local Sponsor personnel who are necessary to support the Local Sponsor's response to the audit or inquiry. This confidentiality requirement shall not limit Local Sponsor's right to discuss an audit or inquiry with its legal counsel. If a third party seeks to require the Local Sponsor, pursuant to any law, regulation, or legal process, to disclose an audit or inquiry that has been deemed confidential by the Grantor or other governmental authority, the Local Sponsor shall promptly notify the entity that is conducting the audit or inquiry of such effort so that the entity that is conducting the audit or inquiry may seek a protective order, take other appropriate action, or waive compliance by the Local Sponsor with the confidentiality requirement.

ARTICLE V

PROCUREMENT REQUIREMENTS AND CERTIFICATION

5.1 Application of Terms. The Local Sponsor agrees to comply with applicable federal and state laws and regulations and terms and conditions of the DCEO-SMC Grant Agreement and all license requirements or professional certification provisions. Local Sponsor shall also advise sub-contractors of the requirement to comply

with such. By signing this Agreement, Local Sponsor acknowledges receipt of a copy of the DCEO-SMC Grant Agreement.

5.2 Additional Terms and Conditions. Local Sponsor understands and agrees that its failure to comply with the requirements of DCEO Terms and Conditions set forth in Article IV above and in the DCEO-SMC Grant Agreement may impact reimbursement for the PROJECT. If Local Sponsor's failure to comply with DCEO-SMC Grant Agreement Terms and Conditions decreases available funding, the Local Sponsor will not be reimbursed for ineligible PROJECT costs from SMC and may be required to reimburse ineligible costs to SMC or Grantor.

5.3 Business Enterprise Program. DCEO requires that a Business Enterprise Program Utilization Plan be completed for the project prior to reimbursement of State (DCEO) funds. Local partner shall provide the information required on the Utilization Plan template. The template form will be provided by SMC. DCEO must approve the Utilization Plan prior to any reimbursement request from local sponsor.

5.4 Certification of Invoices and Reports. Each invoice and report submitted by Local Sponsor must contain the following certification by an official authorized to legally bind the Local Sponsor:

By signing this report [or payment request or both], I certify to the best of my knowledge and belief that the report [or payment request] is true, complete, and accurate; that the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the State or federal pass-through award; and that supporting documentation has been submitted as required by the grant agreement. I acknowledge that approval for any other expenditure described herein shall be considered conditional subject to further review and verification in accordance with the monitoring and records retention provisions of the grant agreement. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812; 30 ILCS 708/120).

5.5 Certification of Agreement Terms. By signing below, Local Sponsor certifies that (1) all representations made in this Agreement are true and correct and (2) all Grant Contributions received pursuant to this Agreement shall be used only for the purpose(s) described herein and in accordance with the terms of this Agreement and the DCEO-SMC Grant Agreement. Local Sponsor acknowledges that the Grant Contribution provided is made solely upon this certification and that any false statements, misrepresentations, or material omissions shall be the basis for immediate termination of this Agreement and repayment of all Grant Contribution funds received.

ARTICLE VI TERM; COMPENSATION; TERMINATION

6.1 Term of Agreement. Pursuant to the DCEO-SMC Grant Agreement and the Terms and Conditions herein, this Agreement begins on _____, _____ and extends through _____, _____; however, extensions up to one year can be requested subject to DCEO and SMC approval. Extensions must be requested from SMC at least 90-days prior to the termination of this Agreement. Under no circumstances can the project completion date be extended beyond _____. Project expenses cannot be submitted for reimbursement from SMC or DCEO which are incurred after the grant agreement completion date. Notwithstanding this section, the PEM payment deadline specified in Section 1.4 is not eligible for extension.

6.2 Availability of Grant Appropriation. Funding for the PROJECT is contingent upon execution of the funding award by DCEO and SMC. Pursuant to the DCEO-SMC Grant Agreement and the Terms and Conditions herein, DCEO funding shall reimburse eligible PROJECT Expenses incurred by either the Local Sponsor or SMC, up to a NOT TO EXCEED value of \$_____. PROJECT expenses that exceed \$_____ are not reimbursable and shall be paid by the Local Sponsor.

6.3 Completion of PROJECT Activities. The Parties shall conduct the Project Activities or provide the services as described in the Exhibits and Attachments, including Attachment A (Scope of Work Tasks) and Attachment B (Project Expenses) and within the time period outlined in the Project Schedule (Attachment C), incorporated herein and in accordance with all terms and conditions set forth herein and all applicable administrative rules.

6.4 PROJECT Payments. Project payments for the successful completion of Project Activities, shall be paid for pursuant to applicable policies and statutes. The Local Sponsor shall be responsible for making payments to its contractor(s) and shall apply for reimbursement for eligible project expenses to the SMC.

6.5 PROJECT Payment Reimbursement. Reimbursement for project payments is subject to the PROJECT's, Local Sponsor's, Contractor's and Subcontractor's, and SMC's adherence to this Agreement and DCEO-SMC Grant Agreement Terms and Conditions set forth in Articles IV and V of this Agreement. Reimbursement requests shall be submitted with the monthly Performance and Financial report by the 7th day of the following month throughout the Agreement period, or as otherwise specified by SMC as allowed by DCEO. In all circumstances, PROJECT contractual obligations shall not be executed after _____, _____, and the PROJECT shall be fully paid out by _____, _____, or as, in its sole discretion, such dates may be extended by DCEO. Failure of Local Sponsor to timely submit a payment request will render the amounts billed unallowable cost which SMC cannot reimburse.

