

KANE COUNTY BOARD MEETING-October 13, 2009
TABLE OF CONTENTS

COUNTY BOARD MEETING – October 13, 2009

MINUTE APPROVAL

September 8, 2009..... 727

SPEAKERS

RES #09-393..... 727

ZONING PETITIONS

#4223 Aurora Township (D & R Surfacing, Inc) 727

RESOLUTIONS AND ORDINANCES

#09-365 Snow Removal Maintenance Service at the Judicial Center and County
Owned Locations..... 728

#09-366 Electrical/Plumbing Services 729

#09-367 Building C Automation System..... 766

#09-368 Approving Application to the Circuit Court for an Order Authorizing Action To
Be Taken Pursuant to 55 ILCS 5/5-1121 (Property Located at 17N890 Mary
Lane, Township of Rutland, Kane County, Illinois-Parcel No. 2-14-101-003 730

#09-369 Approving an Intergovernmental Agreement with the Forest Preserve District
of Kane County..... 767

#09-370 An Ordinance Establishing the Sunvale Special Service Area (Or Special
Service Area No. SW-37) of Kane County, Illinois and Providing for the Levy of
Taxes for the Purpose of Paying the Cost of Providing Special Services In
and For Such Area 731

#09-371 An Ordinance Establishing the Middlecreek Special Service Area (Or Special
Service No. SW-38) of Kane County, Illinois and Providing for the Levy of
Taxes for the Purpose of Paying the Cost of Providing Special Services In
and Such Area..... 736

#09-372 An Ordinance Establishing the Shirewood Farm Special Services Area (Or
Special Service Area (Or Special Service Area No. SW-39) of Kane County,
Illinois And Providing for the Levy of Taxes for the Purpose of Paying the Cost
of Providing Special Services In and For Such Area 740

#09-373 Approving An Intergovernmental Agreement with Dundee Township for
Property Transfer From Voluntary Floodprone Property Buyout 744

#09-374 An Ordinance Proposing the Establishment of the Richardson Subdivision
Special Service Area of Kane County, Illinois for the Purposes of Paying the
Cost of Providing Special Services In and For Such Area..... 745

#09-375 Authorizing Application To Circuit Court For Demolition of Dangerous and/or

| | | |
|---------|--|-----|
| | Unsafe Building to Include Parcel 15-26-277-012 and Parcel 15-26-277-011 in Conjunction with Resolution 09-227 | 750 |
| #09-376 | Amending the Kane County Code Chapter 12. Law Enforcement, Article II. Sheriff's Department, Division 2. Merit Commission, Section 12-33 Authority and Responsibility | 751 |
| #09-377 | Authorizing Certain Actions Relative To The County Tax Agent | 752 |
| #09-378 | Land Cash Disbursement for Community Unit School District 303 | 753 |
| #09-379 | Authorizing Declaration Pursuant to 20 ILCS 3305/11 to Activate Plan for Distribution of H1N1 Vaccine..... | 755 |
| #09-380 | Voluntary Retirement Plan Buyouts | 755 |
| #09-381 | Supplement Budget Request (Public Defender's Office)..... | 756 |
| #09-382 | Amending the 2009 Fiscal Year Budget Kane County Clerk..... | 757 |
| #09-383 | Amending the 2009 Fiscal Year Budget Kane County Sheriff's Department the US Dept. of Justice/Bulletproof Vest Partnership | 758 |
| #09-384 | Supplemental Budget Request for Extradition Expense (Sheriff's Department)..... | 759 |
| #09-385 | Accepting Proposal to Perform External Audit (Wermer, Rodgers, Doran & Ruzon LLC) | 760 |
| #09-386 | Collective Bargaining Agreement Between the County of Kane and the American Federation of State, County and Municipal Employees, Council 31, Local 3966 for the Kane County Department of Education and Employment..... | 760 |
| #09-387 | Approving a Phase II Engineering Services Agreement with McDonough Associates, Inc. for Stearns Road Bridge Corridor-Stage 2A, McLean Fen Adaptive Management Plan, Kane County Section No. 06-00214-11-LS | 761 |
| #09-388 | Approving an Intergovernmental Agreement with the State of Illinois for Phase II Engineering Services for Stearns Road Bridge Corridor-Stage 2A, McLean Fen Adaptive Management Plan, Kane County Section No. 06-00214-27-BR..... | 762 |
| #09-389 | Approving a Phase II Engineering Services Agreement with Civiltech Engineering, Inc. for Stearns Road Bridge Corridor-Stage 5B, Umbdenstock Road at the CC&P Railroad, Kane County Section No. 06-00214-27-BR | 762 |
| #09-390 | Approving an Intergovernmental Agreement with the State of Illinois for Phase II Engineering Services for Stearns Road Bridge Corridor-Stage 5B, Umbdenstock Road at the CC&P Railroad, Kane County Section No. 06- 00214-27-BR | 763 |
| #09-391 | Approving Alteration of Speed Limit, Romke Road-Burlington Township..... | 764 |
| #09-392 | Relocation Cost Reimbursement, Longmeadow Parkway Bridge Corridor- Parcel No.-1LN0080, Kane County Section No. 94-00215-01-BR | 765 |
| #09-393 | Ordinance Authorizing The Issuance And Approving For the Sale of Up to \$40,000,000 General Obligation Alternate Bonds (Complete title can be found on Attached Ordinance)..... | 777 |
| #09-394 | Periodic Imprisonment Fee | 817 |
| #09-395 | Resolution Authorizing Settlement of Litigation Regarding the Kane County Judicial Center..... | 819 |

SPEAKERS

| | | |
|--|--|-----|
| | Denny Lee, Trustee, Village of Montgomery IL | 816 |
| | Brian Doland, Montgomery Economic Development Corp. | 817 |

| | |
|--------------------------------|-----|
| EXECUTIVE SESSION | 819 |
| ADJOURNMENT | 820 |

The Adjourned Meeting of the Kane County Board was held at the Kane County Government Center, Geneva, IL at 10:05 a.m. on Tuesday, October 13, 2009
Chairman, Karen McConnaughay, Clerk, John A. Cunningham.

Roll call as follows: PRESENT Allan, Castro, Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Tredup, Van Cleave, Vasquez, Wojnicki, Wyatt: ABSENT: Collins, McConnaughay PRESENT: 24 ABSENT: 2

APPROVAL OF MINUTES

Motion by Jesse Vasquez; second by John Mayer that the minutes of the September 8, 2009 meeting be approved. Motion carried unanimously by voice vote.

SPEAKERS

Chairman McConnaughay said that there were people signed up to speak regarding Resolution #09-393 (Ordinance for \$40,000,000 bonds) and would speak at the time the resolution was brought up in the agenda.

PETITION

#4223

(Aurora Township, Petitioner D & R Surfacing, Inc.)

Motion by Cathy Hurlbut, second by Jerry Jones that Petition #4223 be granted.

ORDINANCE AMENDING THE ZONING ORDINANCE OF KANE COUNTY, ILLINOIS

BE IT ORDAINED by the County Board of Kane County, Illinois, as follows:

- 1) That the following described property is hereby rezoned and reclassified from F-District Farming & B-3 District Business to B-3 District Business with Special Use (o) for the yards and buildings for the storage of equipment on the following described property:

That part of the Southeast Quarter of Section 14, Township 38 North, Range 8 East of the 3rd Principal Meridian, described as follows: commencing at the Southwest corner of said Southeast Quarter; thence North 0° 10' East along the West line of said Southeast Quarter 781.6 feet to the North line of a highway extended West; thence North 89° 10' East along the extension of and the North line of said Highway 1015.72 feet for the point of beginning; thence North 3°18' East 150 feet; thence North 89° 10' East parallel with the North line of said highway, 162.70 feet; thence North 3°18' East 212.73 feet; thence North 86°42' West 120.29 feet; thence South 33° 18' West 99.96 feet; thence South 5° 18' West 289.32 feet to the North line of said highway; thence North 89° 10' East along said North line 17.72 feet to the point of beginning, in the Township of Aurora, Kane County, Illinois.

- 2) That the zoning maps of Kane County, Illinois, be amended accordingly.

3) This ordinance shall be in full force and effect from and after its passage and approved as provided by Law.

William Moore of D& R Surfacing was available for questions. He said he has owned the property for 20 years and it was grandfathered in the zoning code. He said the general area surrounding the property they own and maintain and is asking the County Board to bring the area into compliance. He will be building a new building. Tom Van Cleave commends him for coming into compliance and his is a heavy duty business. He asked Cathy Hurlbut if staff has looked into screening. Cathy Hurlbut stated that staff has looked at the area as a whole. Cathy Hurlbut said that the area has been looked at by the committee and the whole area has been improving. Motion carried unanimously by voice vote. **Petition 4223 is GRANTED.**

###

CONSENT AGENDA

Chairman McConnaughay requested items to be considered separately. Items removed from Consent Agenda as follows: #09-367-Allan, #09-369-Allan, Motion by Hoscheit, second by Fahy that the Consent Agenda (#09-365, #09-366, #09-368, #09-370, #09-371, #09-372, #09-373, #09-374, #09-375, #09-376, #09-377, #09-378, #09-379, #09-380, #09-381, #09-382, #09-383, #09-384, #09-385, #09-386, #09-387, #09-388, #09-389, #09-390, #09-391, #09-392) be adopted.

RESOLUTION #09-365

SNOW REMOVAL MAINTENANCE SERVICE AT THE JUDICIAL CENTER AND OTHER COUNTY OWNED LOCATIONS

WHEREAS, proposals have been solicited and received to develop a contract for the snow removal requirements at the Judicial Center, Health Department (1240 Highland Avenue), Animal Control, Government Center, Third Street Courthouse, Sixth Street School, Circuit Clerk (Randall Road Campus), Sheriffs Departments, Diagnostic Center and the Juvenile Justice Center for a period of two years; and

WHEREAS, Waldschmidt & Associates Inc, West Chicago, IL was the lowest responsible bidder at an estimated cost of One Hundred Eight Thousand Six Hundred Seventy Five Dollars (\$108,675.00) per year for a total estimated cost of Two Hundred Seventeen ThousandThreeHundred Fifty Dollars (\$217,350.00) over the two year term of the contract; and

WHEREAS, adequate funds have been budgeted and are available for this expense.

NOW, THEREFORE, IT BE RESOLVED by the Kane County Board that the Chairman of the Board is authorized to enter into a contract with Waldschmidt & Associates Inc, West Chicago, Illinois for a period of two years for snow removal at the Judicial Center, Health Department (1240 Highland Avenue), Animal Control, Government Center, Third Street Courthouse, Sixth Street School, Circuit Clerk (Randall Road Campus), Sheriff's Departments, Diagnostic Center and the Juvenile Justice Center at an estimated cost of One Hundred Eight Thousand, Six Hundred Seventy Five Dollars (\$108,675.00) per year for a total contract

estimated cost of Two Hundred, Seventeen Thousand, Three hundred Fifty Dollars (\$217,350.00) over two years. Said expenditures to be paid from the general fund accounts listed below.

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|--|-----------------------|---|--|---|
| 001-080-080-52020 001-080-081-52020 001-080-082-52020 001-080-083-52020 001-080-084-52020 001-080-085-52020 001-080-086-52020 350-580-580-52120 290-500-500-52120 290-500-500-52020 | Contractual | Yes | Yes | NA |

###

RESOLUTION #09-366

ELECTRICAL / PLUMBING SERVICES

WHEREAS, bids have been solicited and received for the Electrical / Plumbing Service for labor for all government facilities; and

WHEREAS, the lowest responsible bidder as per specifications was Rehm Electric and A.R.Bex and Sons includes the following complexes, Government Center, Courthouse, 6TH Street Center, Circuit Clerk (Randall Road Campus), Judicial Center, and Aurora Health Department located at 1240 Highland Avenue, and Animal Control, for the sum of \$80.00 per hour per Rehm Electric and \$85.00 per Hour for A.R.Bex and Sons.

NOW, THEREFORE, IT BE RESOLVED by the Kane County Board that the Chairman of the Board is authorized to enter into a contract with Rehm Electric and A.R.Bex and Sons cost of Eighty Dollars (\$80.00) and Eighty Five Dollars (\$85.00) per Hour for Labor Rate Funds for services required to be paid from the General Fund.

