



DATE: January 8, 2024
MEMO TO: Paras Parekh, Chair
Planning Committee
FROM: Kevin Kleinjan
Director of Planning

Agenda Item # 10.4

RECOMMENDATION: Recommend approval of a Resolution approving an Amended and Restated Easement Agreement with the Village of Volo for a multi-use path along Fish Lake Road at Marl Flat Forest Preserve.

STRATEGIC DIRECTIONS SUPPORTED: Public Access and Connections, Leadership.

FINANCIAL DATA: There is no financial impact at this time.

BACKGROUND: The Village of Volo (the “Village”) is making improvements to Fish Lake Road, including minor road widening to provide a full 11-foot wide lane in both directions, drainage improvements, and road re-surfacing. None of these road improvements will be on District property. In conjunction with the road improvements, the Village is constructing a new 0.7-mile, 8-foot wide multi-use path. The proposed path will provide links from the following public places to the Millennium Trail and Marl Flat Forest Preserve: Grant Township’s existing path along Molidor Road, Grant Township Center, the Grant Township High School athletic fields, and Big Hollow School.

On June 26, 2023, the Village and the District entered into an Easement Agreement (EA) that provided the Village with a 0.155-acre permanent easement on District land to construct and maintain a multi-use path at Marl Flat Forest Preserve. The permanent easement is needed so that the Village can avoid removing seven (7) high quality native trees within the Fish Lake Road right of way – those trees would have to be removed if the path was constructed within the right of way.

At the time the EA was negotiated, the Village did not have a complete understanding of the Illinois Department of Transportation’s (IDOT) right-of-way acquisition process requirements which must be followed for the Village to obtain State and federal funding for the project. On December 12, 2023, the District received the attached letter from the Village requesting an amendment to the EA that responds to several issues that need to be addressed before the ROW acquisition can be certified by IDOT including:

- 1) Any provision which gives the District the right to terminate the easement thereby causing a disruption of the project is not permitted under any circumstances.
- 2) The provision regarding the approval of any revisions to the plans is also not permitted. The Village can provide the District the opportunity to review and comment on the plans before they are finalized.

Insurance requirements to be provided by the Villages general contractor cannot exceed those contained in IDOT's Standard Specifications.

The proposed Amended and Restated Easement Agreement (the "Restated Agreement") would, among other things, remove the District's right to terminate the permanent easement and remove the District's right to approve plan revisions (but the District will have the opportunity to review and comment on any plan revisions). In addition, the Restated Agreement would allow contracts for the initial construction of the trail to follow IDOT forms if required as a condition of using State and federal funds and would replace the District's insurance requirements with requirements listed in IDOT's Standard Specifications.

REVIEW BY OTHERS: Chief Operations Officer, Director of Finance, Manager of Board Operations, and Corporate Counsel.



December 12, 2023

Randy Seebach
Lake County Forest Preserve District
1899 W. Winchester Rd.
Libertyville, IL 60048-5367

RE: Request for Amended and Restated Easement Agreement

Route: Fish Lake Road
Limits: N of IL 120 to Nippersink Road
Lake County
Job No.: R-55-001-97
Parcel: 0001

Dear Mr. Seebach:

As you have been previously informed, the Village of Volo (Village) proposes to improve Fish Lake Road from north of IL 120 to Nippersink Road in Volo, Illinois. This improvement requires the acquisition of an easement from the Lake County Forest Preserve District (District), which will allow the Village to route the trail in a manner intended to avoid removing several large trees in the right-of-way.

While we previously negotiated and approved an Easement Agreement between the Village and the District, we did so without a complete understanding of the requirements of the Illinois Department of Transportation (IDOT) which is responsible for the certification of the right-of-way (ROW) acquisition process which is necessary to obtain the state and federal funding the Village needs to complete this project.

IDOT has identified several issues that need to be addressed in order for the Village to have the acquisition from the District approved by IDOT, as follows:

- Any provision which gives the District the right to terminate the easements thereby causing a disruption of the project is not permitted under any circumstances.
- The provision regarding the approval of any revisions to the plans is also not permitted. The Village can provide the opportunity to the District to review and comment on the plans before they are finalized.

Mayor: Stephen Henley

Trustees: Michael Wagner – Carol Porter – Kurt Johnson – Dustin Heuser – John Buttita – Richard Komars

- The insurance requirements to be provided by the general contractor cannot exceed those contained in IDOT's Standard Specifications for Road and Bridge Construction (Adopted January 1, 2022).