6.6 Termination of Agreement.

6.6.a. This Agreement may be terminated, in whole or in part, by either party for any or no reason upon thirty (30) calendar days' written notice to the other Party. If terminated by Local Sponsor, Local Sponsor must include the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. If SMC determines in the case of partial termination that the reduced or modified portion of the Grant Contribution will not accomplish the purposes for which the grant was made, SMC may terminate the Agreement in its entirety.

6.6.b. This Agreement may be terminated, in whole or in part, by SMC without notice, pursuant to: (1) funding failure from DCEO; (2) Local Sponsor's failure to comply with terms and conditions of this Agreement or Local Sponsor has made a false representation in connection with receipt of compensation; (3) Local Sponsor's breach of this Agreement and failure to cure such breach, or commence cure of the breach, within 15 days of written notice thereof.

6.6.c. The termination of the Agreement in part shall not eliminate the amount of PEM costs Local Sponsor shall pay to SMC. In the event of termination of the Agreement in whole, PEM costs will be reduced to an amount sufficient to compensate SMC for any time spent administering the PROJECT prior to termination as determined by SMC, which amount Local Sponsor acknowledges and agrees may be the entire amount of the projected PEM.

ARTICLE VII
INDEMNIFICATION

7.1 Independent Contractor. Local Sponsor is an independent contractor under this Agreement and neither Local Sponsor nor or any employee or agent of Local Sponsor is an employee of DCEO or SMC and do not acquire any employment rights with DCEO or SMC or the state of Illinois by virtue of this Agreement or receipt of DCEO Grant funds. Local Sponsor will provide the agreed services and achieve the specified results free from direction or control by SMC as to the means and methods of performance. Local Sponsor and any subcontractors will be required to provide their own equipment and supplies necessary to conduct their business; provided, however, that in the event, for its convenience or otherwise, SMC makes any such equipment available to Local Sponsor, Local Sponsor's use of such equipment or supplies provided by SMC pursuant to this Agreement shall be strictly limited to official SMC or state of Illinois business and not for any other purpose, including benefit or gain.

7.2 Indemnification. To the extent permitted by law, Local Sponsor agrees to hold harmless SMC against any and all liability, loss, damage, cost or expenses, including attorney's fees, arising from intentional torts, negligence or breach of contract of Local Sponsor relating to the PROJECT or this Agreement, with the exception of acts performed in accordance with an explicit, written directive of SMC.

ARTICLE VIII
NOTICES

All notices required or permitted hereunder shall be in writing, and delivered either personally or by certified or registered mail, return receipt requested, to the following addresses or sent by electronic mail ("e-mail") to the following contact addresses:

If to Local Sponsor contact:

[INSERT LOCAL SPONSOR CONTACT INFORMATION]

If to SMC contact:

Michael Prusila, Planning Supervisor
Lake County Stormwater Management Commission
500 W. Winchester Road
Libertyville, IL 60048
Phone: 847-377-7700
Email: mprusila@lakecountyil.gov

ARTICLE IX
MISCELLANEOUS

9.1 Exhibits and Attachments. Attachments A through C and the exhibits referenced herein and attached hereto are incorporated herein in their entirety.

9.2 Publicity and Notification. Funds from this Agreement shall not be used for promotions, advertising or publicity purposes. Any press releases, printed notices, publications and the like shall include the following language: "This project [is being] [was] supported, in whole or in part, by federal award number SLT-3381 awarded to the State of Illinois by the U.S. Department of the Treasury." Local Sponsor will notify SMC at least twenty-one (21) days prior to issuing any public notice or press release concerning the PROJECT or work performed under this Agreement.

9.3 Assignment Prohibited. Local Sponsor acknowledges that this Agreement may not be sold, assigned, or transferred in any manner by Local Sponsor, to include an assignment of Local Sponsor's rights to receive payment hereunder, and that any actual or attempted sale, assignment, or transfer by Local Sponsor without the prior approval of SMC in writing shall render this Agreement null, void and of no further effect.

9.4 Amendments. This Agreement may be modified or amended during its Term by mutual consent of the Parties, expressed in writing and signed by the Parties, provided the amendments comply with the final grant agreement with DCEO.

9.5 Severability. If any provision of the Agreement is declared invalid, its other provisions shall not be affected thereby.

9.6 Applicable Law; Claims. This Agreement and all subsequent amendments thereto, if any, shall be governed and construed in accordance with the laws of the state of Illinois. Any claim against SMC arising out of this Agreement must be filed exclusively with the Nineteenth Judicial Circuit Court of Illinois.

9.7 Headings. Article and other headings contained in this Agreement are for reference purposes only and are not intended to define or limit the scope, extent or intent of this Agreement or any provision hereof.

9.8 Entire Agreement. SMC and Local Sponsor acknowledge that this Agreement, including its Exhibits and Attachments, constitutes the entire agreement between them and that no promises, terms, or conditions not recited, incorporated or referenced herein, including prior agreements or oral discussions, shall be binding upon either SMC or Local Sponsor.

9.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart. Duplicated signatures, signatures transmitted via facsimile, or signatures contained in a Portable Document Format (PDF) document shall be deemed original for all purposes.

IN WITNESS WHEREOF, the Stormwater Management Commission and _____ have caused this Agreement to be executed by their duly authorized representatives.

LOCAL SPONSOR

[Name of person with authority and their position,
Name of Local Sponsor]

Date

STORMWATER MANAGEMENT COMMISSION:

Kurt Woolford, Executive Director
Lake County Stormwater Management Commission

Date

Exhibit 1
Site Location Map

Exhibit 2
Concept Plan

Attachment C
Schedule