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|--|-----------------------|---|--|---|
| 001-080-080-52110 001-080-081-52110 001-080-082- | Contractual | Yes 2009 Budget | Yes | 2009 |

| | | | | |
|-------------------|--|--|--|--|
| 52110 | | | | |
| 001-080-083-52110 | | | | |
| 001-080-084-52110 | | | | |
| 001-080-085-52110 | | | | |
| 001-080-086-52110 | | | | |

###

RESOLUTION #09-368
APPROVING APPLICATION TO THE CIRCUIT COURT FOR AN ORDER AUTHORIZING
ACTION TO BE TAKEN PURSUANT TO 55 ILCS 5/5-1121
(PROPERTY LOCATED AT 17N890 MARY LANE, TOWNSHIP OF RUTLAND,
KANE COUNTY, ILLINOIS - PARCEL NO.: 02-14-101-003)

WHEREAS, 55 ILCS 5/5-1211 authorizes the County of Kane, to apply to the circuit court for an order, to demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of the county, but outside of the territory of any municipality, and to remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings; and

WHEREAS, 55 ILCS 5/5-1121 (a) requires that the County apply to the circuit court for an order authorizing such action after the County has provided at least 15 days' written notice by mail to the owner or owners of the building, including the lien holders of record, and such owner or owners have not commenced proceedings to put the building in a safe condition or to demolish it; and

WHEREAS, 55 ILCS 5/5-1121 authorizes the County to recover the costs related to the demolition, repair, enclosure, or removal incurred by the County, including court costs, attorney's fees, and other costs related to the enforcement of section 55 ILCS 5/5-1121; and

WHEREAS, certain Community Development Block Grant funds have been appropriated and are available to pay the costs associated with the demolition, repair or enclosure of dangerous and unsafe buildings within the County; and

WHEREAS, the Kane County Building Officer has determined that a building (the "Unsafe Building") is located at 17N890 Mary Lane, Township of Rutland, Kane County, Illinois, parcel number 02-14-101-003 ("Property") is dangerous and/or unsafe; and

WHEREAS, the County desires to take action with respect to the Unsafe Building if the owner or owners do not commence proceedings to do so after 15 days written mailed notice.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board as follows:

1. The Kane County Building Officer is hereby authorized and directed to order a title search on the Property and to determine the owner or owners of the Unsafe Building, including the lien holders of record and

2. The Kane County State's Attorney's Office is hereby authorized to file on behalf of the County an Application with the circuit court, in accordance with 55 ILCS 5/5-1121, for an order authorizing action to be taken with respect to the Unsafe Building in the event the owners do not commence proceedings to put the building in a safe condition and to seek the recovery of the costs associated with the actions taken.

###

RESOLUTION #09-370

**AN ORDINANCE ESTABLISHING THE SUNVALE SPECIAL SERVICE AREA
(OR SPECIAL SERVICE AREA NO. SW-37)
OF KANE COUNTY, ILLINOIS
AND PROVIDING FOR THE LEVY OF TAXES
FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES
IN AND FOR SUCH AREA**

WHEREAS, a Final Plat of subdivision was approved by the County of Kane, Illinois (the "County"), for the Sunvale Subdivision Units 1 and 2 with the Unit 1 plat being recorded on June 30, 1980 (Document No. 1546729) and the Unit 2 plat recorded on June 15, 1983 (Document No. 1642263); and

WHEREAS, storm water detention and storm sewers were constructed and drainage easements recorded in accordance with the Kane County Ordinances at that time; and

WHEREAS, the individual homeowners within the subdivision, under Illinois Drainage Law, are obligated to maintain the stormwater drainage system and drainage easements within their individual lots in the subdivision but do not have a Homeowner's Association in place that would be able to coordinate the work and impose an assessment upon the owners of all of the lots within the Subdivision to provide for the overall maintenance and improvements of the stormwater drainage system; and

WHEREAS, Kane County received a petition signed by 10 of the 16 homeowners requesting that the County propose an SSA for the purpose of funding the replacement of a portion of the storm sewer system and funding long term maintenance of the stormwater improvements that serve the subdivision; and

WHEREAS, pursuant to the provisions of Article VII, Section 7, Part (6) of the 1970 Constitution of the State of Illinois (the "Constitution"), the County of Kane is authorized to create special service areas in and for the unincorporated areas of the County; and

WHEREAS, pursuant to the "Special Service Area Tax Law", 35 ILCS 200/27-5, et seq. (2003), the County is authorized to levy and impose taxes upon property within special service areas for the provision of special services to those areas and for the payment of debt incurred in order to provide those services; and

WHEREAS, it is in the public interest that the establishment of the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the Sunvale Special Service Area (or Special Service Area No. SW-37), of the County; and

WHEREAS, the Area is contiguous and totally within the boundaries of the unincorporated area of the County; and

WHEREAS, the purpose of establishing the Area is to provide certain special governmental services (the "Services") to the Area, which are unique and in addition to the services generally provided to the County as a whole; and

WHEREAS, a Construction Project is to be built and funded by the SSA. The Construction Project is defined specifically as the construction of 320 lin. ft. of storm sewer on the west side of the subdivision to replace 320 lin. ft. of failed storm sewer. The homeowner's share of the construction cost is \$5,954. This sum shall be collected in equal installments over a 10 year period after which time the Construction Project levy shall expire. Equal payments shall be made each year by the homeowners in accordance with Exhibit A for the 10 year period. No interest shall be collected. The cost-sharing arrangement was approved by the Kane County Development Committee on December 16, 2008 as Cost-Share Project 2009-001; and

WHEREAS The Long Term Maintenance Services to be provided by the SSA may include, but are not limited to the following: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any storm water detention and/or retention area, drainageway, ditch, swale, storm sewer or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, Long Term Maintenance Services to be performed are required to be located within the Drainage Easement Areas as shown on the plats of subdivision for Sunvale Units 1 and 2 and the Pesch easement (PIN 06-31-300-015) located west of the west line of the subdivision. The Long Term Maintenance Maximum Levy schedule is attached as Exhibit A. The maximum long term maintenance levy amount shall increase each year the Special Service Area is active by 1% to account for inflation; and

WHEREAS, the special service area tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year 2009, in an amount sufficient to produce revenues required to provide the special services. The amount to be levied for construction costs and maintenance shall be computed and determined on an annual basis on the method set forth on Exhibit A attached hereto and made a part hereof and shall not exceed the maximum amounts shown thereon for construction and maintenance costs. Such amounts shall not exceed the amount included on Exhibit A within the SSA document, and shall be in addition to all other taxes permitted by law; and

WHEREAS, it is in the public interest that the levy of a direct annual tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

WHEREAS, the revenue from such tax shall be used solely for Services for which the County is authorized under law to levy taxes or special assessments or to appropriate funds of the County, all of the Services to be in and for the Area and all of any necessary construction and maintenance to be within drainage easements within the subdivision and as defined thorough the easement document on the Pesch property. Approval of this SSA document subsequently provides for access to the drainage easements as shown on Sunvale Unit 1 and 2 plats of subdivision by the County, its successor and assignees for the purposes describe above; and

WHEREAS, said tax shall be levied upon all taxable property within the Area for the Construction Project for 10 years beginning for the year 2009 tax bills (payable in 2010), in an amount sufficient to produce revenues required to provide the Services, and such amount shall not exceed the amount as shown on Exhibit A and shall be in addition to all other taxes permitted by law; and

WHEREAS, said tax shall be levied upon all taxable property within the Area for Long Term Maintenance Services for an indefinite period of time beginning for the year 2009 tax bills (payable in 2010), in an amount sufficient to produce revenues required to provide the Services, and such amount shall not exceed the amount as shown on Exhibit A plus 1% for each year the SSA is active and shall be in addition to all other taxes permitted by law; and

WHEREAS, the establishment of the Area was proposed by the Board of the County of Kane (the "County Board") pursuant to Ordinance No. 09-199, entitled:

PROPOSING THE ESTABLISHMENT OF THE SUNVALE SPECIAL SERVICE AREA (OR SPECIAL SERVICE AREA NO. SW-37) OF KANE COUNTY, ILLINOIS AND THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES IN AND FOR SUCH AREA

(the "Proposing Ordinance"), duly adopted and was considered at a public hearing (the "Hearing") held by the County Board on July 14, 2009; and

WHEREAS, notice of the Hearing was given by publication at least once not less than 15 days prior to the Hearing in Kane County Chronicle, the same being a newspaper of general circulation within the County (a copy of the notice and affidavit of publication is on file with the County Clerk as Exhibit B and is incorporated herein); and

WHEREAS, mailed notice of the Hearing was given by depositing notice in the United States Mail, not less than 10 days prior to the time set for the Hearing, addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract or parcel of land lying within the Area, and in the event taxes for the last preceding year were not paid, the notice was sent to the person or persons last listed on the tax rolls prior to that year as the owner or owners of said property (a copy of the notice and the affidavit of mailing is on file with the County Clerk as Exhibit C and is incorporated herein); and

WHEREAS, at the Hearing, all interested persons, including persons owning taxable real property located within the Area, were given the opportunity to be heard regarding any issue embodied within the notice, including the establishment of the Area and the levy of taxes, and to file with the County Clerk written objections to the same (a copy of the transcript of the hearing [and the written objections, if any,] are on file with the County Clerk as Exhibit D); and

WHEREAS, the County Board does hereby determine that it is in the public interest and in the interest of the County and the Area that the Area be established and the taxes described herein be levied.

NOW, THEREFORE, BE IT ORDAINED by the County Board of the County of Kane, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

§2. Final adjournment of Hearing

The Hearing was finally adjourned on July 14, 2009.

§3. Establishment of Area

(a) The Sunvale Special Service Area (or Special Service Area No. SW-37) of Kane County, Illinois is hereby established in and for the County and shall consist of the territory legally described in Exhibit E on file with the County Clerk and made a part hereof.

(b) Said territory consists of all platted lots in Sunvale Unit 1 and Sunvale Unit 2, Elgin Township in Kane County, Illinois. An accurate map of the Area is on file with the County Clerk as Exhibit F and made a part hereof.

§4. Purpose of Establishing the Area

The purpose of establishing the Area is to provide the Services to the Area, which Services are unique and in addition to the services generally provided to the County as a whole. The Services to be provided may include, but are not limited to, the following: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any storm water detention and/or retention area, drainageway, ditch, swale, storm sewer or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, all of the Services to be in and for the Area.

§5. Tax Levy

The cost of the Services shall be paid by the revenue from the levy of a direct annual non-*ad valorem* tax upon all taxable property within the Area for an indefinite period of time beginning for the year 2009 and shall be as described on Exhibit A attached hereto, and shall be in addition to all other taxes permitted by law.

§6. Filing

The County Clerk is hereby directed to file and record a certified copy of this ordinance, including a description of the territory and an accurate map of the Area, in the office of the Kane County Clerk and in the office of the Kane County Recorder within 60 days after its adoption and approval.

§7. Repealer

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this ordinance be in full force and effect forthwith upon its adoption.

SPECIAL SERVICE AREA SW-37
SUNVALE SUBDIVISION
EXHIBIT A

| Lot No | PIN | Annual Construction Levy for 10 years | * | Annual Long Term Maintenance | ** | Total Maximum Levy |
|-----------|---------------|--|---|------------------------------------|----|--------------------------|
| 1 | 06-31-376-005 | \$26.79 | | \$50.00 | | \$76.79 |
| 2 | 06-31-376-004 | \$54.58 | | \$72.22 | | \$126.80 |
| 3 | 06-31-376-003 | \$54.58 | | \$72.22 | | \$126.80 |
| 4 | 06-31-376-002 | \$54.58 | | \$72.22 | | \$126.80 |
| 5 | 06-31-376-001 | \$54.58 | | \$72.22 | | \$126.80 |
| 6 | 06-31-377-001 | \$26.79 | | \$72.22 | | \$99.02 |
| 7 | 06-31-377-002 | \$26.79 | | \$50.00 | | \$76.79 |
| 8 | 06-31-377-003 | \$26.79 | | \$50.00 | | \$76.79 |
| 9 | 06-31-377-004 | \$26.79 | | \$72.22 | | \$99.02 |
| 10 | 06-31-377-005 | \$26.79 | | \$50.00 | | \$76.79 |
| 11 | 06-31-377-006 | \$26.79 | | \$50.00 | | \$76.79 |
| 12 | 06-31-377-007 | \$26.79 | | \$50.00 | | \$76.79 |
| 13 | 06-31-377-008 | \$26.79 | | \$50.00 | | \$76.79 |
| 14 | 06-31-377-009 | \$26.79 | | \$72.22 | | \$99.02 |
| 15 | 06-31-377-010 | \$54.58 | | \$72.22 | | \$126.80 |
| 16 | 06-31-377-011 | \$54.58 | | \$72.22 | | \$126.80 |

* The six (6) properties along the existing storm sewer and detention area that are flooded fund 55% of the residents' share of the cost for construction of the Cost-Share project. The remaining ten (10) properties share the remaining 45% of the cost. As the infrastructure was approved with the subdivision, all residents share in the responsibility of that infrastructure. To a greater extent, the residents with the infrastructure on their property have a greater responsibility under Illinois Drainage Law. For that reason, residents with the infrastructure on their property are levied approximately double as the petitioning residents felt this was fair and equitable.

** Nine (9) properties in the Sunvale Subdivision contain drainage infrastructure located in a drainage easement. The nine properties are responsible for 65% of an annual long term maintenance levy due to their responsibility under Illinois Drainage Law. The remaining seven (7) properties share the remaining 35% of the maintenance levy as the infrastructure was key to the subdivision approval. The petitioning residents felt this was fair and equitable.

