

County of Kane
Office of County Board
Kane County Government Center



Karen McConnaughay
Chairman
630-232-5930



719 Batavia Avenue
Geneva, Illinois 60134
Fax 630-232-9188

DOCUMENT VET SHEET
for
Karen McConnaughay
Chairman, Kane County Board

Name of Document: Approving IGA with City of Aurora for Design, Construction, and Construction Engineering of Orchard Lake associated with Orchard Road from Indian Trail to Prairie Street

Submitted by: Linda Haines

Date Submitted: September 10, 2012

Examined by: Pat Jaeger
(Print name)

(Signature)

September 24, 2012
(Date)

Post on Web: Yes No Atty. Initials jjj

Comments: (2) IGA'S to sign. Missed signing (1)!
Needs County Clerk too!

Res: 12-326 (10/9/2012)

Chairman signed: (Yes) No October 25, 2012
(Date)

Document returned to: _____

CITY OF AURORA, ILLINOIS

RESOLUTION # R12-254

DATE OF PASSAGE September 25, 2012

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH KANE COUNTY REGARDING COST SHARE OF ORCHARD LAKE RESTORATION AND STABILIZATION PROJECT

WHEREAS, Article 7, Section 10 of the Constitution of the State of Illinois, 1970, authorize units of local government, including park districts and municipalities, to enter into agreements to exercise, combine or transfer power or functions not prohibited to them by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) authorizes units of local government in Illinois to exercise jointly with any other public agency within the State, including other units of local government, any power, privilege, or authority which may be exercised by a unit of local government individually and to enter into contracts for the performance of governmental services, activities and undertakings; and

WHEREAS, Kane County Department of Transportation (“COUNTY”) implemented a roadway improvement of Orchard Rd (County Highway 83) generally from Indian Trail to Prairie St in the years 2004 and 2005, all within the corporate boundaries of the City of Aurora (herein referred to as “Roadway Project”); and

WHEREAS, As part of the Roadway Project, stormwater management was required for the impervious surface expansion and floodplain compensation. Therefore COUNTY constructed a new pond on the west side of Orchard Rd just south of Galena Rd and also expanded the north half of Orchard Lake; and

WHEREAS, In order to expand the north half of Orchard Lake as part of the Roadway Project, COUNTY was required to obtain an Army Corp of Engineers (herein referred to as “ACOE”) Permit. The ACOE Permit was obtained; and

WHEREAS, Due to hydrologic conditions associated with Orchard Lake such as the frequent water surface fluctuation and the fact that the 100 year high water level is approximately 10 feet above the normal water level, the original COUNTY ACOE Permit approved a plan with a wetland emergent shelf for the Roadway Project. Since the Roadway Project has been completed several years ago and the Orchard Lake normal water level has been lowered, the COUNTY has discussed with ACOE to modify the original ACOE Permit to eliminate the wetland shelf and propose instead shoreline stabilization around the North Half of Orchard Lake.; and

WHEREAS, It is necessary and desirable to complete the shoreline stabilization and other restoration improvements to Orchard Lake (herein referred to as the “PROJECT”), which generally involves excavating rock lined channels, lowering the control elevation at the center of

the lake, excavating a pool near the center of the lake, re-grading the channel south of the Illinois Ave culverts, and clearing invasive plants from the center section of the lake; and

WHEREAS, COUNTY and the City propose the attached Intergovernmental Agreement, attached hereto as Exhibit "A", which Agreement sets forth the COUNTY and City responsibilities to construct and complete the PROJECT.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Aurora, Illinois, that the attached Intergovernmental Agreement is hereby approved, and the Mayor and City Clerk are hereby authorized to execute said Intergovernmental Agreement.

<u>Michael J. Santillo</u>	<u>Michael J. Santillo</u>
<u>Stephanie Kujala</u>	<u>Robert Hart-Burns</u>
<u>William Joyce</u>	<u>John J. O'Connor</u>
<u>John J. Peter</u>	<u>William</u>
Alderman	Alderman

AYES 10 NAYS 0 NOT VOTING

Thomas Weisner
MAYOR

ATTEST:
Cheryl M. Donhoff
CITY CLERK

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT ORCARD LAKE RESTORATION

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made and entered into as of the ____ day of _____, 2012, by and between COUNTY OF KANE, a body corporate and politic of the State of Illinois (hereinafter referred to as "COUNTY and the CITY OF AURORA, an Illinois municipality (hereinafter referred to as the "CITY").

