

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (this Agreement) is made and entered into as of December 1, 2011, by and between the VILLAGE OF BIG ROCK, an Illinois municipal corporation (the Village), and KANE COUNTY, an Illinois unit of local government (the County), each organized and existing under and by virtue of the Constitution and the laws of the State of Illinois,

The parties hereto find and agree as follows:

### RECITALS

WHEREAS, the Village is an Illinois municipal corporation and a non-home rule municipality located in Kane County; and

WHEREAS, the County is an Illinois unit of local government with its seat located in Geneva, Illinois; and

WHEREAS, pursuant to the authority granted by the Illinois Constitution, Article VII, Section 10, and the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, the Village and the County each have the authority to enter into binding agreements regarding the exercise of their respective powers; and

WHEREAS, pursuant to the Special Service Area Tax Law, 35 ILCS 200/27-5, *et seq.*, the Property Tax Code, 35 ILCS 200/1, *et seq.*, the Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, and the County Code, 55 ILCS 5/1-1-1001 *et seq.*, the Village is authorized to create special service areas, levy special taxes ("Special Taxes") on property in such areas, and to designate an authorized officer to facilitate extension and collection of the special taxes, and the County (through its Clerk, Treasurer and Collector) is authorized to extend special taxes; and

WHEREAS, the Tenerelli Subdivision has been plagued with a history of drainage issues resulting from insufficient and inadequately maintained ditches and culverts without underdrains which jeopardize the on-site septic treatment in the Subdivision; and consequently, the Village received numerous complaints from the residents of the Subdivision after the 2008 flood and coordinated a Drainage Study with Kane County; and

WHEREAS, the Study revealed likely actions to resolve the drainage issues and the Village and County obtained grant money to fund a portion of the drainage improvements and the Village of Big Rock corporate authorities have determined that the establishment of a special service area for the purpose of improving and maintaining ditches, culverts and improvements or the financing related thereto will uniquely benefit the properties within said area and will therefore constitute "special services" as defined by 35ILCS 200/27-5 to promote and protect the public health, safety and welfare; and

WHEREAS, the Village of Big Rock annexed many parcels within the Tenerelli Subdivision in 2007, and the County Board authorized the Village of Big Rock to establish an

SSA over the unincorporated parcels within the subdivision by approving Resolution No. 11-238; and

WHEREAS, the Village of Big Rock corporate authorities held a public hearing on the establishment of a special service area to fund the drainage improvements; and

WHEREAS, absent special service area financing, the Village would be unable to provide the special services or properly plan, construct or maintain the public infrastructure required to best resolve the drainage issue while protecting the public health and preserving the functioning of the septic systems and therefore the quality of the drinking water source; and

WHEREAS, the Village has determined that the use of a special service area tax extension is an efficient and equitable manner to allocate the cost of the special services and the maintenance of the public improvements to the persons who benefit therefrom; and

WHEREAS, the County desires to cooperate with the Village to achieve the foregoing goals and to enhance the health, safety and welfare of persons living or working within the County; and

WHEREAS, pursuant to Ordinance No. 2011- 38 adopted on September 27, 2011, (the "Establishing Ordinance" on file with the County Recorder's office), and the Special Service Area Tax Law, the Village established "Special Service Area No. 2" of the Village of Big Rock; and

WHEREAS, the territory within Special Service Area No. 2 is legally described in Exhibit A, attached hereto and made part hereof; and

WHEREAS, the Village contemplates the levying of the Special Taxes on the properties according to the Rate and Method of Apportionment of Special Taxes (the "RMA") incorporated in the Establishing Ordinance No. 2011- 38 adopted by the Village on September 27, 2011 (on file with the County Recorder's office); and

WHEREAS, the Village has created the Special Service Area, levied the Special Taxes, and performed the other above-described actions, in order to obtain comprehensively engineered, well constructed, safe and efficient drainage improvements infrastructure to better provide for the health, safety and welfare of its citizens; and

WHEREAS, absent special service area financing, the Village could not afford to properly plan and construct necessary drainage improvements infrastructure, resulting in the loss of the opportunity to comprehensively plan and implement said drainage improvements infrastructure; and

WHEREAS, the Village and the County desire to memorialize their agreement regarding the County's cooperation with the Village in implementing the special service

area financing contemplated for the Special Service Area.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements herein contained, and for other valuable consideration, the receipt and legal sufficiency is hereby acknowledged, the Village and the County hereby agree as follows:

**§ 1. Incorporation of recitals**

The foregoing Recitals are incorporated into this agreement as if fully set forth herein.

**§ 2. Levying of Special Taxes**

a. Pursuant to the Special Tax Roll established by the RMA, the Special Taxes shall be divided among all taxable real property within Special Service Area No. 2 in accordance with the terms of the Establishing Ordinance and the RMA. Pursuant to the Establishing Ordinance the Village has the following duties related to the Special Taxes:

i. To calculate the projected Special Taxes annually on or before the last Tuesday of December for each year;

ii. To adopt an ordinance approving and levying the amount of the Special Taxes and directing the County Clerk to extend the Special Taxes for collection on the tax books against all of the taxable real property within the Special Service Area in accordance with the RMA and in connection with other taxes levied in each of such years for general Village purposes.

The Special Tax shall be computed, extended and collected in accordance with the RMA and the Special Tax Roll.

**§ 3. Extension of Special Taxes**

Pursuant to Section 27-75 of the Special Service Area Tax Law, each year the County Clerk shall extend the Special Taxes for collection on the tax books against all real property within the Special Service Area in accordance with the RMA and in connection with other taxes levied in each of such years for general Village purposes. The Village shall assist the County Clerk in extending the Special Taxes.