###

**RESOLUTION #09-371
AN ORDINANCE ESTABLISHING THE MIDDLECREEK SPECIAL SERVICE AREA
(OR SPECIAL SERVICE AREA NO. SW-38)
OF KANE COUNTY, ILLINOIS
AND PROVIDING FOR THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST
OF PROVIDING SPECIAL SERVICES IN AND FOR SUCH AREA**

WHEREAS, a Final Plat of Subdivision was approved by the County of Kane, Illinois (the "County"), for the Middlecreek Unit No. 1 subdivision with the Unit 1 plat being recorded on January 3, 1974 (Document No. 1286349); and

WHEREAS, the individual homeowners on Lots 19 and 20 have experienced drainage problems related to an upstream off-site tributary area that flows to a closed depression with no established outlet resulting in flooding of a home and yard area; and

WHEREAS, Kane County has provided technical assistance to design a storm sewer outfall from the closed depression to Middle Creek located north of Lots 19 and 20 that will traverse Lots 32 and 33; and

WHEREAS, the property owners of lots 32 and 33, in order to grant their approval of said storm sewer, have required that a mechanism to provide for the long term maintenance on the new storm sewer be in place to relieve them of any long term maintenance requirements that would otherwise fall upon them under Illinois Drainage Law; and

WHEREAS, the Kane County Development Committee approved a cost-share with the residents on June 16, 2009 (2009-013) which included a resident share of \$17,500 and the residents on Lots 19 and 20 have requested that their share be paid over time; and

WHEREAS, pursuant to the provisions of Article VII, Section 7, Part (6) of the 1970 Constitution of the State of Illinois (the "Constitution"), the County of Kane is authorized to create special service areas in and for the unincorporated areas of the County; and

WHEREAS, pursuant to the "Special Service Area Tax Law", 35 ILCS 200/27-5, et seq. (2003), the County is authorized to levy and impose taxes upon property within special service areas for the provision of special services to those areas and for the payment of debt incurred in order to provide those services; and

WHEREAS, it is in the public interest that the establishment of the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the Middlecreek Special Service Area (or Special Service Area No. SW-38), of the County; and

WHEREAS, the Area is contiguous and totally within the boundaries of the unincorporated area of the County; and

WHEREAS, the purpose of establishing the Area is to provide certain special governmental services (the "Services") to the Area, which are unique and in addition to the services generally provided to the County as a whole; and

WHEREAS, a Construction Project is to be built and funded by the SSA. The Construction Project is defined specifically as the construction of 1000 lin. ft. of storm sewer across Middlecreek Lane to a point of discharge into Middle Creek. The homeowner's share of the construction cost is \$17,500. This sum shall be collected in equal installments over a 10 year period after which time the Construction Project levy shall expire. Equal payments shall be made each year by the homeowners in accordance with Exhibit A for the 10 year period. No interest shall be collected. The cost-sharing arrangement was approved by the Kane County Development Committee on June 16, 2009 as Cost-Share Project 2009-013; and

WHEREAS, The Long Term Maintenance Services to be provided by the SSA may include, but are not limited to the following: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any storm sewer or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area including the \$400 administrative fee for the initial set up of the SSA, including the repayment of any loan or debt incurred for the provision of any of such Services, Long Term Maintenance Services are limited to the storm sewer as constructed on Lots 19, 20, 32 and 33. The Long Term Maintenance Maximum Levy schedule is attached as Exhibit A. The maximum long term maintenance levy amount shall increase each year the Special Service Area is active by 1% to account for inflation; and

WHEREAS, the special service area tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year 2009, in an amount sufficient to produce revenues required to provide the special services. The amount to be levied for construction costs and maintenance shall be computed and determined on an annual basis on the method set forth on Exhibit A attached hereto and made a part hereof and shall not exceed the maximum amounts shown thereon for construction and maintenance costs. Such amounts shall not exceed the amount included on Exhibit A within the SSA document, and shall be in addition to all other taxes permitted by law; and

WHEREAS, it is in the public interest that the levy of a direct annual tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

WHEREAS, the revenue from such tax shall be used solely for Services for which the County is authorized under law to levy taxes or special assessments or to appropriate funds of the County; and

WHEREAS, said tax shall be levied upon all taxable property within the Area for the Construction Project for 10 years beginning for the year 2009, in an amount sufficient to produce revenues required to provide the Services, and such amount shall not exceed the amount as shown on Exhibit A and shall be in addition to all other taxes permitted by law; and

WHEREAS, said tax shall be levied upon all taxable property within the Area for Long Term Maintenance Services for an indefinite period of time beginning for the year 2009, in an amount sufficient to produce revenues required to provide the Services, and such amount shall not exceed the amount as shown on Exhibit A plus 1% for each year the SSA is active and shall be in addition to all other taxes permitted by law; and

WHEREAS, the establishment of the Area was proposed by the Board of the County of Kane (the "County Board") pursuant to Ordinance No. 09-274, entitled:

PROPOSING THE ESTABLISHMENT OF THE MIDDLECREEK SPECIAL SERVICE AREA (OR SPECIAL SERVICE AREA NO. SW-38) OF KANE COUNTY, ILLINOIS AND THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES IN AND FOR SUCH AREA

(the "Proposing Ordinance"), duly adopted and was considered at a public hearing (the "Hearing") held by the County Board on September 8, 2009; and

WHEREAS, notice of the Hearing was given by publication at least once not less than 15 days prior to the Hearing in Kane County Chronicle, the same being a newspaper of general circulation within the County (a copy of the notice and affidavit of publication is on file with the County Clerk as Exhibit B and is incorporated herein); and

WHEREAS, mailed notice of the Hearing was given by depositing notice in the United States Mail, not less than 10 days prior to the time set for the Hearing, addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract or parcel of land lying within the Area, and in the event taxes for the last preceding year were not paid, the notice was sent to the person or persons last listed on the tax rolls prior to that year as the owner or owners of said property (a copy of the notice and the affidavit of mailing is on file with the County Clerk as Exhibit C and is incorporated herein); and

WHEREAS, at the Hearing, all interested persons, including persons owning taxable real property located within the Area, were given the opportunity to be heard regarding any issue embodied within the notice, including the establishment of the Area and the levy of taxes, and to file with the County Clerk written objections to the same (a copy of the transcript of the hearing [and the written objections, if any,] are on file with the County Clerk as Exhibit D); and

WHEREAS, the County Board does hereby determine that it is in the public interest and in the interest of the County and the Area that the Area be established and the taxes described herein be levied.

NOW, THEREFORE, BE IT ORDAINED by the County Board of the County of Kane, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

§2. Final adjournment of Hearing

The Hearing was finally adjourned on September 8, 2009.

§3. Establishment of Area

(a) The Middlecreek Special Service Area (or Special Service Area No. SW-38) of Kane County, Illinois is hereby established in and for the County and shall consist of the territory legally described in Exhibit E on file with the County Clerk and made a part hereof.

(b) Said territory consists of Lots 19 and 20 of Middlecreek Unit 1, St. Charles Township, Kane County, Illinois.

§4. Purpose of the Establishing the Area

The purpose of establishing the Area is to provide the Services to the Area, which Services are unique and in addition to the services generally provided to the County as a whole. The Services to be provided may include, but are not limited to, the following: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any storm water detention and/or retention area, drainageway, ditch, swale, storm sewer or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, all of the Services to be in and for the Area.

§5. Tax Levy

The cost of the Services shall be paid by the revenue from the levy of a direct annual non-*ad valorem* tax upon all taxable property within the Area for an indefinite period of time beginning for the year 2009 and shall be as described on Exhibit A attached hereto, and shall be in addition to all other taxes permitted by law.

§6. Filing

The County Clerk is hereby directed to file and record a certified copy of this ordinance, including a description of the territory and an accurate map of the Area, in the office of the Kane County Clerk and in the office of the Kane County Recorder within 60 days after its adoption and approval.

§7. Repealer

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this ordinance be in full force and effect forthwith upon its adoption.

- It is noted that the Construction Levy was divided equally between the two

SPECIAL SERVICE AREA SW-38
MIDDLECREEK SUBDIVISION
EXHIBIT A

| Lot No | PIN | Annual Construction Levy for 10 years | * Annual Long Term Maintenance | * Total Maximum Levy |
|-----------|---------------|--|---|-------------------------------|
| 19 | 09-21-101-009 | \$875 | \$100 | \$975 |
| 20 | 09-21-101-010 | \$875 | \$100 | \$975 |

property owners who benefit from the project as agreed upon through the Water Resources meetings with them. It was determined by the property owners that there was an equal benefit to both properties and therefore the costs should be equal for both construction and long term maintenance.

###

RESOLUTION #09-372

**AN ORDINANCE ESTABLISHING THE SHIREWOOD FARM SPECIAL SERVICE AREA
(OR SPECIAL SERVICE AREA NO. SW-39)
OF KANE COUNTY, ILLINOIS
AND PROVIDING FOR THE LEVY OF TAXES
FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES
IN AND FOR SUCH AREA**

WHEREAS, a Final Plat of Subdivision was approved by the County of Kane, Illinois (the "County"), for the Shirewood Farm Unit 1 subdivision with the plat being recorded on November 9, 1978 (Document No. 1482811); and

WHEREAS, the individual homeowner on Lot 8 is experiencing drainage problems related to upstream tributary area that flows to the lot and a broken drain tile on the lot; and

WHEREAS, Kane County has provided technical assistance to design a storm sewer from Lot 8 to the detention basin in Hampshire Meadows Subdivision; and

WHEREAS, the Kane County Development Committee approved a cost-share with the owner of Lot 8 on July 21, 2009 (2009-014) for an amount of \$23,482 and the property owner of Lot 8 has requested that their share be paid over time; and

WHEREAS, pursuant to the provisions of Article VII, Section 7, Part (6) of the 1970 Constitution of the State of Illinois (the "Constitution"), the County of Kane is authorized to create special service areas in and for the unincorporated areas of the County; and

WHEREAS, pursuant to the "Special Service Area Tax Law", 35 ILCS 200/27-5, et seq. (2003), the County is authorized to levy and impose taxes upon property within special service areas for the provision of special services to those areas and for the payment of debt incurred in order to provide those services; and

WHEREAS, it is in the public interest that the establishment of the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the Shirewood Special Service Area (or Special Service Area No. SW-39), of the County; and

WHEREAS, the Area is contiguous and totally within the boundaries of the unincorporated area of the County; and

WHEREAS, the purpose of establishing the Area is to provide certain special governmental services (the "Services") to the Area, which are unique and in addition to the services generally provided to the County as a whole; and

WHEREAS, the construction of the project on Lot 8 is to be built and funded wholly by the SSA. The Construction Project is defined specifically as the construction of 353 lin. ft. of 8" storm sewer through the lot along with all the necessary appurtenances. In addition, a \$5,000 share of the storm sewer within the subdivision is also required of the owner of Lot 8. The total share of the construction cost for Lot 8 is \$23,482. This sum shall be collected over a 10 year period or until the total sum collected is \$23,482 after which time the construction portion of the SSA shall expire. The levy shall be a direct annual ad valorem tax and shall not exceed \$2.40 per 100 dollar of assessed valuation. No interest shall be collected. The cost-sharing arrangement was approved by the Kane County Development Committee on July 21, 2009 as Cost-Share Project 2009-014; and

WHEREAS, The Long Term Maintenance Services to be provided by the SSA may include, but are not limited to the following: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any storm sewer or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, Long Term Maintenance Services are limited to the storm sewer as constructed from Lot 8 in Shirewood Farm Unit 1 to the point of discharge into the Hampshire Meadows stormwater detention basin. If parcel 01-28-300-016 develops at any time and the storm sewer is incorporated into the drainage plan, Long Term Maintenance under this SSA will terminate at the north edge of the Shirewood Farm subdivision. Long Term Maintenance shall not be levied until the 2019 tax bill (payable in 2020) when the Construction levy has expired. The maximum long term maintenance levy amount shall be \$0.10 per \$100 of assessed valuation in 2020 and shall increase each year thereafter by 1% to account for inflation; and

WHEREAS, the special service area tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year 2009, in an amount sufficient to produce revenues required to provide the special services. The amount to be levied for construction costs and maintenance shall be computed and determined on an annual basis and shall not exceed the maximum amounts shown above for construction and maintenance costs. Such amounts shall be in addition to all other taxes permitted by law; and

WHEREAS, it is in the public interest that the levy of a direct annual tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

WHEREAS, the revenue from such tax shall be used solely for Services for which the County is authorized under law to levy taxes or special assessments or to appropriate funds of the County; and

WHEREAS, said tax shall be levied upon all taxable property within the Area for the Construction Project for 10 years beginning for the 2009 tax bill (payable in 2010), in an amount sufficient to produce revenues required to provide the Services, and such amount shall not exceed the amount as shown above and shall be in addition to all other taxes permitted by law; and

WHEREAS, said tax shall be levied upon all taxable property within the Area for Long Term Maintenance Services for an indefinite period of time beginning for the 2019 taxes (payable in 2020), in an amount sufficient to produce revenues required to provide the Services, and such amount shall not exceed the amount as shown above plus 1% for each year after 2020 and shall be in addition to all other taxes permitted by law; and

WHEREAS, the establishment of the Area was proposed by the Board of the County of Kane (the "County Board") pursuant to Ordinance No. 09-275, entitled:

PROPOSING THE ESTABLISHMENT OF THE SHIREWOOD SPECIAL SERVICE AREA (OR SPECIAL SERVICE AREA NO. SW-39) OF KANE COUNTY, ILLINOIS AND THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES IN AND FOR SUCH AREA

(the "Proposing Ordinance"), duly adopted and was considered at a public hearing (the "Hearing") held by the County Board on September 8, 2009; and

WHEREAS, notice of the Hearing was given by publication at least once not less than 15 days prior to the Hearing in Kane County Chronicle, the same being a newspaper of general circulation within the County (a copy of the notice and affidavit of publication is on file with the County Clerk as Exhibit A and is incorporated herein); and

WHEREAS, mailed notice of the Hearing was given by depositing notice in the United States Mail, not less than 10 days prior to the time set for the Hearing, addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract or parcel of land lying within the Area, and in the event taxes for the last preceding year were not paid, the notice was sent to the person or persons last listed on the tax rolls prior to that year as the owner or owners of said property (a copy of the notice and the affidavit of mailing is on file with the County Clerk as Exhibit B and is incorporated herein); and

WHEREAS, at the Hearing, all interested persons, including persons owning taxable real property located within the Area, were given the opportunity to be heard regarding any issue embodied within the notice, including the establishment of the Area and the levy of taxes, and to file with the County Clerk written objections to the same (a copy of the transcript of the hearing [and the written objections, if any,] are on file with the County Clerk as Exhibit C); and

WHEREAS, the County Board does hereby determine that it is in the public interest and in the interest of the County and the Area that the Area be established and the taxes described herein be levied.