WITNESSETH:

WHEREAS, Article 7, Section 10 of the Constitution of the State of Illinois, 1970, authorize units of government, to enter into agreements to exercise, combine or transfer power or functions not prohibited to them by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) authorizes units of government in Illinois to exercise jointly with other units of government within the State, any power, privilege, or authority which may be exercised by a unit of government individually and to enter into contracts for the performance of governmental services, activities and undertakings; and

WHEREAS, County of Kane conducted a highway improvement of Kane County Highway No. 83 (also known as Orchard Road) generally from Indian Trail to Prairie Street during the years 2004 and 2005, within the corporate boundaries of the CITY (hereinafter referred to as the "Project"); and

WHEREAS, as part of the Project, the COUNTY expanded the north half of Orchard Lake (hereinafter "Storm Water Management") (see Exhibit A); and

WHEREAS, in order to conduct the Storm Water Management for the Project, the COUNTY was required to obtain an Army Corp of Engineers Permit (hereinafter the "Permit") to expand the north half of Orchard Lake. The Permit is attached as Exhibit B; and

WHEREAS, the Permit approved a plan with a wetland emergent shelf in the north half of Orchard Lake for the Project. Since completion of the Project, the normal water level of Orchard Lake has lowered. The COUNTY, after discussion with the Army Corp of Engineers, desires to modify the Permit to eliminate the wetland shelf and propose shoreline stabilization around the north half of the Orchard Lake (hereinafter the "Stabilization Plan"); and

WHEREAS, in conjunction with the COUNTY's Stabilization Plan, the CITY desires to complete its own restoration improvements to Orchard Lake, which generally includes among other things excavating rock lined channels, regrading channels, lowering the control elevation at the center of the lake, and eliminating invasive plants; and

WHEREAS, the CITY and the COUNTY desire to complete their respective improvements to Orchard Lake as set forth in Exhibit C (hereinafter referred to as the "Work"). The estimated cost of the Work is shown in the attached Exhibit D.

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the COUNTY and the CITY agree as follows:

1. The foregoing preambles are a substantive part of and are hereby incorporated into the Agreement as though fully set forth herein.
2. The COUNTY shall at its own cost be responsible for the professional services associated with preparation of the final engineering plans and bid document special provisions for the Work; and for modifying the Permit to fit the scope of the Work shown in Exhibit C; and for obtaining other permits from the Illinois Department of Natural Resources, Office of Water Resources for the part of the Work within the floodway; and shall obtain any required erosion control permit. The COUNTY shall perform the tasks described in this paragraph 2 at its own cost and expense.
3. The cost of the COUNTY's portion of the Work other than those services described in Paragraph 2 hereinabove, is estimated to be \$67,500 in accordance with the plans and estimates prepared by the COUNTY as set forth in Exhibit D. Additionally, the COUNTY also agrees to assume the estimated cost of \$54,000 for 3 years of monitoring and maintenance of native planting areas in the Work area. .
4. The COUNTY'S total share of the cost of the Work as described in Paragraph No. 3 above is \$121,500 which the COUNTY shall pay to the CITY as the COUNTY's total monetary contribution to the Work, in addition to the other tasks set forth in Paragraph 2.
5. The CITY shall at its sole expense (i) let the Work (ii) perform all construction administration and observation, and shall also be responsible for any additional costs for the Work above and beyond those costs of the COUNTY as listed in Paragraph No. 4 above. The estimate cost of the Work is \$462,920 as set forth in Exhibit D and therefore the CITY's estimated cost of the Work is \$341,420 in addition to the other tasks as set forth in this Paragraph No.5.
6. Upon the CITY receiving a contribution from COUNTY of \$121,500 as described in Paragraph No. 4 and upon the COUNTY obtaining all permits described herein, and providing written verification thereof to the CITY, the CITY shall sign as Transferee of the COUNTY the Permit and accept the modified Permit and therefore relieve the COUNTY of any further obligations with regards to the Permit for the previously completed part of the Project.

IN WITNESS WHEREOF, the Parties have set their hands and seals the day and year first written above and the signatories hereto represent that they are duly authorized to execute this Agreement with the approval of and on behalf of their respective governing bodies.

