



LAKE COUNTY FOREST PRESERVES
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Preservation, Restoration, Education and Recreation

DATE: October 3, 2016

MEMO TO: Carol Calabresa, Chair
Land Preservation and Acquisition Committee

Bonnie Thomson Carter, Chair
Planning and Restoration Committee

S. Michael Rummel, Chair
Finance and Administrative Committee

FROM: Randall L. Seebach
Director of Planning and Land Preservation

RECOMMENDATION: Recommend approval of a Resolution approving an Intergovernmental and License Agreement with the County of Lake for the construction and operation of a Wetland Mitigation Bank and Multi-Use Trail at Buffalo Creek Forest Preserve.

STRATEGIC DIRECTIONS SUPPORTED: Public Access and Connections; Conservation; and Leadership

FINANCIAL DATA: The District will contribute up to \$300,000 towards the engineering and trail construction portion of the project which was approved as part of the adopted FY2016/17 Capital Improvement Plan. The District will receive approximately \$184,000 from the County for long term management of the bank.

BACKGROUND: In 2000, the County of Lake and the District entered into an intergovernmental agreement, pursuant to which the District agreed to grant a license allowing the County to establish a wetland mitigation bank on District property, subject to approval of the regulatory authorities. After reviewing various sites, the County has identified an area of Buffalo Creek Forest Preserve as being an appropriate location for the wetland bank. The County has received preliminary approval of the plans for the wetland bank from the US Army Corps of Engineers (USACE) which includes the construction and operation of the wetland bank and construction of 1.1 miles of crushed stone trail on the western 65 acres of Buffalo Creek Forest Preserve. Approximately 25.36 acres of wetland credits are expected to be created by the wetland bank. The District will receive 2.36 acres of credits, to be used as mitigation for unavoidable wetland impacts on future District projects. The County is also requesting approval to sell or allow the use of up to 10 acres of wetland credits that are not used by the County or the District, to or by other public agencies for public improvement projects.

The District and the County staffs have negotiated a new intergovernmental and license agreement. The attached resolution would approve that new agreement. Pursuant to the new agreement, the District would grant a license to the County for the wetland bank. The County will design, permit and construct the wetland bank and trail and is responsible for maintenance of the bank through the maintenance and monitoring period until the bank is fully accepted by the USACE. The County will provide compensation to the District of approximately \$184,000 (calculated at 23 credit acres multiplied by \$8,000 per acre) for the long term management and maintenance of the bank after acceptance by the USACE. (The 23 credit acres used in the calculation is based upon the total wetland bank area of 25.36 acres minus the 2.36 acres to be retained by the District). The District will provide the County compensation in an amount up to \$300,000 for the design and construction of the trail.

The new agreement would also commit the District to recording a declaration or other restriction against that portion of Buffalo Creek Forest Preserve, enforceable by USACE, pursuant to which the District would agree to perpetually maintain the wetland bank. The District would also have to commit to long-term funding of such maintenance through a long-term funding agreement.

REVIEW BY OTHERS: Executive Director, Chief Operations Officer, Director of Finance, Corporate Counsel

PRESENTER: Randall L. Seebach

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR OCTOBER MEETING
OCTOBER 11, 2016**

MADAM PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **LAND PRESERVATION AND ACQUISITION COMMITTEE, PLANNING AND RESTORATION COMMITTEE**, and **FINANCE AND ADMINISTRATIVE COMMITTEE** present herewith "A Resolution approving an Intergovernmental and License Agreement with the County of Lake for the construction and operation of a Wetland Mitigation Bank and Multi-Use Trail at Buffalo Creek Forest Preserve," and request its approval.

LAND PRESERVATION AND ACQUISITION COMMITTEE:

Date: 10-3-2016 Roll Call Vote: Ayes: ____ Nays: ____
 Voice Vote Majority Ayes; Nays 0

PLANNING AND RESTORATION COMMITTEE:

Date: 10/3/16 Roll Call Vote: Ayes: ____ Nays: ____
 Voice Vote Majority Ayes; Nays 0

FINANCE AND ADMINISTRATIVE COMMITTEE:

Date: _____ Roll Call Vote: Ayes: ____ Nays: ____
 Voice Vote Majority Ayes; Nays ____

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

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AND LICENSE AGREEMENT WITH
THE COUNTY OF LAKE FOR THE CONSTRUCTION AND OPERATION OF A
WETLAND MITIGATION BANK AND MULTI-USE TRAIL
AT BUFFALO GROVE FOREST PRESERVE**

WHEREAS, the County of Lake (the "County") and the Lake County Forest Preserve District (the "District") have entered into an intergovernmental agreement dated April 28, 2000 (the "2000 Agreement") outlining the terms and conditions for exchange of land and a license from the District to the County for the construction and operation of a wetland mitigation bank on District property; and

WHEREAS, pursuant to the 2000 Agreement, the District agreed to grant a license to the County (the "License") allowing the County to establish a wetland mitigation bank on District property; and