NOW, THEREFORE, BE IT ORDAINED by the County Board of the County of Kane, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

§2. Final adjournment of Hearing

The Hearing was finally adjourned on September 8, 2009.

§3. Establishment of Area

(a) The Shirewood Special Service Area (or Special Service Area No. SW-39) of Kane County, Illinois is hereby established in and for the County and shall consist of the territory legally described in Exhibit D on file with the County Clerk and made a part hereof.

(b) Said territory consists of Lot 8 of Shirewood Farm Unit 1, Hampshire Township, Kane County, Illinois.

§4. Purpose of the establishing the Area

The purpose of establishing the Area is to provide the Services to the Area, which Services are unique and in addition to the services generally provided to the County as a whole. The Services to be provided may include, but are not limited to, the following: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any storm water detention and/or retention area, drainageway, ditch, swale, storm sewer or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, all of the Services to be in and for the Area.

§5. Tax Levy

The cost of the Services shall be paid by the revenue from the levy of a direct annual tax upon all taxable property within the Area for an indefinite period of time beginning for the 2009 tax bill (payable in 2010) and shall be as described in the SSA document, and shall be in addition to all other taxes permitted by law.

§6. Filing

The County Clerk is hereby directed to file and record a certified copy of this ordinance, including a description of the territory and an accurate map of the Area, in the office of the Kane County Clerk and in the office of the Kane County Recorder within 60 days after its adoption and approval.

§7. Repealer

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this ordinance be in full force and effect forthwith upon its adoption.

###

RESOLUTION #09-373

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH DUNDEE TOWNSHIP FOR PROPERTY TRANSFERS FROM VOLUNTARY PROPERTY BUYOUT

WHEREAS, the County of Kane ("KANE") and Dundee Township are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act", as specified at 5 ILCS 220/1, et seq., and are authorized by Article 7 Section 10 of the Constitution of the State of Illinois to cooperate for public purpose; and

WHEREAS, on August 12, 2008 KANE passed Ordinance No. 08-253, approving an Illinois Emergency Management Agency grant agreement and project expenditures for voluntary floodprone property buyouts; and

WHEREAS, the Illinois Emergency Management Agency (IEMA) has awarded a grant in the amount of Four Hundred Thirty Two Thousand Nine Hundred Sixty Three Dollars (\$432,963.00) to KANE and local matching sources have been identified to provide matching funds in an amount of One Hundred Thirty Eight Thousand Three Hundred Thirty Dollars (\$138,330) to move forward with the voluntary buyout and demolition of up to three repetitively flooded structures; and

WHEREAS, two properties in South Elgin and one in Dundee Township were identified as severely repetitively flooded properties and potential voluntary buyout candidates including support from interested landowners; and

WHEREAS, Dundee Township recognizes floodplain and waterway protection as an integral part of the proper management of riparian properties; and

WHEREAS, the grant agreement with IEMA requires that, among other things, "The subgrantee [KANE] agrees that it shall convey the property, or any interest therein, only to another public entity..."; and

WHEREAS, Dundee Township, through this Intergovernmental Agreement, agrees to take title to the property in unincorporated Dundee Township upon Kane County closing with current property owner, securing long-term use and maintenance agreement with the Richardson Subdivision Homeowners Association, and implementation of a backup Special Service Area for the Richardson Subdivision Homeowners Association; and

WHEREAS, residents of both Kane County and Dundee Township will benefit from this Project through reduced flooding and reduced flood hazard exposure along Fox River.

NOW THEREFORE, BE IT RESOLVED by the Kane County Board that the attached Intergovernmental Agreement between KANE and Dundee Township is hereby accepted and approved and that the Chairman of the Kane County Board is hereby authorized and directed to execute the Agreement on behalf of the County.

| Line items | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|------------|-----------------------|---|--|---|
| N/A | N/A | N/A | N/A | N/A |

###

RESOLUTION #09-374

AN ORDINANCE PROPOSING THE ESTABLISHMENT OF THE RICHARDSON SUBDIVISION SPECIAL SERVICE AREA OF KANE COUNTY, ILLINOIS FOR THE PURPOSES OF PAYING THE COST OF PROVIDING SPECIAL SERVICES IN AND FOR SUCH AREA

WHEREAS, a final plat of subdivision has been approved by the County of Kane, Illinois (the "County"), for Richardson's Fox River Subdivision and Richardson's Second Fox River Subdivision in the Township of Dundee in Kane County, Illinois (the "Subdivision"); and

WHEREAS, on August 12, 2008 KANE passed Ordinance No. 08-253, approving an Illinois Emergency Management Agency grant agreement and project expenditures for voluntary floodprone property buyouts; and

WHEREAS, the Illinois Emergency Management Agency (IEMA) has awarded a grant in the amount of Four Hundred Thirty Two Thousand Nine Hundred Sixty Three Dollars (\$432,963.00) to KANE and local matching sources have been identified to provide matching funds in an amount of One Hundred Thirty Eight Thousand Three Hundred Thirty Dollars (\$138,330) to move forward with the voluntary buyout and demolition of up to three repetitively flooded structures; and

WHEREAS, two properties in South Elgin and one in Dundee Township were identified as severely repetitively flooded properties and potential voluntary buyout candidates including support from interested landowners; and

WHEREAS, in accordance with the Illinois Emergency Management Agency State-Local Flood Mitigation Assistance Program Agreement (FMAP 2007) with Kane County ("FMAP Agreement") for the buyout of repetitively flooded properties in Kane County, Illinois, the property and residence at 15N302 Camp Flint Drive, East Dundee, IL, will be purchased by the County and the structure demolished, creating permanent open space and removing a hazard from the floodplain and floodway of the Fox River; and

WHEREAS, in accordance with the FMAP Agreement, upon purchase and demolition of the structure at 15N302 Camp Flint Drive, Kane County will transfer title of said property to Dundee Township; and

WHEREAS, the FMAP Agreement requires that "Each parcel acquired with FMAP funds shall be deed restricted to include the requirements ... of this Grant Agreement" including:

- "22. No landscape change or new structure will be erected on the property other than a public facility that is open on all sides and functionally related to open space. The FEMA Regional Director must approve on a case by case basis the erection of structures which do not meet the criteria above before commencement of

construction. However, the structure must be constructed in compliance with the community's floodplain management ordinance, including minimum federal and state requirements, and be compatible with open space uses and floodplain management policy and practices.

23. The floodplain property from which structures have been purchased and demolished or relocated must be maintained for open space, parks, nature preserves, unimproved pervious parking areas, wetland areas or other like purposes only. This open area must be maintained in perpetuity (forever).
24. No future disaster assistance for any purpose from any Federal source will be sought or provided with respect to the acquired properties.
25. The Subgrantee agrees that it shall convey the property, or any interest therein, only to another public entity and only with prior approval from IEMA and the Regional Director of FEMA. Such conveyance shall be made expressly subject to the above-referenced conditions and restrictions which shall run with the property in perpetuity.”; and

WHEREAS, Dundee Township wishes to establish a long-term use and maintenance agreement with the Richardson Homeowners' Benevolent Association, Inc. (the "Homeowners' Association"), a duly incorporated homeowners' association, for the use and maintenance of the property at 15N302 Camp Flint Drive ("Property"); and

WHEREAS, under the terms of the long-term use and maintenance agreement, Dundee Township will allow unrestricted use of the Property in accordance with the FMAP Agreement and in return the Homeowners' Association is obligated to maintain the Property to the satisfaction of the residents of the Richardson Subdivision and in accordance with the FMAP Agreement; and

WHEREAS Kane County, through execution of the FMAP Agreement, is bound to the conditions of the Agreement, requires the establishment of a special service area pursuant to 35 ILCS 200/27-5, et seq., as a back-up vehicle in the event the Homeowners' Association fails to adequately carry out the provisions of the FMAP Agreement and the long-term use and maintenance agreement with Dundee Township; and

WHEREAS, pursuant to the provisions of Article VII, Section 7, Part (6) of the 1970 Constitution of the State of Illinois (the "Constitution"), the County of Kane is authorized to create special service areas in and for the unincorporated areas of the County; and

WHEREAS, pursuant to the "Special Service Area Tax Law", 35 ILCS 200/27-5, et seq. (2003), the County is authorized to levy and impose taxes upon property within special service areas for the provision of special services to those areas and for the payment of debt incurred in order to provide those services; and

WHEREAS, it is in the public interest that the establishment of the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the Richardson Subdivision Special Service Area, of the County (the "Area") be considered as a "back-up vehicle" to provide for the backup maintenance of the Property in accordance with the FMAP Agreement and the long-term use and maintenance agreement with Dundee Township; and

WHEREAS, the Area is contiguous and totally within the boundaries of the unincorporated area of the County; and

WHEREAS, the purpose of establishing the Area is to provide certain special governmental services (the "Services") to the Area, which are unique and in addition to the services generally provided to the County as a whole, in the event the Homeowners' Association fails to adequately carry out its duties to maintain the Property in accordance with the FMAP Agreement and the long-term use and maintenance agreement with Dundee Township. The Services to be provided on a back-up basis may include, but are not limited to the following: demolition or regrading of property due to unauthorized construction or floodplain fill; mowing or other vegetative control measures as prescribed by Richardson Subdivision residents; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, all of the Services to be in and for the Property; and

WHEREAS, it is in the public interest that the levy of a direct annual ad valorem tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

WHEREAS, the revenue from such tax shall be used solely for Services for which the County is authorized under law to levy taxes or special assessments or to appropriate funds of the County, all of the Services to be in and for the Property and all of any necessary construction and maintenance to be on property accessible to and by the County, as more fully described on the plat for the Subdivision; and

WHEREAS, said direct annual ad valorem tax shall not be immediately levied but rather the County shall have the authority to levy upon all taxable property within the Area for an indefinite period of time upon discovery of the need to provide Services herein described, at a rate sufficient to produce revenues required to provide the Services, and shall be in addition to all other taxes permitted by law; and

WHEREAS, a public hearing will be held by the County, before the Kane County Board, at 9:45 a.m., on the Tenth (10th) of November, 2009, in the County Board Room, Kane County Government Center, Building "A", 719 Batavia Ave, Geneva, Illinois 60134 (the "Hearing"), at which time any interested person may file with the County Clerk written objections to and may be heard orally in respect to the establishment of the Area for the purpose of providing the Services on a back-up basis and the levy of an additional direct annual ad valorem tax on property within the Area for the purpose of paying the costs of the Services, all as described in the Notice of Public Hearing set forth in Section 2 hereof (the "Notice"). The Kane County Board shall prepare or cause to be prepared minutes of the Hearing; and

WHEREAS, the Notice shall be given by publication and mailing. Notice by publication shall be given by publication on a date, such date being not less than 15 days prior to the Hearing, in a newspaper of general circulation within the County. Notice by mailing shall be given by depositing the Notice in the United States Mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Area. The Notice shall be mailed not less than 10 days prior to the time set for the Hearing. In the event taxes for the last preceding year were not paid, the Notice

shall be sent to the person last listed on the tax rolls prior to that year as the owner of said property.

NOW, THEREFORE, BE IT ORDAINED by the County Board of the County of Kane, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this Ordinance are hereby incorporated into this text as if set out herein in full as the findings of the County Board.

§2. Notice

The County Board of the County of Kane, Illinois hereby determines that the Notice is in the proper statutory form as set forth as follows:

NOTICE OF PUBLIC HEARING

COUNTY OF KANE, ILLINOIS

RICHARDSON SUBDIVISION SPECIAL SERVICE AREA

NOTICE IS HEREBY GIVEN that on November 10th, 2009, at 9:45 am, in the County Board Room, Kane County Government Center, Building "A", 719 South Batavia Ave, Geneva, Illinois 60134, a public hearing (the "*Hearing*") will be held by the County of Kane, Illinois (the "*County*"), before the Kane County Board, at which time any interested person may file with the County Clerk written objections to and may be heard orally in respect to the establishment of the Richardson Subdivision Special Service Area (the "*Area*") of the County, and the levy of taxes on property within the Area for the purpose of paying the costs of providing special services, on a back-up basis, in and for the Property located at 15N302 Camp Flint Drive (the "*Property*"). The proposed Area consists of the following described territory:

Richardson's Fox River Subdivision and Richardson's Second Fox River Subdivision in the Township of Dundee in Kane County, Illinois

AN ACCURATE MAP OF SAID TERRITORY IS ON FILE IN THE OFFICE OF THE KANE COUNTY RECORDERS OFFICE AND IS AVAILABLE FOR PUBLIC INSPECTION.

The purpose of establishing the Area is to provide a backup mechanism for Kane County to provide certain special governmental services (the "*Services*") to the Property, which are unique and in addition to the services generally provided to the County as a whole, in the event the subdivision's homeowners' association fails to adequately carry out its duties to maintain the Property in accordance with the Illinois Emergency Management Agency State-Local Flood Mitigation Assistance Program Agreement (FMAP 2007) with Kane County ("*FMAP Agreement*") and the long-term use and maintenance agreement with Dundee Township. The Services to be provided on a back-up basis may include, but are not limited to the following: demolition or regrading of property due to unauthorized construction or floodplain fill; mowing or other vegetative control measures as prescribed by Richardson Subdivision residents; costs of design,

engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, all of the Services to be in and for the Property.