We respectfully request that the Planning Committee of the District consider the Village's request for an amended and restated Easement Agreement so that we can work collaboratively to complete the ROW acquisition process which will permit the Village to move forward with the improvements to Fish Lake Road.

For the Village, time is of the essence. To meet IDOT's date for letting the construction contract for the project, the grant of easement from the District to the Village must be certified by IDOT's central office on or before January 24, 2024. To meet this deadline, as we understand the District's legislative process, that means the District's Board of Commissioners would have to approve an amended and restated Easement Agreement at its January 17, 2024, meeting.

Thank you for your consideration.

Sincerely,

VILLAGE OF VOLO



Michael May
Village Administrator

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR JANUARY MEETING
JANUARY 17, 2024**

MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **PLANNING COMMITTEE** presents herewith “A Resolution approving an Amended and Restated Easement Agreement with the Village of Volo for a Multi-Use Path along Fish Lake Road at Marl Flat Forest Preserve,” and requests its approval.

PLANNING COMMITTEE:

Date: 1-8-2024 Roll Call Vote: Ayes: _____ Nays: _____
 Voice Vote Majority Ayes; Nays: 0

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

**A RESOLUTION APPROVING AN AMENDED AND RESTATED EASEMENT
AGREEMENT WITH THE VILLAGE OF VOLO FOR A MULTI-USE PATH
ALONG FISH LAKE ROAD AT MARL FLAT FOREST PRESERVE**

WHEREAS, the Lake County Forest Preserve District (the “District”) owns property commonly known as Marl Flat Forest Preserve (the “Property”); and

WHEREAS, the District and the Village of Volo (the “Village”) entered into an Easement Agreement dated June 26, 2023 that provided a permanent easement within the Property (the “Easement”) for the construction, operation and maintenance of a new 0.7-mile, 8-foot wide multi-use public path (the “Path”) within the Property (the “Current Agreement”); and

WHEREAS, the Path will link Grant Township’s existing path along Molidor Road, Grant Township Center, Grant Township High School athletic fields, and Big Hollow School to the District’s Millennium Trail and Marl Flat Forest Preserve; and

WHEREAS, the Village has requested the Easement within District land so that it can avoid removing seven (7) high quality native trees within the Fish Lake Road right of way, which would have to be removed if the Path was constructed within the right of way; and

WHEREAS, it is in the best interest of the District to (i) enter into an Amended and Restated Easement Agreement in substantially the form attached hereto (the “Restated Agreement”) and (ii) rescind, supersede, and replace the Current Agreement, to the extent provided in the Restated Agreement; and

WHEREAS, the District and the Road District desire to enter into the Restated Agreement to provide for the grant of the Easement in a manner that conforms to Illinois Department of Transportation right-of-way acquisition requirements that apply as a condition of the Road District’s receipt of State and federal funding for the project; and

WHEREAS, pursuant to Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, the District has the power to grant easements and rights-of-way for public services, such as the Path; and

WHEREAS, the District is authorized to enter into the Restated Agreement pursuant to the above authority and pursuant to the Intergovernmental Cooperation Act, 5 ILCS 200/1, et seq., which allows any power, privilege, function, or authority exercised by a public agency, including the District and the Village, to be exercised, combined, transferred, and enjoyed jointly with any other public agency to the extent not prohibited by law, and pursuant to other applicable authority;

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 Restated Agreement. The Restated Agreement is hereby approved in substantially the form attached hereto or in a final form to be approved by the Executive Director consistent with this Resolution. The Executive Director is authorized to approve the final form of the Restated Agreement, including any changes necessary to satisfy the Illinois Department of Transportation's criteria or requirements for the receipt of State and/or federal funding for the project and related land acquisition. The President, Secretary, and Executive Director of the District are hereby authorized and directed to execute and attest to, on behalf of the District, the Restated Agreement in the final form approved by the Executive Director, and whatever other documents are necessary to effectuate the transactions contemplated by the Restated Agreement. In the event that any provision of the Restated Agreement conflicts with the License and Easement Ordinance, the conflicting provision of the License and Easement Ordinance is hereby waived.

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 _____, 2024

AYES:

NAYS:

APPROVED this ____ day of _____, 2024

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____