WHEREAS, the District owns a parcel of land known as Buffalo Creek Forest Preserve (the "Property") located west of Arlington Heights Road and north of Lake Cook Road in Vernon and Ela Townships; and

WHEREAS, the County desires to establish the wetland mitigation bank on the Property and the U.S. Army Corps of Engineers ("USACE") has provided preliminary approval for the wetland mitigation bank at the Property; and

WHEREAS, the wetland mitigation bank would include new and enhanced wetlands created by the County and then used, pursuant to applicable federal and local law, as mitigation credits (currently estimated to total 25.36 acres of credits) to compensate for wetland impacts resulting from the County's public transportation projects and other public improvement projects (the "Wetland Bank"); and

WHEREAS, the District and the County have negotiated an intergovernmental and license agreement, a copy of which is attached hereto (the "Intergovernmental and License Agreement"), pursuant to which:

- (1) the District would grant the License to the County, allowing the County to construct and operate the Wetland Bank on the Property in accordance with the approved plans therefor and the wetland banking instrument attached thereto (the "Wetland Banking Instrument"),
- (2) the District will receive 2.36 acres of credits to be used as mitigation for wetland impacts on future District projects,
- (3) the County will be allowed to sell, or otherwise allow the use of, up to 10 acres of credits that are not used by the County or the District, to or by other public agencies for public improvement projects,
- (4) the County would take responsibility for the maintenance of the Wetland Bank until the Wetland Bank is fully accepted by the USACE,
- (5) following such acceptance, the County would provide maintenance funds to the District (currently estimated to be \$184,000), the District would perpetually maintain the Wetland Bank pursuant to a declaration of covenants or other restriction to be recorded against the Property and enforceable by USACE (the "Declaration"), and the District would comply with a long-term funding agreement, setting forth the District's plan for financing such maintenance (the "Long-Term Funding Agreement"),
- (6) the County would construct 1.1 miles of crushed stone trail on the western 65 acres of the Property and remove an obsolete segment of trail on the Property, and

- (7) the District would pay the County an amount (not to exceed \$300,000) for such trail construction and removal,

all as provided in the Intergovernmental Agreement; and

WHEREAS, Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, authorizes the District to grant licenses under or across District property for the construction, operation, and maintenance of public services; and

WHEREAS, the County's use of the Wetland Bank to accommodate public transportation projects and other public improvement projects is a public service; and

WHEREAS, pursuant to Section 10 of Article VII of the Illinois Constitution of 1970, units of local government, such as the District and the County, may contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and

WHEREAS, pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., any power, privilege, function, or authority exercised by a public agency, including the District and the County, may be exercised, combined, transferred, and enjoyed jointly with any other agency of the United States to the extent not prohibited by law;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1. Recitals. The recitals set forth above are incorporated as a part of this Resolution by this reference.

Section 2. Approval of Intergovernmental and License Agreement. The Intergovernmental and License Agreement is hereby approved in substantially the form attached hereto. The President and the Secretary of the District are authorized and directed to (1) execute and attest to the Intergovernmental and License Agreement on behalf of the District and (2) execute and attest to, or to cause others to execute and attest to, the Wetland Bank Instrument, the Declaration, the Long-Term Funding Agreement, and any other documents that may be necessary or appropriate to effectuate the Intergovernmental License Agreement or for the USACE to approve the Wetland Bank.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this _____ day of _____, 2016

AYES:

NAYS:

APPROVED this _____ day of _____, 2016

Ann B. Maine, President
Lake County Forest Preserve District

ATTEST:

Julie A. Gagnani, Secretary
Lake County Forest Preserve District

Exhibit _____

**INTERGOVERNMENTAL AND LICENSE AGREEMENT
BETWEEN THE COUNTY OF LAKE
AND THE LAKE COUNTY FOREST PRESERVE DISTRICT
FOR THE CONSTRUCTION OF A WETLAND BANK AND A MULTI-USE TRAIL
ON THE BUFFALO CREEK FOREST PRESERVE**

THIS AGREEMENT (the AGREEMENT) is entered into this _____ day of _____, A.D. 20__ (the EFFECTIVE DATE), by and between the COUNTY OF LAKE, Illinois, an Illinois body politic and corporate, acting by and through its Chair and County Board (the COUNTY), and the LAKE COUNTY FOREST PRESERVE DISTRICT, an Illinois body politic and corporate, acting by and through its President and Board of Commissioners (the DISTRICT). The COUNTY and the DISTRICT, hereinafter referred to collectively as “parties” to this AGREEMENT, and individually as a “party” to this AGREEMENT,

WITNESSETH

WHEREAS, the COUNTY and the DISTRICT entered into an intergovernmental agreement effective April 28, 2000, and amended by the first, second, and third amendments thereto executed April 10, 2012, April 15, 2014 and April 12, 2016 respectively (collectively, the 2000 AGREEMENT); and,