The levy of a direct annual *ad valorem* tax upon all taxable property within the Area for the purpose of paying the cost of the Services will also be considered at the Hearing. The tax shall not be immediately levied but rather the County shall have the authority to levy upon all taxable property within the Area for an indefinite period of time upon discovery of the need to provide Services herein described, at a rate sufficient to produce revenues required to provide the special services, and shall be in addition to all other taxes permitted by law.

ALL INTERESTED PERSONS, INCLUDING ALL PERSONS OWNING TAXABLE REAL PROPERTY LOCATED WITHIN THE AREA, WILL BE GIVEN AN OPPORTUNITY TO BE HEARD AT THE HEARING REGARDING THE ESTABLISHMENT OF THE AREA AND THE TAX LEVY AND AN OPPORTUNITY TO FILE OBJECTIONS TO THE ESTABLISHMENT OF THE AREA OR TO THE AMOUNT OF THE TAX LEVY.

AT THE HEARING, ANY INTERESTED PERSON MAY FILE WITH THE COUNTY CLERK WRITTEN OBJECTIONS TO AND MAY BE HEARD ORALLY IN RESPECT TO ANY ISSUES REFERENCED IN THIS NOTICE. THE HEARING MAY BE ADJOURNED TO ANOTHER DATE WITHOUT FURTHER NOTICE OTHER THAN A MOTION TO BE ENTERED UPON THE MINUTES FIXING THE TIME AND PLACE IT WILL RECONVENE. AT THE FIRST REGULAR MEETING OF THE COUNTY BOARD AFTER THE PUBLIC HEARING, THE COUNTY MAY DELETE AREA FROM THE SPECIAL SERVICE AREA.

IF A PETITION SIGNED BY AT LEAST 51% OF THE ELECTORS RESIDING WITHIN THE AREA AND BY AT LEAST 51% OF THE OWNERS OF RECORD OF THE LAND INCLUDED WITHIN THE BOUNDARIES OF THE AREA IS FILED WITH THE COUNTY CLERK WITHIN 60 DAYS FOLLOWING THE FINAL ADJOURNMENT OF THE HEARING OBJECTING TO THE CREATION OF THE AREA OR THE LEVY OR IMPOSITION OF A TAX FOR THE PROVISION OF THE SERVICES TO THE AREA, NO SUCH SPECIAL SERVICE AREA MAY BE CREATED OR NO TAX MAY BE LEVIED OR IMPOSED.

By order of the County Board of the County of Kane, Illinois.

DATED this 13th day of October, 2009.

John Andrew Cunningham
Clerk, County Board
Kane County, Illinois

§3. Repealer; effective date

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this Ordinance shall be in full force and effect forthwith upon its passage, approval and publication as provided by law.

###

RESOLUTION #09-375

AUTHORIZING APPLICATION TO CIRCUIT COURT FOR DEMOLITION OF DANGEROUS AND/OR UNSAFE BUILDING TO INCLUDE PARCEL 15-26-277-012 AND PARCEL 15-26-277-011 IN CONJUNCTION WITH RESOLUTION 09-227

WHEREAS, on July 14, 2009 the County Board approved Resolution 09-227 authorizing application to circuit court for the demolition of the dangerous and/or unsafe building at 126 S. Kendall, Aurora Township, PIN 15-26-277-012; and

WHEREAS this resolution is in addition to Resolution 09-227 and therefore incorporates Resolution 09-227, as though fully set forth herein; and

WHEREAS the property located at 126 S. Kendall, Aurora Township, PIN 15-26-277-012 is contiguous with parcel number 15-26-277-011, makes up one piece of property owned by the same party, is used as a single piece of property; and

WHEREAS it is necessary to include parcel number 15-26-277-011 in the application to the Circuit Court in addition to parcel number 15-26-277-012 as the two parcels are inseparable in terms of the collective condition of the property, and the demolition, repair, enclosure, or removal of garbage, debris, and other hazardous or noxious substances; and

WHEREAS, the former owner of said parcels, Charles E. Smith, signed a quit claim deed to Andy Williams, Jr. of 3201 Hopewell Dr., Aurora, IL 60502, for both parcel number 15-26-277-012 and parcel number 15-26-277-11, which was not filed with the Kane County Recorder until August 24, 2009; and

WHEREAS, 55 ILCS 5/5-1211 authorizes the County of Kane, upon application to the circuit court, to demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of the county, but outside of the territory of any municipality, and to remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings; and

WHEREAS, 55 ILCS 5/5-1121 (a) requires that the County apply to the circuit court for an order authorizing such action after the County has provided at least 15 days written notice by mail to the owner or owners of the building, including the lien holders of record, and such owner or owners have not commenced proceedings to put the property in a safe condition or remove dangerous or unsafe debris; and

WHEREAS, 55 ILCS 5/5-1121 authorizes the County to recover the costs related to the demolition, repair, enclosure, or removal incurred by the County, including court costs, attorney's fees, and other costs related to the enforcement of section 55 ILCS 5/5-1121; and

WHEREAS, certain Community Development Block Grant funds may be appropriated and may be available to pay the costs associated with the removal of garbage, debris and other hazardous or noxious substances within the County; and

WHEREAS, the Kane County Building Officer has determined that property made up of parcel number 15-26-277-012 and parcel number 15-26-277-011 are dangerous and/or unsafe for the reasons set forth herein and in Resolution 09-227, including a dangerous and unsafe building, a dangerous and unsafe fence which spans both parcels, along with garbage, debris, and potential for contamination to the aquifer common to both parcels via the abandoned well-head on parcel number 15-26-277-012; and

WHEREAS, the County desires to make safe the entire property, including both parcels, if the owner or owners do not commence proceedings to do so after 15 days written mailed notice.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board as follows in addition to the action set forth in Resolution 09-227:

1. The Kane County Building Officer and/or the State's Attorney's Office is hereby authorized and directed to provide written, mailed notice to the owner or owners of the Unsafe Property, including the lien holders of record, in accordance with 55 ILCS 5/5-1121, the notice indicating the County desires the demolition or repair of the unsafe building; demolition or repair of the fence; the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances; seal or have sealed the well-head; and that the County will apply to the circuit court for an order pertaining to parcel number 15-26-277-012 and parcel number 15-26-277-011, authorizing such action in the event the owner does not commence proceedings to do so within 15 days of the date the notice is mailed; and

2. The Kane County State's Attorney's Office is hereby authorized and directed to file on behalf of the County an application with the circuit court, in accordance with 55 ILCS 5/5-1121, for an order pertaining to parcel number 15-26-277-012 and parcel number 15-26-277-011, authorizing demolition or repair of the unsafe building; demolition or repair of the fence; the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances; and seal or have sealed the well-head, in the event that the owner does not commence proceedings to do so within 15 days of the date the notice is mailed and to seek the recovery of the costs associated with the action taken.

###

RESOLUTION #09-376

**AMENDING THE KANE COUNTY CODE
CHAPTER 12. LAW ENFORCEMENT
ARTICLE II. SHERIFF'S DEPARTMENT
DIVISION 2. MERIT COMMISSION
SECTION 12-33. AUTHORITY AND RESPONSIBILITY**

WHEREAS, pursuant to the Sheriff's Merit System Law, 55 ILCS 5/3-8001 et seq. ("Sheriff's Merit System Law"), the Kane County Board has created and established the Kane County Sheriff's Office Merit Commission, as codified in the Kane County Code, Chapter 12, Article II, Division 2. Merit Commission; and

WHEREAS, the Counties Code, 55 ILCS 5/3-6012.1 ("Section 3-6012.1"), provides for the hiring of court security officers by the Sheriff to attend courts and perform the functions set forth in 55 ILCS 5/3-6023, and further provides that if a county has a Sheriff's Merit Commission, court security officers shall be subject to the jurisdiction of the Sheriff's Merit Commission for disciplinary purposes; and

WHEREAS, the Kane County Code, Chapter 12, Article II, Division 2, Section 12-33, currently vests authority in the Kane County Sheriff's Office Merit Commission over disciplinary matters involving the corrections officers and peace officers employed by the Kane County Sheriff; and

WHEREAS, the Kane County Board desires to amend the Kane County Code to give effect to Section 3-6012.1 and authorize the Sheriff's Merit Commission to exercise its jurisdiction over court security officers employed by the Kane County Sheriff for disciplinary purposes, in compliance with the statute.

NOW, THEREFORE, BE IT ORDAINED by the Kane County Board that Section 12-33 of the Kane County Code is hereby amended to read as follows:

The Kane County sheriff's office merit commission shall have the authority and responsibility to promulgate rules, regulations, and procedures for the operation of the merit system and is hereby authorized to provide in said rules, regulations, and procedures for (1.) the orderly appointment, promotion, discharge, and disciplining of jail officers, known as deputy sheriff corrections officers and deputy sheriffs, known as deputy sheriff peace officers in the office of the sheriff, and (2.) the orderly disciplining, including discharge, of court security officers employed by the Kane County Sheriff. Such rules, regulations and procedures shall be in conformance with the Sheriff's Merit System Law, the Counties Code, Section 3-6012.1, and any applicable collective bargaining agreement provision which has been entered into as provided in Section 3-8014 of the Sheriff's Merit System Law.

###

RESOLUTION #09-377

AUTHORIZING CERTAIN ACTIONS RELATIVE TO THE COUNTY TAX AGENT

WHEREAS, the County of Kane has undertaken a program to collect delinquent taxes and to perfect titles to real property in cases where the taxes on the same have not been paid pursuant to 35 ILCS 200/21-90; and

WHEREAS, pursuant to this program the County of Kane, as trustee for the taxing districts involved, has acquired an interest in the real estate described on the attachment to this resolution; and

WHEREAS, it appears to the Kane County Board that it would be in the best interest of the taxing districts of Kane County to dispose of this interest in said property.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is hereby authorized to execute a deed of conveyance of the county's interest or authorize the cancellation of the appropriate certificate of purchase, as the case may be, on the

following described real estate for the sums shown on the attachment and to be disbursed as shown and according to law.

###

RESOLUTION #09-378

**LAND CASH DISBURSEMENT FOR
COMMUNITY UNIT SCHOOL DISTRICT 303**

WHEREAS, Community Unit School District (CUSD) 303 has requested disbursement of \$66,675.00 in Land Cash Funds; and

WHEREAS, the Kane County Plat Officer has verified that sufficient funds exist in the appropriate Land Cash Account; and

WHEREAS, the Executive Committee of the Kane County Board has reviewed the request for disbursal of funds; and

WHEREAS, the governing body of CUSD 303 has passed a resolution authorizing the execution of a Land Cash Intergovernmental Agreement with the County of Kane, a copy of which is on file with the County Clerk's office; and

WHEREAS, pursuant to said resolution, CUSD 303 has executed a Land Cash Intergovernmental Agreement with the County of Kane, a copy of which is also on file with the County Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is authorized and directed to execute the Intergovernmental Agreement between Community Unit School District 303 and the County of Kane.

BE IT FURTHER RESOLVED that Sixty-six Thousand Six Hundred Seventy-five and 00/100 (\$66,675.00) be disbursed to CUSD 303, said funds to be paid from the Trust and Agency Fund #105 (Land Cash Ordinance). The Treasurer is hereby authorized to disburse payment to Community Unit School District 303.

Kane County Monthly Resolution List - October 2009

| RES# | Account | Type | Account Name | Total Collected | County Clerk | Auctioneer | Recorder/ Sec of State | Agent | Treasurer |
|---------------|----------|------|------------------------|-------------------|---------------|---------------|------------------------|-------------------|-------------------|
| 1 | 0700013 | SAL | VILLAGE OF SOUTH ELGIN | 1,220.00 | 0.00 | 0.00 | 25.00 | 890.25 | 899.75 |
| 2 | 0900013F | SAL | JOHN T SHAY | 485.00 | 0.00 | 0.00 | 35.00 | 250.00 | 200.00 |
| 3 | 0900045F | SAL | LOUIS F. OLIVO | 1,200.00 | 0.00 | 0.00 | 35.00 | 281.25 | 873.75 |
| 4 | 0900054F | SAL | JACK H. JOHNSON | 501.50 | 0.00 | 0.00 | 35.00 | 250.00 | 216.50 |
| Totals | | | | \$3,406.50 | \$0.00 | \$0.00 | \$140.00 | \$1,067.50 | \$2,179.00 |

Clark Fees **\$0.00**
 Recorder/Sec of State Fees **\$140.00**
 Total to County **\$2,319.00**

###

RESOLUTION #09-379

AUTHORIZING DECLARATION PURSUANT TO 20 ILCS 3305/11 TO ACTIVATE PLAN FOR DISTRIBUTION OF H1N1 VACCINE

WHEREAS, the Kane County Health Department is scheduled to receive and distribute H1N1 vaccines in response to the World Health Organization's (WHO) declaration of an H1N1 pandemic; and

WHEREAS, the Kane County Health Department will need to utilize employees and medical volunteers to distribute the H1N1 vaccine; and

WHEREAS if Kane County acts pursuant to the *Illinois Emergency Management Agency Act (IEMA)*, 20 ILCS 3305/10, the volunteers would be deemed employees of the State for purposes of *Illinois Workers' Compensation Act*, 820 ILCS 305/1 et. seq., or the *Illinois Workers' Occupational Diseases Act*, 820 ILCS 210/1 et. seq.; and

WHEREAS if Kane County acts pursuant to the IEMA, 20 ILCS 3305/15, Kane County, its principal executive officer, and the agents, employees, or representatives would be immune from liability except in cases of gross negligence or willful misconduct; and

WHEREAS if Kane County acts pursuant to the IEMA, 20 ILCS 3305/1, et seq., Kane County is entitled to all of the protections and authorizations contained therein; and

WHEREAS, the County desires to be in compliance with IEMA, and to trigger any and all and all liability protections for the participants in the distribution of vaccines, including Kane County employees and volunteers.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board:

1. Pursuant to 20 ILCS 3305/11, a threat of a public health emergency is hereby declared in response to the H1N1 pandemic, and the emergency operation plan of Kane County is activated and the furnishing of aid and assistance thereunder is authorized for the purpose responding to the H1N1 virus.
2. The Chairman of the County Board shall make a written declaration consistent with this Resolution for filing with the County Clerk.
3. The Chairman's declaration shall be continued until such time as it is terminated by action of the Kane County Board.