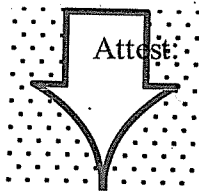
KANE COUNTY

CITY OF AURORA

**SIGN
HERE**

Karen McLaughlin
County Board Chairman

By: *Thomas Wiesner*
Mayor



Attest:

Attest:

County Clerk

Cheryl M. Donhoff
~~Secretary~~ City Clerk

↑
TAMU

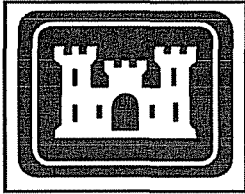
EXHIBIT A

Project Location



EXHIBIT B

Kane County Army Corp Permit

**REGIONAL PERMIT PROGRAM****AUTHORIZATION**

PERMITTEE: Kane County Department of Transportation
APPLICATION: 200400124
ISSUING OFFICE: U.S. Army Corps of Engineers, Chicago District
DATE:

You are hereby authorized to perform work in accordance with the terms and conditions specified below. **This verification expires three (3) years from the date indicated above.**

Note: The term "you" and its derivatives, as used in this authorization, means the permittee or any future transferee. The term "this office" refers to the U.S. Army Corps of Engineers, Chicago District.

PROJECT DESCRIPTION: Proposed expansion of Orchard Lake to impact 0.73 acre of wetland for the widening of Orchard Road from Indian Trail Road to Prairie Street in Aurora, Kane County, Illinois (W 1/2 of Sections 18 and 19, T38N R8E), as described in your notification and as shown on the plans entitled Orchard Lake Expansion, dated June 2003, prepared by Christopher B. Burke Engineering West, Ltd. (CBBEWL) and Crawford, Murphy, and Tilly, Inc. (CMT). To offset impacts, 1.1 acres of wetland credits shall be purchased from the Jelkes Creek Wetland Mitigation Bank as indicated in the correspondence from the banker, received by this office via electronic mail on March 12, 2004.

PROJECT LOCATION: In a tributary of Blackberry Creek, in Aurora, Kane County, Illinois (W 1/2 of Sections 18 and 19, T38N R8E)

GENERAL CONDITIONS: The above described work is authorized under the terms, conditions and requirements of Regional Permit 3, Transportation Projects, and shall follow the **General Conditions** outlined in the Regional Permit Program dated March 1, 2001.

SPECIAL CONDITIONS: To ensure that the activity has minimal individual and cumulative impacts, the following special conditions are required:

1. This authorization is based on the materials submitted as part of application number 200400124. Failure to comply with the terms and conditions of this authorization may result in suspension and revocation of your authorization.

2. You shall undertake and complete the project as described in the plans entitled Orchard Lake Expansion, dated June 2003, prepared by Christopher B. Burke Engineering West, Ltd. (CBBEWL) and Crawford, Murphy, and Tilly, Inc. (CMT), including all relevant documentation to the project plans as proposed.

3. You shall comply with the water quality certification issued under Section 401 of the Clean Water Act by the Illinois Environmental Protection Agency for the project.

4. You shall prepare and submit a soil erosion and sediment control plan for the work area to the Kane County Soil and Water Conservation District (SWCD) for review. You shall provide soil erosion and sediment control protection to all waters of the United States, including wetlands (preserved areas, farmed wetlands, etc.) at the work site prior to commencement of construction activities. Work authorized herein may not commence until you provide evidence to this office that the SWCD has determined that your plan meets technical standards.

5. Throughout the duration of construction activities, you shall adhere to all soil erosion and sediment control measures determined to meet technical standards by the SWCD.

6. You shall purchase 1.1 acres of credit from the Jelkes Creek Wetland Mitigation Bank. Work authorized herein may not commence until you provide evidence from the bank ensuring that the credits have been purchased.

7. You shall implement the planting plan entitled, Orchard Lake Planting Plan, dated June 2003, prepared by CBBEWL and CMT.

8. This permit does not authorize temporary construction activities, such as the temporarily stockpiling material within waters of the United States, or bank stabilization activities.

9. You shall provide written notification to this office at least ten (10) days prior to the commencement of work indicating the start date and estimated end date of construction. Notification must also include:

- a. evidence that 1.1 acres of wetland credit have been purchased from the Jelkes Creek wetland mitigation bank;
- b. evidence of SWCD review;
- c. schedule for implementation of the planting plan.

You may not commence work authorized herein until all of the above items have been received by this office.

10. You are responsible for all work authorized herein and for ensuring that all contractors are aware of the terms and conditions of this authorization. A copy of this authorization must be present at the project site during all phases of construction.

11. You shall notify this office of any proposed modifications to the project, including revisions to any of the plans or documents cited in this authorization. You must receive approval from this office before work affected by the proposed modification is performed.

12. You shall notify this office prior to the transfer of this authorization and liabilities associated with compliance with its terms and conditions. The transferee must sign the authorization in the space provided and forward a copy of the authorization to this office.

OTHER INFORMATION:

1. This office has authority to determine if an activity complies with the terms and conditions of the Regional Permit Program (RPP).