WHEREAS, the 2000 AGREEMENT outlines the terms and conditions for the exchange of land between the COUNTY and the DISTRICT (which exchange has already occurred) and a potential license from the DISTRICT to the COUNTY for the construction and operation of a wetland bank on DISTRICT property; and,

WHEREAS, in accordance with the 2000 AGREEMENT, the COUNTY has reviewed properties owned by the DISTRICT and desires to construct, at its sole cost, a wetland bank to create, administer, and use wetland mitigation credits required due to wetland impacts from the COUNTY’S public road and transportation improvements (the WETLAND BANK) on part of the DISTRICT’S Buffalo Creek Forest Preserve, a portion of which is generally depicted on EXHIBIT A to this AGREEMENT (the PRESERVE); and,

WHEREAS, the construction of said WETLAND BANK requires approval and acceptance by the United States Army Corps of Engineers (the USACOE); and,

WHEREAS, the DISTRICT desires that a portion of an existing trail within the PRESERVE (the OLD TRAIL) be removed and that a new portion of a multi-use trail (the NEW TRAIL) be constructed within the PRESERVE, as generally depicted on EXHIBIT B to this AGREEMENT, with reimbursement from the DISTRICT as hereinafter stipulated; and,

WHEREAS, the COUNTY has retained Hey & Associates, Inc. (the CONSULTANT) to design and engineer the construction of the WETLAND BANK and the NEW TRAIL, the removal of the OLD TRAIL, and the ongoing management, monitoring, and maintenance of the WETLAND BANK until accepted by USACOE (collectively, the WORK); and,

WHEREAS, said WORK shall be known as COUNTY Project Section 01-00000-00-ES; and,

WHEREAS, the CONSULTANT has prepared a conceptual plan of the WORK, which is attached hereto as EXHIBIT B (the CONCEPT PLAN) and hereby made a part hereof; and,

WHEREAS, the CONSULTANT has prepared and provided to the DISTRICT near-final plans, specifications, and special provisions dated July 15, 2016, depicting and describing the WORK, and the cover sheet to said plans is attached hereto as EXHIBIT C and, by this reference, such plans, specifications, and special provisions are incorporated into this Agreement (the 75% PLANS); and,

WHEREAS, the DISTRICT has approved the 75% PLANS; and,

WHEREAS, as contemplated in the 2000 AGREEMENT, the COUNTY desires that the DISTRICT grant to the COUNTY a license to use that portion of the PRESERVE generally depicted on EXHIBIT A as the "Licensed Premises" (the LICENSED PREMISES) to construct, administer, and use the WETLAND BANK; and,

WHEREAS, the parties desire that, instead of adhering to the requirements of the 2000 AGREEMENT with respect to the license for the "Mitigation Bank" (as defined in the 2000 AGREEMENT), they enter into this new AGREEMENT, outlining their respective rights and obligations with respect to such license and the WORK; and,

WHEREAS, the construction of the WETLAND BANK is anticipated to create 25.36 acres of wetland credits in the Des Plaines River Watershed; and,

WHEREAS, the COUNTY anticipates that it will not need to use all of the 25.36 acres of wetland credits created by the WETLAND BANK for COUNTY-related projects, the DISTRICT desires the right to use 2.36 acres of wetland credits in the WETLAND BANK for DISTRICT-related projects (the DISTRICT CREDITS), and the COUNTY desires to sell, or otherwise allow the use of, up to 10 acres of wetland credits, that are not used by the COUNTY or the DISTRICT, to other public agencies; and,

WHEREAS, the DISTRICT shall maintain the WETLAND BANK in perpetuity upon acceptance of the WETLAND BANK by the USACOE; and,

WHEREAS, the COUNTY shall compensate the DISTRICT for maintenance of the WETLAND BANK as stipulated hereafter; and,

WHEREAS, the construction of the WETLAND BANK will restore 65 acres of DISTRICT property within the PRESERVE and the WORK will be of immediate benefit to the residents of Lake County and will be permanent in nature; and,

WHEREAS, the WORK is for the mutual benefit of both parties, and, therefore, the DISTRICT will waive its generally-applicable LICENSE fee and bond requirements; and,

WHEREAS, in 1993, the DISTRICT accepted federal grant funds through the Land and Water Conservation Fund Act (LWCFA) to help fund certain outdoor recreational improvements on the PRESERVE, and the DISTRICT has obtained verification from the Illinois Department of Natural Resources (IDNR) that the WORK, including the removal of the OLD TRAIL and the construction and use of the NEW TRAIL, does not constitute an unlawful conversion under the LWCFA; and,

WHEREAS, the parties enter into this AGREEMENT pursuant to the authority provided in the Constitution of the State of Illinois, Article VII, Section 10, which provides that units of local government may contract among themselves in any manner not prohibited by law or by ordinance, the Counties Code, 55 ILCS 5/1-1001 et seq., the Downstate Forest Preserve District Act, 70 ILCS 805/0.001 et seq., and all other applicable authority;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, made and pursuant to all applicable statutes, local ordinances, and authority, the COUNTY and the DISTRICT do hereby enter into THIS AGREEMENT and do hereby mutually agree as follows:

SECTION I.
Recitals/Headings

1. The foregoing preambles are hereby incorporated herein as though fully set forth.
2. The “headings” as contained in THIS AGREEMENT are for reference only and the actual written provisions, paragraphs and words of THIS AGREEMENT shall control.