###

RESOLUTION #09-380

VOLUNTARY RETIREMENT PLAN PAYOUTS

WHEREAS, on July 14, 2009, the County Board approved Resolution No. 09-236 and Resolution No. 09-237, adopting voluntary retirement plans for County employees eligible to retire with a regular IMRF pension or a SLEP IMRF pension; and

WHEREAS, eligible employees had until August 31, 2009 to elect participation in the plans and receive either a health insurance subsidy or a lump sum payment for waiving health insurance coverage; and

WHEREAS, fourteen (14) employees have elected to participate in the voluntary retirement plans, of which four (4) have elected to receive the health insurance subsidy and ten (10) have elected to receive the lump sum payment; and

WHEREAS, the funding for these payouts and obligations will come from the County's Insurance Liability Fund.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board accepts the obligation to pay the fourteen (14) employees according to the retirement option each selected and authorizes the Finance Director is set aside funds to cover the health insurance obligations over the next five (5) years for those employees who elected to retire with the health insurance subsidy.

BE IT FURTHER RESOLVED, that the re-hiring of any employee who retired from a County department under the terms of the voluntary retirement plans must be approved by the responsible standing County committee with oversight of the County department seeking to re-hire the employee.

BE IT ALSO FURTHER RESOLVED that the following fiscal year 2009 budget adjustment be made to reflect the funding of the payouts and that future obligations will be budgeted through the normal annual budget process.

010.120.130.53200 Employee Contractual Expense \$43,500
 010.000.000.39900 Cash on Hand \$43,500

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|------------------------------|---|--|---|
| 010.120.130.53200 | Employee Contractual Expense | No | No | 010.000.000.39900 (Cash on Hand) |

###

RESOLUTION #09-381

**SUPPLEMENTAL BUDGET REQUEST
 (PUBLIC DEFENDER'S OFFICE)**

WHEREAS, the Chief Judge for the Sixteenth Judicial Circuit has the authority, pursuant to 55 ILCS 5/3-4000 et seq., to determine the number of assistant public defenders required to adequately staff the criminal and other courtrooms in Kane County; and

WHEREAS, the budget reductions mandated by the Kane County Board, if applied to the Kane County Public Defender's Office, would require the Public Defender's Office to reduce staff to a level below that which is required for the performance of the statutorily required functions of the office; and

WHEREAS, if the Kane County Public Defender's Office is unable to handle the number and type of cases assigned to it by the various members of the Judiciary, the Chief Judge has the authority, pursuant to 55 ILCS 5/3-4011, to appoint members of the Bar to represent indigent persons and to pay those members of the bar and hourly rate that exceeds the costs of retaining full-time public defender services; and

WHEREAS, the Kane County Board has determined it necessary to increase the Public Defender's budget back to its original 2009 budgeted amount; and

WHEREAS, the funds necessary to increase the budget will be transferred from the Contingency line item in the General Fund.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Public Defender's Budget be increased back to its original 2009 budgeted amount.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Kane County Board that the following budget adjustments be made to reflect this transfer from the Contingency line item:

| | |
|--|-------------|
| 001.900.900.85000 Allowance for Budget Expense/Contingency | (\$143,504) |
| 001.360.360.99200 Budget Cut Amount | \$143,504 |

| Line item | Line item Description | Was personnel/item/service Approved in original budget or a subsequent Budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|-----------------------|---|--|---|
| 001.360.360.99200 | Budget Cut Amount | No | No | 001.900.900.85000 (Contingency) |

###

RESOLUTION #09-382

**AMENDING THE 2009 FISCAL YEAR BUDGET
KANE COUNTY CLERK**

WHEREAS, the Kane County Clerk's Office has applied for the unanticipated HAVA Voter Registration Grant from the State of Illinois Board of Elections; and

WHEREAS, the Grant amount is reimbursement for funds expended over the last several years for the maintenance of our IVOTER system; and

WHEREAS, the amount of the Grant is Sixty Six Thousand, Five Hundred Dollars (\$66,500).

NOW, THEREFORE, BE IT RESOLVED that the Kane County Clerk's Office will receive these funds and that the following FY 2009 budget adjustment be made as outlined below.

| | | |
|-------------------|---------------------------|----------|
| 001.190.000.32270 | HAVA GRANT | \$66,500 |
| 001.190.190.40000 | Salaries | \$28,000 |
| 001.190.190.53070 | Legal Printing | \$1,851 |
| 001.190.191.40000 | Salaries | \$4,000 |
| 001.190.191.50100 | Election Judges & Workers | \$6,000 |
| 001.190.191.50340 | Software License Cost | \$16,625 |
| 001.190.191.53060 | Printing - General | \$6,200 |

| | | |
|-------------------|------------------------|---------|
| 001.190.191.53100 | Conferences & Meetings | \$1,000 |
| 001.190.191.53120 | Mileage Expense | \$500 |
| 001.190.191.60010 | Operating Supplies | \$2,324 |

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|---------------------------|---|--|---|
| 001.190.190.40000 | Salaries | No | Yes | 001.190.000.32270 (HAVA Grant) |
| 001.190.190.53070 | Legal Printing | No | Yes | " |
| 001.190.191.40000 | Salaries | No | Yes | " |
| 001.190.191.50100 | Election Judges & Workers | No | Yes | " |
| 001.190.191.50340 | Software License Cost | No | Yes | " |
| 001.190.191.53060 | Printing - General | No | Yes | " |
| 001.190.191.53100 | Conferences & Meetings | No | Yes | " |
| 001.190.191.53120 | Mileage Expense | No | Yes | " |
| 001.190.191.60010 | Operating Supplies | No | Yes | " |

###

RESOLUTION #09-383

**AMENDING THE 2009 FISCAL YEAR BUDGET
KANE COUNTY SHERIFF'S DEPARTMENT
US DEPT. OF JUSTICE / BULLETPROOF VEST PARTNERSHIP**

WHEREAS, the Kane County Sheriff's Department received a grant from the US Department of Justice, Bulletproof Vest Program; and

WHEREAS, the US Department of Justice divided the payments into three parts, this payment being two of three; and

WHEREAS, these monies need to be reflected in revenue and expense line items in the Fiscal Year 2009 budget.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the following adjustment be made to the FY2009 budget:

| | | |
|-------------------|----------------------|---------|
| 001.380.000.33900 | Miscellaneous Grants | \$1,650 |
| 001.380.380.60210 | Uniform Supplies | \$1,650 |

| Amount | Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item / service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|------------|-------------------|-----------------------|---|--|---|
| \$1,649.54 | 001.380.380.60210 | Uniform Supplies | No | No | 001.380.000.33900 (Miscellaneous Grant) |

###

**RESOLUTION #09-384
 SUPPLEMENTAL BUDGET REQUEST FOR EXTRADITION EXPENSE
 (SHERIFF'S DEPARTMENT)**

WHEREAS, the Sheriff is required by State Statute (55ILCS5/3-6020) to carry out all court orders and work within his legal obligations; and

WHEREAS, the Sheriff has no control over the court orders requiring him to transport defendants from unknown locations; and

WHEREAS, the Sheriff's Department is constantly working with the State Attorney's Office and Chief Judge's Office reviewing cases, reducing the extradition costs from One Hundred Twenty Nine and Ninety Four Dollars (\$129,094.00) in FY 2008 to approximately One Hundred Thousand Dollars (\$100,000.00) in FY 2009; and

WHEREAS, the extradition line item has remained at Seventy Five Thousand Dollars (\$75,000.00) since FY 2005 while transportation cost have increased; and

WHEREAS, in keeping the County Board apprised of the financial situations in that the extradition line is exhausted and is estimated to cost an additional Twenty Five Thousand Dollars (\$25,000) for the remainder FY 2009.

WHEREAS, the funds needed to cover the additional expense shall come from the Contingency line item in the General Fund.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that Twenty Five Thousand Dollars (\$25,000.00) from the General Fund's Contingency line item be transferred into the Sheriff's extradition line item 001-380.380.50300 to allow the Sheriff to carry out his legal obligations for the remainder of FY 2009; and

BE IT FURTHER RESOLVED by the Kane County Board that the following fiscal year 2009 budget amendment be made to reflect this transfer:

| | | |
|-------------------|--|---------------|
| 001.900.900.85000 | Allowance for Budget Expense/Contingency | (\$25,000.00) |
| 001.380.380.50300 | Extradition Costs | \$25,000.00 |

| Line item | Line item Description | Was personnel/item/service Approved in original budget or a subsequent Budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|-----------------------|---|--|---|
| 001-380-380-50300 | Extradition Costs | No | No | 001.900.900.85000 (Allowance for Budget Expense) |

###

RESOLUTION #09-385

**ACCEPTING PROPOSAL TO PERFORM EXTERNAL AUDIT
(WERMER, ROGERS, DORAN & RUZON LLC)**

WHEREAS, Kane County solicited a Request for Proposal for the professional services of an external auditor; and

WHEREAS, Wermer, Rogers, Doran & Ruzon LLC has submitted a proposal to the County for the audit of the financial statements of Kane County, Illinois for the fiscal years ending November 30, 2009 through 2013; and

WHEREAS, the County will enter into a one-year contract, renewable at the County's discretion for an additional four years; and

WHEREAS, the Finance Director, Auditor, and Treasurer are in agreement that Wermer, Rogers, Doran & Ruzon LLC should be chosen as our outside auditors; and

WHEREAS, the Wermer, Rogers, Doran & Ruzon LLC proposal has been approved by the Finance Committee of Kane County, Illinois.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the proposal of Wermer, Rogers, Doran & Ruzon LLC be accepted, and the Chairman be authorized to sign a contract for one year, renewable for an additional four years, of professional auditing services to be provided by Wermer, Rogers, Doran & Ruzon LLC, which includes the preparation of financial statements, management letter, Circuit Clerk audit, Single Audit, and Consolidated Financial Report for the Illinois Department of Human Services; and

BE IT FURTHER RESOLVED by the Kane County Board that these services will be provided at a cost not to exceed Ninety Six Thousand Three Hundred Forty Dollars (\$96,340) plus any additional services at an hourly rate of Fifty Eight to Eighty Eight Dollars (\$58-\$88.00) an hour, not to exceed 120 additional hours, for the fiscal year ending November 30, 2009, to be paid from 001.040.040.50130 (Certified Audit Contract).

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|--------------------------|---|--|---|
| 001.040.040.50130 | Certified Audit Contract | Relates to FY2010-FY2013 | N/A | N/A |

###

RESOLUTION #09-386

**COLLECTIVE BARGAINING AGREEMENT BETWEEN THE COUNTY OF KANE AND
THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
COUNCIL 31, LOCAL 3966 FOR THE
KANE COUNTY DEPARTMENT OF EDUCATION AND EMPLOYMENT**

WHEREAS, the American Federation of State, County and Municipal Employees, Council 31, Local 3966, is the exclusive representative of the Kane County Department of Education and Employment employees within the meaning of the Illinois Public Labor Relations Act and having been certified as such by the Illinois State Labor Relations Board; and

WHEREAS, the current agreement between the parties expired on June 30, 2009. The County of Kane and the American Federation of State, County and Municipal Employees, Council 31, Local 3966, have engaged in effective and meaningful negotiations concerning wages, hours and other terms and conditions of employment relative to the employees of Kane County Department of Education and Employment and have reached a tentative agreement; and

WHEREAS, the staff representative for American Federation of State, County and Municipal Employees, Council 31, Local 3966, has represented to the County of Kane negotiators that the employees of Kane County Department of Education and Employment have ratified the tentative agreement.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is hereby authorized and directed to enter into a Collective Bargaining Agreement on behalf of the County of Kane, a copy of said Collective Bargaining Agreement shall be kept on file at the Office of the County Clerk, the County Auditor and the County Board Office.

The agreement shall have an effective date of July 1, 2009, and shall terminate on June 30, 2010.

###

RESOLUTION #09-387

**APPROVING A PHASE II ENGINEERING SERVICES AGREEMENT
WITH MCDONOUGH ASSOCIATES, INC. FOR
STEARNS ROAD CORRIDOR – STAGE 2A
MCLEAN FEN ADAPTIVE MANAGEMENT PLAN
KANE COUNTY SECTION NO. 06-00214-11-LS**

WHEREAS, Phase II Engineering services are required for the proposed Stearns Road (Kane County Highway No. 83) Corridor McLean Fen Adaptive Management Plan to fulfill environmental commitments made in Phase I Engineering of the Stearns Road Corridor (hereinafter referred to as the "Project"); and

WHEREAS, in order to accomplish the Project, it is necessary to retain the services of a professional engineering firm to provide Phase II Engineering services; and

WHEREAS, McDonough Associates, Inc. of 130 East Randolph Street, Suite 1000, Chicago, IL 60601-6214 has experience and professional expertise in Phase II Engineering and is willing to perform the required services for an amount not to exceed One Hundred Seventy Six Thousand, Seven Hundred Seventy Nine and 80/100 Dollars (\$176,779.80).