**§ 4. Billing and collection of Special Taxes**

Pursuant to the Intergovernmental Cooperation Act and subject to the terms and provisions of this Agreement, the County agrees to cooperate with the Village in connection with the billing and collection of the Special Taxes as follows:

a. Billing. The County shall cause the annual amount of the Special

Taxes as described in the Special Tax Roll to appear on the real estate tax bills as periodically issued by the County for real property within the Special Service Area. The Village shall assist the County in billing the Special Taxes.

b. Collection – ordinary course. The County shall collect the Special Taxes as remitted by taxpayers in the ordinary course, and shall create and maintain a separate fund into which it shall deposit Special Taxes as and when received from the Special Service Area. The County shall remit the amounts held in such fund to the Village at the same intervals and under similar terms and conditions as the County makes payments to the Village and other taxing bodies in connection with other taxes levied thereby and collected by the County.

c. Collection – delinquency. In the event of delinquency in payment of any Special Taxes, the Village and the County shall cooperate in pursuit of the remedies, and the County shall perform the duties, established by the Special Service Area Tax Law and Article 9 of the Illinois Municipal Code (65 ILCS 5/9-1-1, *et seq.*).

d. Village. The Village's duties shall include, without limitation, calculation of the Special Taxes, the annual Special Taxes Requirement, submission of the annual Special Taxes information in the format specified by the County, maintenance of a database of the parcels within the Special Service Area and their respective Special Taxes payments; and the preparation of a report, submitted at least annually to the County, identifying those parcels that have not paid the Special Taxes. In addition, the Village and the County agree that the Village shall assist the County with all tasks related to the extension, billing and collection of the Special Taxes as desired by the County. Accordingly, the Village shall cooperate with the County to facilitate and promote the orderly extension, billing and collection of the Special Taxes.

#### **§ 5. Reimbursement of certain County costs.**

The Village shall reimburse the County's reasonable costs incurred in connection with the County's undertaking hereunder as follows:

a. Initial costs. In recognition that the County's costs incurred to establish County billing and collection procedures for the Special Taxes may exceed the County's costs incurred in subsequent years, the Village shall pay a one-time fee of \$400 to the County upon the execution of this Agreement to reimburse the direct, actual and reasonable costs incurred in connection with establishing the systems, procedures and methods by which the County shall bill and collect the Special Taxes.

b. Ongoing costs. After the County has established the requisite systems, procedures and methods for billing and collection, the Village shall reimburse the County's actual reasonable incremental costs incurred in connection with billing and collecting the Special Taxes, if any. The Village's reimbursement shall be made annually.

#### **§ 6. Other provisions**

a. Notice. Unless otherwise specified, any notice, demand or request hereunder shall be given in writing at the address set forth below, by means of (i) personal service, (ii) fax, (iii) recognized overnight delivery service, or (iv) certified mail, return receipt requested.

If to the Village: Village of Big Rock  
P.O. Box 128  
Big Rock, IL 60511  
Attention: Village President

with a copy to: John R. Zemenak  
Rathje & Woodward, LLC  
300 East Roosevelt Road, Suite 300  
Wheaton, IL 60187

If to the County: Kane County  
719 S. Batavia Rd  
Geneva, IL 60134  
Attention: County Clerk

with a copy to: Kane County State's Attorney  
Third & James Streets  
Geneva, IL 60134  
Attention: Civil Division

b. The captions, paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content hereof.

c. The rights and obligations created hereby shall not be assignable or transferable except with the prior written consent of the parties hereto.

d. This agreement constitutes the entire agreement between the parties hereto, and supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof. This agreement shall not be amended except in a writing duly executed by both parties

e. The Village and the County agree to cooperate with each other to carry out the terms hereof, including mutual consideration and agreement upon the retention of advisors and other matters necessary or appropriate in connection herewith. The Village and the County each agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

f. The Village shall indemnify and hold harmless the County, its elected and appointed officials and its employees for attorneys' fees and expenses incurred by the County, arising from any action, lawsuit or proceedings undertaken against the County relative to the enforceability and validity of this Agreement.

g. Waiver by the Village or the County with respect to any given breach of this Agreement shall not be considered or treated as a waiver of any rights with respect to any other breach, except to the extent so specifically waived by the Village or the County in writing.

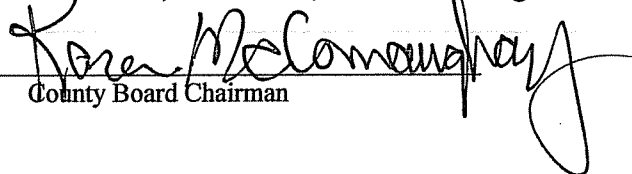
h. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement.

i. If any provision of this agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held void or invalid by a court of competent jurisdiction, such holding shall not affect the other provisions of this Agreement, which can be given effect without the invalid or void provision and to this effect the provisions of this Agreement are severable.

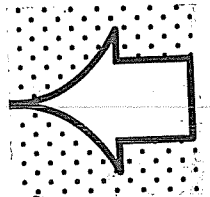
j. The undersigned represent that they have the authority of their respective governing authorities to execute this agreement.

IN WITNESS WHEREOF, the Village and the County have caused this agreement to be executed as of the date first written above.

KANE COUNTY, ILLINOIS, a unit of local government

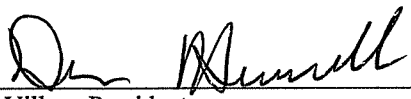
By:   
County Board Chairman

Attest: \_\_\_\_\_  
County Clerk



HERE

VILLAGE OF BIG ROCK, an Illinois municipal Corporation

By:   
Village President

Attest:   
Village Clerk

**EXHIBIT A**

**Legal Description:**

**PIN Numbers for parcels within Area**