SECTION II.
Design, Construction, and Maintenance of the WORK

1. The COUNTY will prepare, or cause CONSULTANT to prepare, and submit to the DISTRICT (i) final plans, specifications, and special provisions for the WORK that substantially comply with the 75% PLANS (the FINAL PLANS), (ii) contract letting documents, which require the bidders to identify separate unit prices for items related to the removal and restoration of the OLD TRAIL and construction of the NEW TRAIL (the TRAIL PRICE), (iii) one or more construction contracts for the WORK, which shall separately identify the TRAIL PRICE (the CONSTRUCTION CONTRACT), and (iv) a schedule for the WORK (the SCHEDULE) in accordance with Lake County Division of Transportation (LCDOT) policies and standards, as approved by the Illinois Department of Transportation (IDOT) and the USACOE (collectively, the CONTRACT DOCUMENTS). The COUNTY shall not commence the WORK until the DISTRICT has approved the FINAL PLANS. The DISTRICT shall not unreasonably delay its review of the FINAL PLANS and may withhold its approval of the FINAL PLANS only if they are inconsistent with the 75% PLANS or this AGREEMENT.
2. After the DISTRICT approves the FINAL PLANS, the COUNTY agrees to secure all permits and other approvals necessary for the WORK and the establishment and operation of the WETLAND BANK (PERMITS).
3. The COUNTY shall process the WORK and let and award the CONSTRUCTION CONTRACT through LCDOT. The anticipated letting date for the WORK is January 31, 2017. (The letting date is subject to change, dependent upon project readiness and the availability of project funding.)
4. The COUNTY shall let and award the CONSTRUCTION CONTRACT to the lowest responsible bidder or bidders (collectively, the WORK CONTRACTOR) in accordance with LCDOT’s standard policies and procedures. The COUNTY shall notify the DISTRICT of the bidders and amounts of their bids and the DISTRICT may comment upon the qualifications of

the bidders prior to award of the CONSTRUCTION CONTRACT; however, the COUNTY'S decision on the award of the CONSTRUCTION CONTRACT shall be binding and conclusive. The COUNTY will provide a full photocopy of the executed CONSTRUCTION CONTRACT to the DISTRICT.

5. The COUNTY shall cause the WORK to be performed in accordance with the FINAL PLANS and to perform, or cause to be performed, construction engineering supervision of the WORK in accordance with LCDOT procedures and requirements, at no cost to the DISTRICT, except for the reimbursement from the DISTRICT provided in Section III.
6. If the USACOE, or any other federal, state, or local regulatory agency with jurisdiction, requires any performance bond, escrow, letter of credit, or other performance security for the construction of the WETLAND BANK, the COUNTY shall post such security.
7. The COUNTY shall cause the WORK CONTRACTOR to perform the WORK necessary to construct the WETLAND BANK, including the enhancement, restoration, and creation of wetlands and upland areas, and to monitor and manage the WETLAND BANK (collectively, the RESTORATION WORK) in accordance with the performance criteria set forth in the FINAL PLANS, including any adaptive management and monitoring required by USACOE, for a period of time commencing on the COUNTY'S acceptance of the WETLAND BANK and ending on the date upon which the USACOE has determined in writing that the performance criteria for the RESTORATION WORK has been satisfied (the MAINTENANCE AND MONITORING PERIOD) and the USACOE has accepted and approved the WETLAND BANK.
8. Upon completion of all WORK, and completion of the MAINTENANCE AND MONITORING PERIOD, the DISTRICT shall maintain the WETLAND BANK on the PRESERVE in perpetuity, including any storm sewer pipe and appurtenances located on the PRESERVE.
9. Upon approval and execution of this AGREEMENT, the DISTRICT hereby grants to the COUNTY the right to access and use the PRESERVE to perform, and cause its WORK CONTRACTOR to perform, the WORK, including the OLD TRAIL and NEW TRAIL.
10. Upon completion of the WORK and acceptance of the NEW TRAIL by the DISTRICT, the DISTRICT shall maintain the NEW TRAIL on the PRESERVE in perpetuity at no cost to the COUNTY.

SECTION III.