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is hereby authorized to execute a Phase II Engineering services agreement with McDonough Associates, Inc. for the Project (a copy of which is on file with the County Clerk's Office).

BE IT FURTHER RESOLVED that the Kane County Board appropriate the not to exceed sum of

One Hundred Seventy Six Thousand, Seven Hundred Seventy Nine and 80/100 Dollars (\$176,779.80) from Impact Fees Fund #558, Line Item #50140 (Engineering) to pay for said Phase II Engineering services for the Project with approximately ninety percent (90%) reimbursement thereof from federal and state funds.

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|-----------------------|---|--|---|
| 558.520.558.50140 | Engineering | Yes - 2010 | Yes | |

###

RESOLUTION #09-388

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ILLINOIS FOR PHASE II ENGINEERING SERVICES FOR STEARNS ROAD BRIDGE CORRIDOR – STAGE 2A MCLEAN FEN ADAPTIVE MANAGEMENT PLAN KANE COUNTY SECTION NO. 06-00214-11-LS

WHEREAS, the Illinois Constitution of 1970, Article VII, Section 10 and 5 ILCS 220/1, *et seq.* authorizes the County of Kane (County) and the State of Illinois (State) to cooperate in the performance of their respective duties and responsibilities by contract and other agreements; and

WHEREAS, the County and the State desire to cooperate among themselves to accomplish an Adaptive Management Plan for the McLean Fen, which is part of the Kane County Highway No. 37 (Stearns Road) Bridge Corridor (hereinafter referred to as the “improvement”); and

WHEREAS, the County and the State desire to undertake Phase II Engineering for the improvement; and

WHEREAS, the improvement is deemed by the County and the State to be of immediate benefit to the residents of the County of Kane and the State of Illinois in that it shall facilitate the safe and efficient movement of traffic and shall provide for the safety of the motoring public; and

WHEREAS, the County and the State have determined a mutually satisfactory allocation of responsibilities and costs for said improvement as set forth in an agreement with the State (a copy of which is on file with the County Clerk's Office).

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is hereby authorized to execute an intergovernmental agreement with the State of Illinois acting through the Illinois Department of Transportation for Phase I I Engineering for the improvement.

###

RESOLUTION #09-389

APPROVING A PHASE II ENGINEERING SERVICES AGREEMENT WITH CIVILTECH ENGINEERING, INC. FOR

**STEARNS ROAD BRIDGE CORRIDOR – STAGE 5B
 UMBDENSTOCK ROAD AT THE CC&P RAILROAD
 KANE COUNTY SECTION NO. 06-00214-27-BR**

WHEREAS, Phase II Engineering services are required for the proposed Stearns Road (Kane County Highway No. 83) Bridge Corridor, Umbdenstock Road over the CC&P Railroad Bridge replacement and the realignment of Umbdenstock Road and Stearns Road (hereinafter referred to as the “Project”); and

WHEREAS, in order to accomplish the Project, it is necessary to retain the services of a professional engineering firm to provide Phase II Engineering services; and

WHEREAS, Civiltech Engineering, Inc. of 450 East Devon, Suite 300, Itasca, IL 60143 has experience and professional expertise in Phase II Engineering and is willing to perform the required services for an amount not to exceed Three Hundred Twenty Eight Thousand, Three Hundred Seventy Two Dollars (\$328,372.00).

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is hereby authorized to execute a Phase II Engineering services agreement with Civiltech Engineering, Inc. for the Project (a copy of which is on file with the County Clerk’s Office).

BE IT FURTHER RESOLVED that the Kane County Board appropriate the not to exceed sum of Three Hundred Twenty Eight Thousand, Three Hundred Seventy Two Dollars (\$328,372.00) from Transportation Capital Fund #540, Line Item #50140 (Engineering) to pay for said Phase II Engineering services for the Project with approximately ninety percent (90%) reimbursement thereof from federal and state funds.

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|-----------------------|---|--|---|
| 540.520.525.50140 | Engineering | Yes | Yes | |

###

**RESOLUTION #09-390
 APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ILLINOIS
 FOR PHASE II ENGINEERING SERVICES FOR
 STEARNS ROAD BRIDGE CORRIDOR – STAGE 5B
 UMBDENSTOCK ROAD AT THE CC&P RAILROAD
 KANE COUNTY SECTION NO. 06-00214-27-BR**

WHEREAS, the Illinois Constitution of 1970, Article VII, Section 10 and 5 ILCS 220/1, *et seq.* authorizes the County of Kane (County) and the State of Illinois (State) to cooperate in the performance of their respective duties and responsibilities by contract and other agreements; and

WHEREAS, the County and the State desire to cooperate among themselves to accomplish the Umbdenstock Road over the CC& P Railroad bridge replacement and realignment of Umbdenstock Road at Stearns Road, which is part of the Kane County Highway

No. 37 (Stearns Road) Bridge Corridor (hereinafter referred to as the “improvement”); and

WHEREAS, the County and the State desire to undertake Phase II Engineering for the improvement; and

WHEREAS, the improvement is deemed by the County and the State to be of immediate benefit to the residents of the County of Kane and the State of Illinois in that it shall facilitate the safe and efficient movement of traffic and shall provide for the safety of the motoring public; and

WHEREAS, the County and the State have determined a mutually satisfactory allocation of responsibilities and costs for said improvement as set forth in an agreement with the State (a copy of which is on file with the County Clerk's Office), with the County's share of the Phase II Engineering estimated to be Thirty Two Thousand, Eight Hundred Thirty Seven Dollars (\$32,837.00).

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is hereby authorized to execute an intergovernmental agreement with the State of Illinois acting through the Illinois Department of Transportation for Phase II Engineering for the improvement.

###

RESOLUTION #09-391

**APPROVING ALTERATION OF SPEED LIMIT
ROMKE ROAD – BURLINGTON TOWNSHIP**

WHEREAS, Kane County through its Division of Transportation has caused an engineering and traffic investigation to be made on Romke Road, a highway not under the jurisdiction of the Illinois Department of Transportation; and

WHEREAS, the Transportation Committee of the Kane County Board has reviewed the results of said investigation and has recommended the alteration of the existing maximum speed limit of fifty five (55) miles per hour as set forth in the Illinois Vehicle Code, (625 ILCS 5/11-604), so as to be both reasonable, safe and proper.

NOW, THEREFORE, BE IT ORDAINED by the Kane County Board, that pursuant to Illinois Vehicle Code, (625 ILCS 5/11-604), the maximum speed limit on the section of Romke Road as described hereunder shall be forty five (45) miles per hour as indicated in the schedule as set forth below.

BE IT FURTHER ORDAINED that this Ordinance shall be effective upon the approval of the Kane County Board as provided by statute and the posting of signs giving notice of said forty five (45) miles per hour maximum speed limit.

BURLINGTON TOWNSHIP

| STREET | LIMITS (IF NOT ENTIRE LENGTH) | | SUBDIVISION | EXISTING SPEED LIMIT (MPH)* REPEALED | MAXIMUM SPEED LIMIT (MPH)* |
|------------|----------------------------------|------------|-------------|---|----------------------------------|
| | FROM | TO | | | |
| Romke Road | Burlington Road | Plank Road | | 55 | 45 |

*miles per hour

###

RESOLUTION #09-392

**RELOCATION COST REIMBURSEMENT
LONGMEADOW PARKWAY BRIDGE CORRIDOR – PARCEL NO. 1LN0080
KANE COUNTY SECTION NO. 94-00215-01-BR**

WHEREAS, the County of Kane is authorized by law pursuant to 605 ILCS 5/5-801 (1992) to acquire by negotiated purchase or eminent domain proceedings, real property for highway purposes; and

WHEREAS, the County of Kane has developed right-of-way plans for the Longmeadow Parkway Bridge Corridor, Kane County Section No. 94-00215-01-BR; and

WHEREAS, in order to accomplish the improvement as contemplated, it is necessary that the County of Kane acquire the residences of property owners within the designated right of way of the Longmeadow Parkway Bridge Corridor; and

WHEREAS, the Federal “Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970”, the “Uniform Relocation Act Amendment of 1987” and 49 CFR Part 24, require the County of Kane to reimburse the owner/occupants and/or tenants of residences acquired by the County of Kane for their additional replacement housing costs; and

WHEREAS, Daniel Kennedy was the owner of Longmeadow Parkway Parcel No.1LN0080, which has been acquired by the County of Kane and is entitled, pursuant to said Federal Acts and Regulations, to a replacement housing supplement and other reasonable allowable relocation expenses in an amount up to but not to exceed Fifty Thousand Dollars (\$50,000.00).

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the County of Kane appropriate and authorize to pay a relocation supplement and all and any other reasonable and allowable relocation expenses in an amount up to but not to exceed Fifty Thousand Dollars (\$50,000.00) to Daniel Kennedy to be paid from the Sales Tax Fund No. 305, Line Item No. 74010 (Right-of-Way) and, if necessary, the Chairman of the Kane County Board is hereby authorized and directed to execute any requisite contractual documents therefor.

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|-----------------------|---|--|---|
| 305.520.527.74010 | Right-of-Way | Yes | Yes | |

###

No questions or discussion. Roll call on Consent Agenda (#09-365, #09-366, #09-368, #09-370, #09-371, #09-372, #09-376, #09-377, #09-378, #09-379, #09-380, #09-381, #09-382, #09-383, #09-384, #09-385, #09-386, #09-387, #09-388, #09-389, #09-390, #09-391, #09-392) as follows: AYES: Allan, Castro, Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Tredup, Van Cleave, Vasquez, Wojnicki, Wyatt
NAYS: None AYES: 24 NAYS: 0; #09-373, #09-374, #09-375, AYES: Allan, Castro,

Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Tredup, Van Cleave, Vasquez, Wojnicki, Wyatt NAYES: None ABSTAIN: Allan AYES: 23 NAYES: 0 ABSTAIN: 1 **CONSENT AGENDA IS ADOPTED.**

RESOLUTION #09-367

Motion by Debra Allan, second by Mark Davoust that Resolution #09-367 as amended is adopted.

BUILDING C AUTOMATION SYSTEM

WHEREAS, bids were solicited and received for providing material and labor for building C a new Building Automation System at the Kane County Government Center, 719 S. Batavia Avenue, Geneva, Illinois; and

WHEREAS, Johnson Controls Arlington Heights, Illinois was the lowest responsible bidder for the Base Proposal at a cost of Thirty Nine Thousand Nine Hundred Sixty Dollars (\$39,960.00); was the lowest responsible bidder for the Building Automation System at a cost of Thirty Nine Thousand Nine Hundred Sixty Dollars (\$39,960.00) for a total of Forty One Thousand Nine Hundred Sixty Dollars (\$41,960.00) with a 5% contingency.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board, that the Chairman of the Kane County Board is hereby authorized to enter into contract with Johnson Control Arlington Heights, Illinois for the Base Proposal at a cost of Thirty Nine Thousand Nine Hundred Sixty Dollars (\$39,960.00), for a total of Forty One Thousand Nine Hundred Sixty Dollars (\$41,960.00) with a 5% contingency. Funds are to be paid from the Fund, American Reinvestment and Recovery Act Funds - Energy Efficiency and Conservation Block Grant 406.690.717.72010.

| Line item | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|------------------------------|---|--|---|
| 406.690.717.72010 | EECBG, Building Improvements | Yes | Yes | |

###

Debra Allan made the motion to amend the word **continuance** to **contingency** located in the third paragraph, first sentence, second by Bonnie Kunkel. Motion to amend the resolution carried unanimously by voice vote. ROLL CALL on Resolution as amended follows: AYES: Allan, Castro, Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Tredup, Van Cleave, Vasquez, Wojnicki, Wyatt. NAYES: None AYES: 24 NAYES: 0, **AMENDED RESOLUTION #09-367 IS ADOPTED.**

RESOLUTION #09-369

Motion by John Hoscheit, second by Jerry Jones that Resolution #09-369 be adopted.

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE FOREST PRESERVE DISTRICT OF KANE COUNTY

WHEREAS, the County of Kane ("COUNTY") and the Forest Preserve District of Kane County ("FOREST PRERSERVE") are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act", as specified at 5 ILCS 220/1, et seq., and are authorized by Article 7 Section 10 of the Constitution of the State of Illinois to cooperate for public purpose; and

WHEREAS, the COUNTY and the FOREST PRESERVE desire to enter into an Intergovernmental Agreement, which Agreement is attached and made a part hereof as Exhibit "A"; and

WHEREAS, said Intergovernmental Agreement calls for the COUNTY to transfer certain real estate and real estate interests in property owned by the COUNTY in Geneva Township to the FOREST PRESERVE; and

WHEREAS, said Intergovernmental Agreement also calls for the FOREST PRESERVE to transfer certain real estate and real estate interests in property owned by the FOREST PRESERVE in Geneva township to the COUNTY; and

WHEREAS, said Intergovernmental Agreement further calls for the COUNTY to contribute funds in the amount of One Million Dollars and No Cents (\$1,000,000.00) to the FOREST PRESERVE for the acquisition of the Fox Valley Ice Arena.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the attached Intergovernmental Agreement between the COUNTY AND FOREST PRESERVE is hereby accepted and approved and that the Chairman of the Kane County Board is hereby authorized and directed to execute the Agreement on behalf of the COUNTY.