2. Limits of RPP authorization:

a. This authorization does not obviate the need to obtain other federal, state, or local authorizations required by law.

b. This authorization does not grant any property rights or exclusive privileges.

c. This authorization does not authorize any injury to the property or rights of others.

d. This authorization does not permit interference with any existing or proposed Federal project.

3. Limits of Federal Liability. The Federal Government does not assume any liability for the following:

a. Damages to the authorized project or uses thereof as a result of other authorized activities or from natural causes.

b. Damages to the authorized project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by this authorized activity.

d. Design or construction deficiencies associated with the authorized work.

e. Damage claims associated with any future modifications, suspension, or revocation of this authorization.

4. Reliance on Applicant's Data. The determination by the issuing office that this activity complies with the terms and conditions of the RPP was made in the reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this authorization at any time the circumstances warrant. In addition, this office may reevaluate the determination that the project qualifies under a RPP. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this authorization.

b. The information provided by you in support of your application proves to have been false, incomplete or inaccurate (see 4 above).

c. Significant new information surfaces which was not considered in reaching the original interest decision.

Such a reevaluation may result in a determination that it is appropriate to suspend, modify or revoke your authorization.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this authorization.

PERMITTEE

DATE

E Mr. Paul Rogowski
Kane County Department of Transportation
41W011 Burlington Road
Saint Charles, Illinois 60175

This authorization becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

For and on behalf of

DATE

E Gary E. Johnston
Colonel, U.S. Army
District Engineer

When the structures or work authorized by this authorization are still in existence at the time the property is transferred, the terms and conditions of this authorization will continue to be binding on the new owner(s) of the property. To validate the transfer of this authorization and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