The DISTRICT's Reimbursements to the COUNTY

1. The DISTRICT shall reimburse the COUNTY for the design and construction of the NEW TRAIL and the removal and restoration of the OLD TRAIL in the amount of the lesser of (i) the sum of (a) the TRAIL PRICE set forth in the CONSTRUCTION CONTRACT plus (b) 17% of the TRAIL PRICE (7% for design engineering and 10% for construction engineering) (the TOTAL TRAIL COST) and (ii) \$300,000, which is the amount budgeted by the DISTRICT for the TOTAL TRAIL COST, which lesser amount is referred to in this Agreement as the "DISTRICT TRAIL CONTRIBUTION."
2. The parties acknowledge that, because the TRAIL PRICE will be based on unit prices, the TOTAL TRAIL COST might not be determined at the time the COUNTY awards a CONSTRUCTION CONTRACT to a WORK CONTRACTOR. Upon the COUNTY'S award of the CONSTRUCTION CONTRACT, the DISTRICT will pay \$285,000 to the COUNTY, within thirty (30) days after the receipt of an invoice from the COUNTY, which is the parties' estimate of 95% of the DISTRICT TRAIL CONTRIBUTION. The DISTRICT will pay to the COUNTY the remaining balance of the DISTRICT TRAIL CONTRIBUTION within thirty (30) days after the receipt of an invoice from the COUNTY, following completion and acceptance of the NEW TRAIL, and a final determination of the TOTAL TRAIL COST. Said remaining five percent is estimated to be \$15,000.
3. If, based on the TRAIL PRICE identified in bids for the WORK, it appears that the TOTAL TRAIL COST will exceed \$360,000, the COUNTY'S County Engineer (the COUNTY ENGINEER) and the DISTRICT's Executive Director (the EXECUTIVE DIRECTOR), or their designees, shall meet and discuss, in good faith, whether it is appropriate to continue with removal and restoration of the OLD TRAIL and construction of the NEW TRAIL as designed in the FINAL PLANS or to seek some other alternative approach.

SECTION IV.

Administration of Wetland Credits and Compensation to the DISTRICT for Maintenance of the WETLAND BANK

1. The COUNTY shall administer the sale and use of wetland mitigation credits from the WETLAND BANK in accordance with applicable law.
2. The COUNTY shall provide the DISTRICT CREDITS to the DISTRICT in the WETLAND BANK for DISTRICT use without reimbursement from the DISTRICT.

3. The COUNTY may sell, or otherwise allow the use of, up to 10 acres of wetland credits in the WETLAND BANK to one or more agencies of the United States or State of Illinois, units of local government, or school districts (PUBLIC AGENCY) (said credits shall hereinafter be referred to as the PUBLIC AGENCY CREDITS), if the COUNTY ENGINEER and the EXECUTIVE DIRECTOR both determine that the following criteria have been satisfied:
 - (i) The project causing the impact is a project to construct or develop a public improvement;
 - (ii) The wetlands being impacted by filling or disturbance are small (typically less than 5 acres), isolated, possess low functional value, and are not classified as high quality aquatic resources (HQAR) as defined by the USACOE; and
 - (iii) The PUBLIC AGENCY submits a written request to the COUNTY and the DISTRICT that requests the use of wetlands credits, includes a wetland delineation and functional evaluation of the impacted wetlands, and includes a copy of the permit applications to all regulatory agencies (federal, state and local) having jurisdiction over the impacted wetlands; and
 - (iv) All applicable regulatory agencies have approved the use of the requested wetland credits by the PUBLIC AGENCY to mitigate the subject impacts.

If such criteria are satisfied, the COUNTY ENGINEER shall determine appropriate compensation to the COUNTY for the sale or use of the PUBLIC AGENCY CREDITS and shall cause a mitigation agreement to be executed with the PUBLIC AGENCY securing wetland credits in the WETLAND BANK. However, prior to execution of a mitigation agreement with a PUBLIC AGENCY, the COUNTY ENGINEER shall submit the mitigation agreement and necessary supporting documentation to the EXECUTIVE DIRECTOR for his or her review and comment.

4. The COUNTY shall compensate the DISTRICT for perpetual maintenance of the WETLAND BANK by paying to the DISTRICT \$8,000 per acre of wetland credits created, not inclusive of the DISTRICT CREDITS, in a one-time lump payment made within 30 days after the end of the MAINTENANCE AND MONITORING PERIOD. Compensation to the DISTRICT is anticipated to be \$184,000 (calculated at 23 acres (25.36 total acres minus 2.36 acres of DISTRICT CREDITS) x \$8,000/acre); however, the exact amount of compensation shall be determined by the actual acreage of wetland credits created and accepted by the USACOE, less the acreage DISTRICT CREDITS.

SECTION V.
LICENSE

1. The DISTRICT hereby grants and conveys to the COUNTY, for its use and for the use of its officers, agents, employees, and contractors, a non-exclusive license to use the LICENSED PREMISES for the sole and limited purpose of constructing, establishing, using, and administering the WETLAND BANK (the LICENSE).
2. The WORK to construct the WETLAND BANK shall be confined entirely within the LICENSED PREMISES. The COUNTY shall contact the DISTRICT at least seven (7) days in advance of the initial use of the LICENSED PREMISES in order for the DISTRICT to review safety and other requirements with the COUNTY.
3. The COUNTY shall cause any DISTRICT PROPERTY outside of the WETLAND BANK that is damaged by the WORK, a WORK CONTRACTOR, or a subcontractor of a WORK CONTRACTOR, to be restored to its condition existing prior to such damage in accordance with DISTRICT requirements. The COUNTY shall consult with the DISTRICT prior to initiating restoration or repair activities on DISTRICT PROPERTY outside of the WETLAND BANK.
4. The term of the LICENSE shall commence on the EFFECTIVE DATE and end on the earlier of (i) that date that is seven (7) years after the EFFECTIVE DATE, (ii) the end of the MAINTENANCE AND MONITORING PERIOD, and (iii) January 1, 2020, if the COUNTY has not awarded a CONSTRUCTION CONTRACT on or before January 1, 2020; except that (i) if the COUNTY has awarded a CONSTRUCTION CONTRACT, the EXECUTIVE DIRECTOR may extend the term of the LICENSE to the end of the MAINTENANCE AND MONITORING PERIOD by giving written notice of such extension to the COUNTY and (ii) the EXECUTIVE DIRECTOR and the COUNTY ENGINEER may mutually agree in writing to extend the term of the LICENSE to a date not more than ten years after the EFFECTIVE DATE.
5. Upon the expiration of the LICENSE, neither the COUNTY nor any of its officers, agents, employees, or contractors shall have any further right to enter upon or across the LICENSED PREMISES, and upon such expiration, the COUNTY shall immediately vacate and discontinue all use of the LICENSED PREMISES otherwise permitted hereunder.
6. The DISTRICT shall have and retain all rights to use and occupy the LICENSED PREMISES, provided that said use and/or occupancy does not prohibit or adversely impact the establishment or existence of the COUNTY's WETLAND BANK. The activities of COUNTY shall not unreasonably interfere with the DISTRICT's use and occupancy of the LICENSED PREMISES.

7. The parties acknowledge that the LICENSED PREMISES is the property of the DISTRICT and that this AGREEMENT creates contractual rights only and does not create an easement, a leasehold, or any other real property rights. At the end of the MAINTENANCE AND MONITORING PERIOD, the DISTRICT shall maintain the WETLAND BANK in perpetuity. If, and in the forms, required by USACOE, the DISTRICT will (i) record a deed restriction or other restriction against the portion of the PRESERVE where the WETLAND BANK is established and (ii) execute a Wetland Banking Instrument (the WBI) governing the establishment and operation of the WETLAND BANK.
8. At all times following the issuance of the PERMITS and until the end of the MAINTENANCE AND MONITORING PERIOD, the COUNTY shall take any and all actions necessary for the COUNTY and the DISTRICT to comply with the PERMITS and the WBI, it being the intent of the parties that, until the end of the MAINTENANCE AND MONITORING PERIOD, that, as between the COUNTY and the DISTRICT the DISTRICT will have no obligations whatsoever related to establishment of the WETLAND BANK.

SECTION VI.
General Provisions

1. Nothing contained in this AGREEMENT is intended or shall be construed, in any manner or form, to create or establish a partnership or principal-agent relationship between the parties hereto, to make the DISTRICT (including its elected officials, duly appointed officials, employees and agents) the agent, representative or employee of the COUNTY, or to make the COUNTY (including its elected officials, duly appointed officials, employees and agents) the agent, representative or employee of the DISTRICT, for any purpose or in any manner, whatsoever. The DISTRICT is to be and shall remain independent of the COUNTY, and the COUNTY is to be and shall remain independent of the DISTRICT, with respect to all services performed under this AGREEMENT.
2. The COUNTY and the COUNTY ENGINEER reserve the power or authority to maintain, operate, improve, construct, reconstruct, repair, manage, widen or expand COUNTY Highways as may be best determined, as provided by law.
3. This AGREEMENT shall be deemed to take effect on the EFFECTIVE DATE, which shall be the date that the corporate authorities of both parties have approved it.
4. The COUNTY shall make its books, records, and accounts relating to the WORK and the WETLAND BANK, including any records or accounts related to the sale of wetland credits, available to the DISTRICT upon reasonable notice for a period ending on the later of (i) the date

that is ten (10) years after the date upon which the WORK has been completed and the USACOE has accepted the WETLAND BANK and (ii) the date that is ten (10) years after the date upon which the COUNTY has accounted for the final sale or use of all of the PUBLIC AGENCY CREDITS.