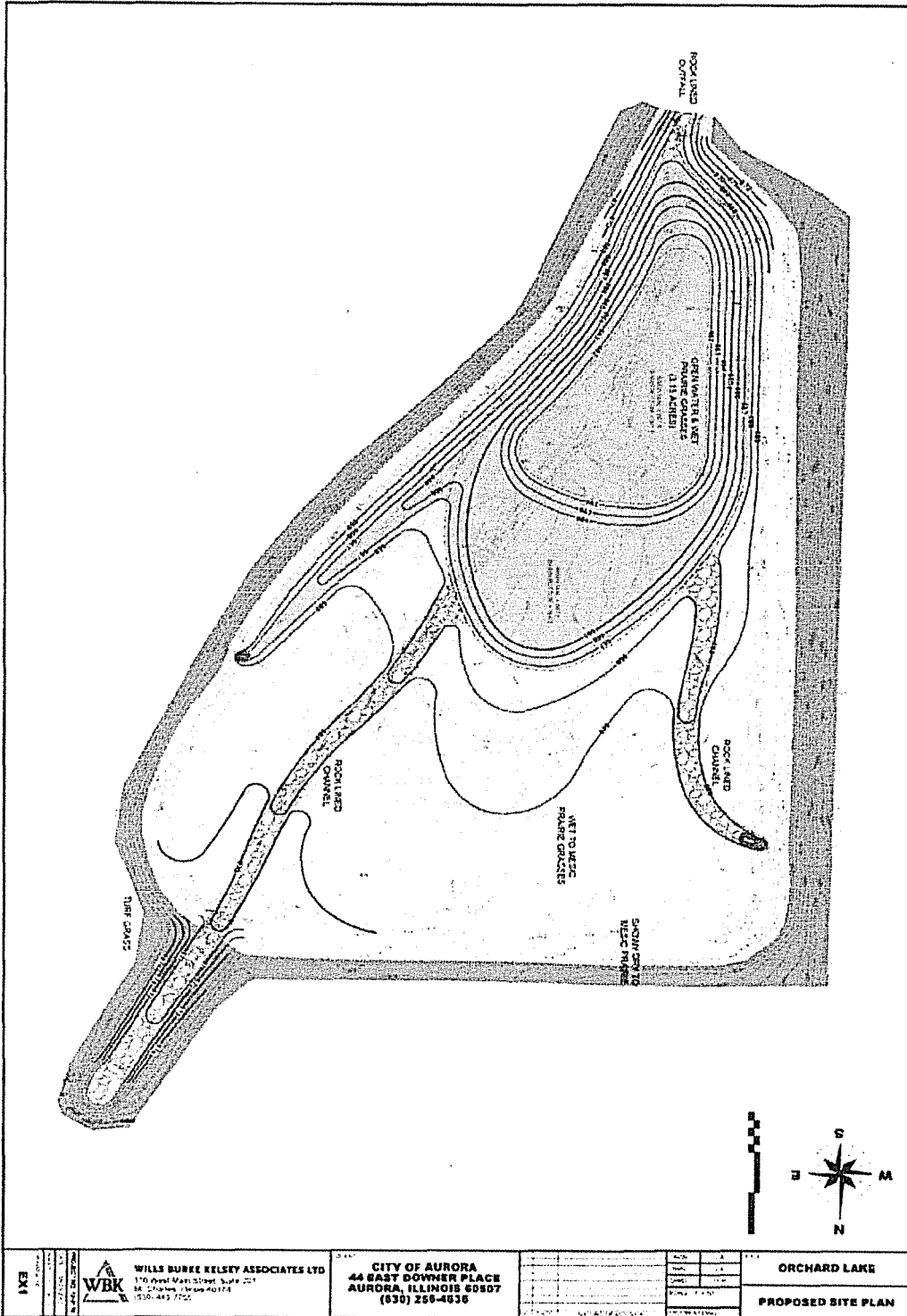
TRANSFEREE

DATE

ADDRESS

TELEPHONE

EXHIBIT C
Orchard Lake Work



WBK WILLS BURKE KELSEY ASSOCIATES LTD 170 West Main Street, Suite 201 St. Charles, Illinois 60174 (312) 442-7700	CITY OF AURORA 44 EAST DOWNER PLACE AURORA, ILLINOIS 60507 (630) 256-4636	ORCHARD LAKE	
		PROPOSED SITE PLAN	

EXHIBIT D

Work Cost Estimate

OPINION OF PROBABLE COST AUGUST 29, 2012

PAY ITEM	UNITS	QUANTITY	UNIT COST	PRICE
MOBILIZATION	L.SUM	1.00	\$3,000.00	\$3,000.00
STABILIZED CONSTRUCTION ENTRANCE	SQ.YD.	300.00	\$10.00	\$3,000.00
EXISTING DRAINAGE STRUCTURE REMOVAL	EACH	2.00	\$400.00	\$800.00
STORM SEWER REMOVAL	FOOT	410.00	\$2.00	\$820.00
EARTH EXCAVATION AND PLACEMENT	CU.YD.	13,650.00	\$3.00	\$40,950.00
TOPSOIL EXCAVATION AND PLACEMENT	CU.YD.	7,000.00	\$3.00	\$21,000.00
FURNISH AND PLACE TOPSOIL	CU.YD.	3,000.00	\$15.00	\$45,000.00
TREATED AND COMPACTED SOIL LINING SYSTEM	CU.YD.	25,000.00	\$3.00	\$75,000.00
AGGREGATE DITCH CHECK	EACH	1.00	\$500.00	\$500.00
CHANNEL STONE FURNISH AND PLACE	SQ.YD.	1,120.00	\$45.00	\$50,400.00
CHANNEL STONE PLACEMENT	SQ.YD.	2,430.00	\$20.00	\$48,600.00
ROCK EXCAVATION	SQ.YD.	2,430.00	\$25.00	\$60,750.00
EROSION CONTROL BLANKET	SQ.YD.	1,200.00	\$3.00	\$3,600.00
MULCH METHOD 3	ACRE	10.00	\$1,000.00	\$10,000.00
MAINTENANCE OF TEMPORARY EROSION	L.SUM	1.00	\$1,500.00	\$1,500.00
SELECTIVE CLEARING	ACRE	0.20	\$5,000.00	\$1,000.00
WEED CONTROL, NON-SELECTIVE AND NON-	GALLON	5.00	\$500.00	\$2,500.00
WEED CONTROL, NON-SELECTIVE AND NON-	GALLON	10.00	\$1,000.00	\$10,000.00
WEED CONTROL, NON-SELECTIVE AND NON-	GALLON	1.00	\$500.00	\$500.00
SEEDING, CLASS 1B	ACRE	1.50	\$2,000.00	\$3,000.00
SEEDING, CLASS 4 (MODIFIED) WET TO MESIC	ACRE	7.00	\$2,000.00	\$14,000.00
SEEDING, CLASS 4 (MODIFIED) SHOWY LOW	ACRE	3.25	\$2,000.00	\$6,500.00
SEEDING, CLASS 5 (MODIFIED) SHOWY LOW	ACRE	3.25	\$2,000.00	\$6,500.00
MAINTENANCE OF NATIVE AREAS (3-YEARS)	YEAR	3.00	\$18,000.00	\$54,000.00

TOTAL \$462,920.00