5. This AGREEMENT shall be enforceable in any court of competent jurisdiction by each of the parties hereto by any appropriate action at law or in equity, including any injunctive action or any specific performance action to secure the performance of the representations, promises, covenants, agreements and obligations contained herein.
6. The provisions of this AGREEMENT are severable. If any provision, paragraph, section, subdivision, clause, phrase or word of THIS AGREEMENT is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this AGREEMENT.
7. This AGREEMENT contains all the agreements between the parties related to the subject matter of this AGREEMENT and supersedes any oral agreements and negotiations between the parties relating to the subject matter hereof. The 2000 AGREEMENT is hereby terminated.
8. Any alterations, amendments, or deletions of this AGREEMENT shall be valid only when expressed in writing and duly executed by the parties hereto. Any waiver of any provision of this AGREEMENT shall be valid only when expressed in writing and duly executed by the waiving party.
9. This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. No party hereto may assign, transfer, sell, grant, convey, deed, cede or otherwise give over, in any manner or form, any of its duties, obligations and/or responsibilities as heretofore set forth in this AGREEMENT without first obtaining the express written consent and permission of the other party.
10. In the CONSTRUCTION CONTRACT in a form provided by the DISTRICT, the COUNTY shall require the WORK CONTRACTOR, with respect to any claims related to the WORK, to name the DISTRICT as an additional insured on any liability coverage required pursuant to the CONSTRUCTION CONTRACT and to defend, indemnify, and hold harmless the DISTRICT against and from any such claims.

11. The COUNTY shall, for itself and for those authorized by or through the COUNTY, including without limitation a WORK CONTRACTOR, and to the fullest extent permitted by law, hold harmless, indemnify and defend the DISTRICT, its commissioners, officers, agents, attorneys, employees, contractors and successors and assigns from and against any and all losses, liabilities, expenses, claims, costs, causes, actions, litigation costs, attorneys' fees, suits and damages relating to personal or bodily injuries, death or damages or injuries to property arising from, occurring, growing out of, incident to, relating to or otherwise resulting from any act or omission related to the WORK by the COUNTY, its employees and authorized agents, or any WORK CONTRACTOR, or any of their respective officers, agents, contractors, employee or representatives (collectively, CLAIMS), except to the extent any such CLAIMS arise solely from the negligent acts or willful or wanton misconduct of the DISTRICT.
12. This AGREEMENT may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute this AGREEMENT.

**LAKE COUNTY
FOREST PRESERVE DISTRICT**

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

By: _____
Ann B. Maine, President

Date: _____

RECOMMENDED FOR EXECUTION

Paula J. Trigg, P.E.
Director of Transportation / County Engineer
Lake County

COUNTY OF LAKE

ATTEST:

County Clerk

By: _____
Chair
Lake County Board

Date: _____

EXHIBIT A
General Depiction of the PRESERVE and the LICENSED PREMISES

Exhibit A



Legend



Forest Preserve Property

Existing Multi-Use Path

Licensed Premises

Lake County Forest Preserve District
1899 W Winchester Rd
Libertyville, IL 60048
847-367-6640
www.lcfpd.org

Courtesy Copy Only.
Property boundaries indicated are provided
for general location purposes. Wetland
and flood limits shown are approximate and
should not be used to determine setbacks for
structure or as a basis for purchasing property.

Prepared using information from:
Lake County Dept. of Information & Technology:
GIS/Mapping Division
18 North County Street
Waukegan, Illinois 60085-4357
847-377-2373



2015 Aerial Photo

Map Prepared 9 September 2016

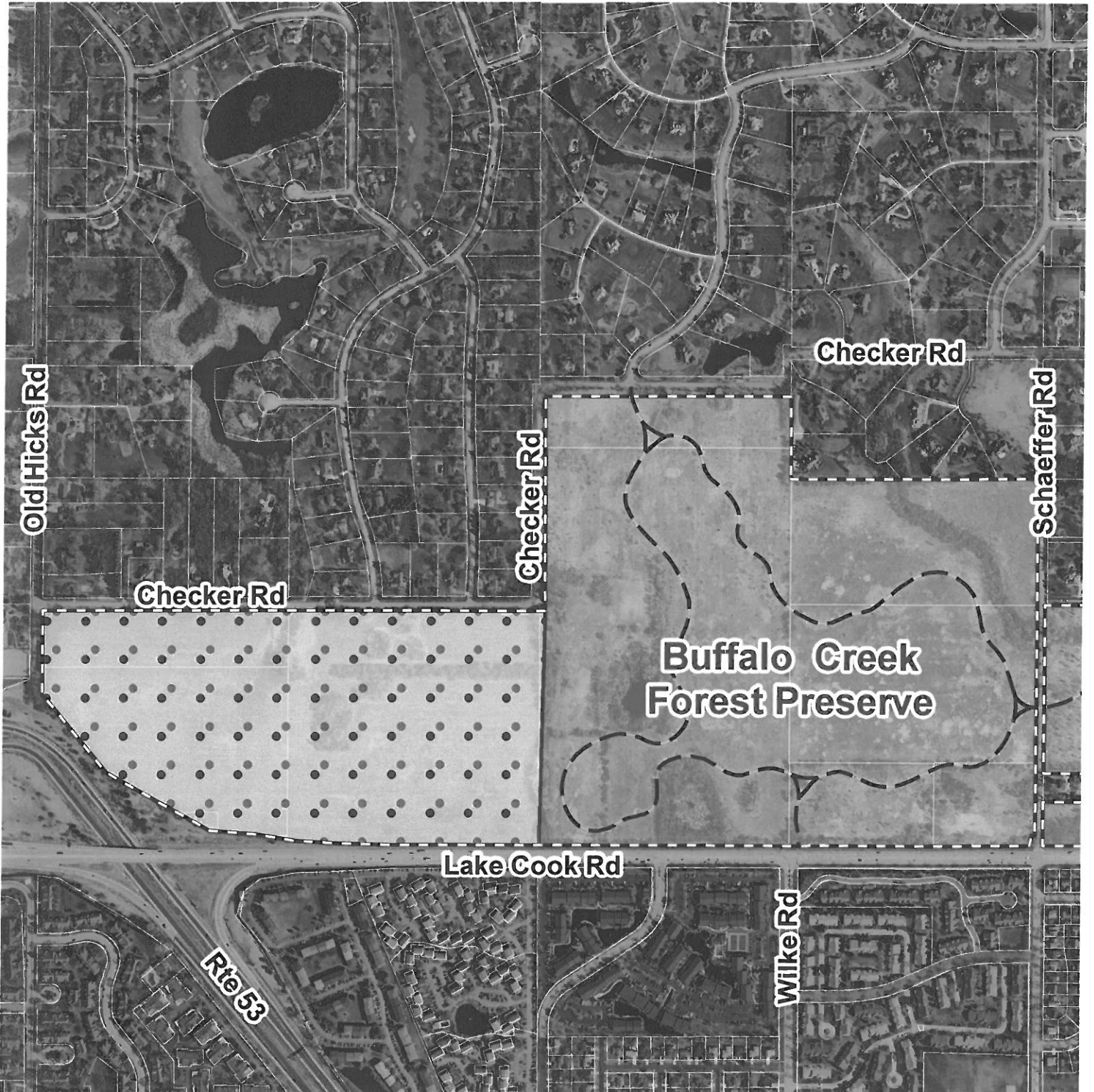


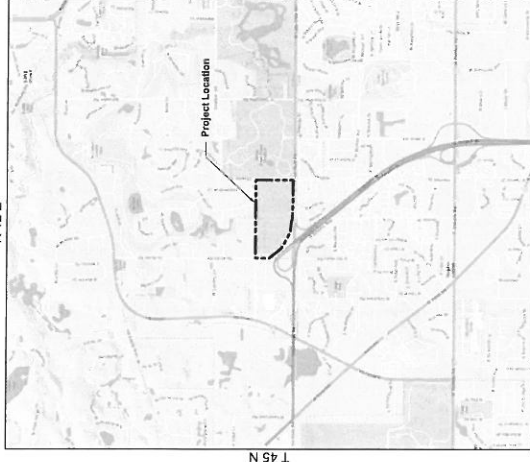
EXHIBIT B
CONCEPT PLAN
(County Section 01-00000-00-ES)



EXHIBIT C
Cover Sheet of 75% PLANS

STATE OF ILLINOIS COUNTY OF LAKE PLANS FOR BUFFALO CREEK FOREST PRESERVE WETLAND MITIGATION BANK SECTION XX-XXXXX-XX-XX

PROJECT LOCATION



INDEX OF SHEETS

SHEET No.	DESCRIPTION
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3	SUMMARY OF QUANTITIES
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7-12	GRADING AND DRAINAGE PLANS
13-15	STORM SEWER PLAN AND PROFILES
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33	SOIL EROSION AND SEDIMENT CONTROL PLAN
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35	TRAFFIC CONTROL PLAN
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IDOT HIGHWAY STANDARDS

000001-06 (8 SHT)	604001-04
280001-07 (2 SHT)	604-036-03
542401-02	701901-05 (3 SHT)
602301-04	
602401-03	
602601-04	

LCDOT STANDARD DETAILS

LC2050
LC2051
LC6003

FOR UNDERGROUND UTILITY
LOCATIONS, CALL
J. U. L. I. E.
TOLL FREE
800-892-0123

NO.	REVISIONS / REMARKS	DATE	BY	SURVEYOR
	DESCRIPTION			

FILE NAME: P:\3060\13-0172 LCDOT Buffalo Creek Wetland Mitigation Plans\03-0172 Buffalo Creek FP Wetland Mitigation Bank Plans\For Client Review.dwg

BUFFALO CREEK FOREST PRESERVE WETLAND MITIGATION BANK
COVER SHEET

Plans Prepared By: *Hey and Associates, Inc.*
Engineering, Surveying and Landscape Architecture
Professional Seal: 001-00000000-00000000

Signature: _____
Date: _____
Illinois License No.: XX-XXXXXX
Expiration Date: 11/30/17
Field: CIVIL
Approved By: _____
County Engineer: _____
Date: _____

ROUTE	SECTION	SECTION NUMBER	SHEET	SHEETS
CHXX	XXX	XX-00000-XX-XX	1	67