BE IT FURTHER RESOLVED by the Kane County Board that this contribution come from the County's Enterprise General Fund and be budgeted in the County's 2010 budget.

| Line items | Line Item Description | Was personnel/item/service approved in original budget or a subsequent budget revision? | Are funds <u>currently</u> available for this personnel/item/service in the specified line item? | If funds are not currently available in the specified line item, where are the funds available? |
|-------------------|-----------------------------------|---|--|---|
| 651.670.671.55000 | Miscellaneous Contractual Expense | FY2010 Budget | FY2010 Budget | N/A |

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT
between the
FOREST PRESERVE DISTRICT of KANE COUNTY
and the
COUNTY OF KANE
for the
CONTRIBUTION OF FUNDS FOR ACQUISITION OF THE FOX VALLEY ICE ARENA
FACILITY AND THE TRANSFER OF
CERTAIN REAL ESTATE AND REAL ESTATE INTERESTS BETWEEN THE
PARTIES

This intergovernmental agreement is made this 8th day of September, 2009 by and between the Forest Preserve District of Kane County, a forest preserve district and municipal corporation organized and existing under the laws of the State of Illinois (hereinafter "Forest Preserve District"), and the County of Kane, an Illinois body politic organized and existing under the laws of the State of Illinois (hereinafter "County"), pursuant to the Intergovernmental Cooperation Act 5 ILCS 220/1 *et.seq.*, the Local Government Property Transfer Act, 50 ILCS 605/1 *et.seq.* and in accordance with the laws applicable to the parties, generally.

WITNESSETH:

WHEREAS, in reliance upon certain commitments from County, the Forest Preserve District acquired a parcel of real estate known generally as the Fox Valley Ice Arena ("Ice Arena Parcel") comprised of approximately 13.36 acres of land located on Kirk Road in the City of Geneva, Kane County, Illinois, together with the ice arena facility located thereon and all as more particularly described on Exhibit A attached hereto; and,

WHEREAS, the County committed to contribute One Million Dollars (\$1,000,000.00) to the Forest Preserve District to assist it in the purchase and acquisition of the Ice Arena Parcel and the County desires to obtain access rights over, through and across the parking and entrance road areas of the Ice Arena Parcel to serve adjacent parcels owned by County, together with certain other considerations set forth below; and,

WHEREAS, upon completion of the remodeling of the office space area located in the ice arena facility, the Forest Preserve District will relocate its offices to the ice arena facility office space area and vacate its current offices located in Building G of the Kane County Government Center; and,

WHEREAS, the Forest Preserve District desires to correct a prior oversight relative to an area containing holes numbered 16 and 17 of the Settler's Hill Golf Course relating to the northern portion of the previous Kane County Jail facility parcel, fee title

to which is held by County and which parcel is depicted as Parcel A-FSC on Exhibit B attached hereto by receiving a conveyance of such Parcel A-FSC, together with obtaining a license agreement for the continued use of a parcel containing holes 2, 3, 4 and 10 of Settlers' Hill Golf Course, which parcel is depicted as Parcel B-LIC on Exhibit B attached hereto, and further also obtaining the conveyance by the County to the Forest Preserve District of Parcels C-FSC, E-FSC, and F-FSC, as depicted on Exhibit B attached hereto, and a license agreement to allow the Forest Preserve District to have access to and limited rights to install and use improvements upon the Settlers' Hill landfill site depicted as Parcel G-LIC; and,

WHEREAS, the County desires to acquire from the Forest Preserve District and the Forest Preserve District is willing to convey to County a certain approximately four acre parcel depicted on Exhibit B attached hereto as Parcel 1-FSC, which is located on the Fabyan Forest Preserve East site adjacent to the western portion of the previous Kane County Jail facility for its uses and purposes, together with a certain approximately one-half acre parcel depicted on Exhibit B attached hereto as Parcel 2-FSC, which is located immediately east of the existing entrance to the prior Kane County Jail facility, and a twenty-five foot (25') additional right of way along the north line of Fabyan Parkway extending from the east line of the existing entrance drive to the former Settlers' Hill landfill site westward to the west line of Parcel No. 12-14-200-029 (with a re-routing by the County of the existing bike path along adjacent property), and an access easement depicted as Parcels 3-EAS and 4-EAS on Exhibit B attached hereto, which also includes an access and maintenance easement relating to a certain leachate collection facility depicted as Parcel 3-EAS on Exhibit B attached hereto and in combination with access rights on Parcels D-EAS provides for north/south and east access to the landfill site upon and along perimeter roadways now existing and as may be installed thereon hereafter ; and,

WHEREAS, the parties desire to acknowledge that certain final license agreements, easements and further intergovernmental agreements relating to the former Settlers' Hill landfill and adjacent parcels are contemplated to be granted and entered into by the parties relative to the use and development of the landfill site and adjacent parcels, including, among other things, the abandonment by the Forest Preserve District of the current entrance to the parking area of Settlers' Hill Golf course from Fabyan Parkway and substituting in place thereof the existing entrance to the Settlers' Hill landfill site with a re-routing of the access to the golf course parking through such entrance, a grant of easement to the County for access over and upon the entrance to the former Settlers' Hill landfill site for access by County, its successors and assigns to Parcel G-LIC and the leachate collection facility at Parcel 3-EAS as depicted on Exhibit B attached hereto, and specific restrictions relating to the use of any portions of the former Settlers' Hill landfill site (which specific restrictions shall limit the use of the land and installation of improvements (but which shall expressly include the allowance of the use for golf course purposes not otherwise inconsistent therewith) upon any area under which there has been landfill activities which could be disturbed by surface or subsurface activities or improvements and which specific restrictions shall be more specifically defined in subsequent documents, but for brevity are hereafter referred to herein collectively as

the "Landfill License Restrictions"). The Landfill License Restrictions shall include, but are not limited to provisions contained in the Landfill Permit issued by IEPA as IEPA Site # 089010009; Site name: Settler's Hill Recycling and Disposal Facility; Permit No. 1982-12-DE/OP; Supplemental Permit No. 1995-433-SP, together with the terms and conditions of the closure plan and related materials filed and included therewith, which provisions are designed to avoid erosion-causing activities and to preserve the integrity of the landfill surface cap and subsurface materials. The Landfill License Restrictions shall further expressly allow for expansion of the existing "Waste to Energy" methane-use facilities presently located at the landfill site (within Parcel G-LIC) and shall further be subject to all other rules generally applicable to forest preserves within the Forest Preserve District, to the extent such general rules are otherwise more restrictive in their application.

WHEREAS, both parties recognize the desirability of memorializing the foregoing intentions in this intergovernmental agreement and to further commit to execute such other and further documents and conveyances to complete the same hereafter, subject to reaching agreement on the specific development plans for the areas contemplated to be developed by the parties.

NOW, THEREFORE, for and in consideration of good and valuable consideration in hand paid, receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. County Contribution of Partial Acquisition Cost of Ice Arena Parcel. The County hereby commits to transfer the sum of One Million Dollars to the Forest Preserve District on or before July 17, 2009, as contribution to the Forest Preserve District of a portion of the District's costs incurred to acquire the Ice Arena Parcel per the prior commitment of County to the Forest Preserve District. The foregoing transfer of funds shall be made by wire transfer and coordinated between the appropriate staff persons for the County and the Forest Preserve District.
2. Designation of Exhibit B Parcels and Designation Meanings as Used Herein. For all purposes hereof, the parties agree that references to capitalized parcel designations shall at all times refer to such parcels as designated on Exhibit B attached hereto, subject to final surveying and engineering being completed to legally describe such parcels. The designation "FSC" with respect to a parcel references contemplated fee simple conveyance of such a parcel (additionally, any conveyance may be subject to reservations or limitations as described more fully herein); the designation "EAS" with respect to a parcel references contemplated easements rights being granted by a party to the other; and, the designation "LIC" references contemplated license rights being granted by County to the Forest Preserve District with respect to use of a certain parcel by the Forest Preserve District. The nature and extent of the easements or licenses shall

differ by parcel and are generally described herein to establish the intent of the parties with respect to each such parcel.

3. Forest Preserve District Fee Simple Conveyances and Limitations Thereon. The Forest Preserve District hereby agrees to transfer and convey Parcels 1-FSC and 2-FSC to the County, provided, however, that any underground facilities presently in place shall be permitted to remain therein pursuant to an easement retained by the Forest Preserve District which shall be set forth in the conveyance of to the County and further subject to the continued use by the Forest Preserve District and its patrons of the Settlers' Hill Golf Course, specifically including a requirement that the County or any successor or assign shall refrain from taking action or installing improvements which have the effect of impairing or altering the existing use and location of the hole numbers 16 and 17 greens, hole number 17 fairway, and hole number 18 tee area without the express written consent of the Forest Preserve District. The intended use of Parcel 1-FSC by County is to provide for additional stormwater detention for the benefit of the retained adjacent property owned by County (the "former County Jail property"), whether developed by County or by its successors or assigns. The intended use of Parcel 2-FSC by County is to provide an enlarged entrance and exit with an extended drive to serve the former Kane County Jail property.

Notwithstanding the foregoing, however, it is understood by the parties that future development of the former Kane County Jail property by the County or its successors and assigns may include a need to undertake a reconfiguration, enlargement and/or interconnection of the ponds located along holes 17 and 18, including a possible inter-connection of all ponds partly upon the real estate of both parties and a possible rerouting of run-off between them in an alternate direction and/or a spillway installation, due to the present undesirable northeasterly stormwater sewer drainage occurring beneath the golf course and draining northward under the landfill located north of the 17th fairway from the northwesternmost pond located adjacent to the 17th fairway. The parties acknowledge that such reconfiguration, enlargement or interconnection would necessitate a future agreement with respect to the nature and extent of same, together with a joint pond maintenance agreement between the parties, or their successors and assigns as it relates to the former Kane County Jail property benefitted by same, which agreement shall provide for reasonable best management practices to be required in connection with the operation of same, and shall permit construction and installation of reasonable pond amenities and improvements including, but not limited to fountains and aeration systems, landscaping improvements, expanded water areas and shoreline stabilization. In no event is it contemplated that the seasonal use of the golf course would be interrupted or its present layout substantially impaired by such reconfiguration, enlargement, interconnection, construction or installation. Any construction associated with such activities would be undertaken so as to

minimize or avoid any interruption in the use of the golf course by its patrons. Nothing set forth herein shall commit the Forest Preserve District to bear any portion of the costs associated with any reconfiguration, enlargement or interconnection contemplated hereunder and any agreement relating to such construction shall include a provision to hold the Forest Preserve District harmless in connection therewith.

4. County Fee Simple Conveyances and Limitations Thereon. The County hereby agrees to transfer and convey Parcel A-FSC to the Forest Preserve District to correct a prior oversight relative to the Settler's Hills Golf Course located adjacent to the northern boundary of the former Kane County Jail property, but the County shall retain a drainage easement for the benefit of the former Kane County Jail property over and upon Parcel A-FSC, which drainage easement shall be subject to the additional limitations contemplated in paragraph 3 above relating to the reconfiguration, enlargement or interconnection of the ponds . The County also agrees to grant to the Forest Preserve District Parcels C-FSC, E-FSC, and F-FSC, being parcels adjacent to the landfill site, but not situated upon actual landfill areas. As to such parcels, the County shall reserve the following easements: Parcel C-FSC shall include a reserved easement for stormwater management; Parcel E-FSC shall include a reserved easement for public parking related to adjacent recreational uses on Parcel G-LIC; Parcel F-FSC shall include a reserved easement for public parking related to adjacent recreational uses on Parcel G-LIC. Additionally, County shall reserve the right to remove any boulders located on or in (including subsurface boulders) Parcels E-FSC and F-FSC and the right to unlimited access to the leachate collection facility located on Parcel 3-EAS.

5. Forest Preserve District Easement Grants to County. The Forest Preserve District hereby agrees to grant easements providing ingress and egress rights to the County over, through, and across roadways and adjacent paved or gravel areas designated as Parcels 3-EAS, 4-EAS, and 5-EAS, including reasonable use and access over and across parking and entranceways serving as the north/south entrance from Fabyan Parkway and related east-west and north-south roadway surfaces on Parcels 4-EAS and 5-EAS, if any, installed, maintained or used by the Forest Preserve District, together with such similar paved or gravel surfaces located upon and over Parcel D-EAS, and the Ice Arena Parcel. These easements are intended to enable the County and the general public to have access to adjacent parcels owned by the County, over those areas depicted on Parcels 3-EAS, 4-EAS, and 5-EAS on Exhibit B. Additionally, County shall be granted the right to install lockable security gates on Parcels 3-EAS and 4-EAS, together with unlimited access to the leachate collection facility located on Parcel 3-EAS and the right to expand the "Waste to Energy" methane-use facilities presently located at the landfill site (within Parcel G-LIC). The parties shall coordinate the policies and procedures relating to the opening, closing and

locking of all such security gates to ensure both parties unlimited access, but limiting general public or third party access over same to times when supervised activities are occurring, such as public events where parking overflow or release of vehicles from an adjacent event is occurring through such areas, or approved or authorized work is occurring at the golf course or landfill site, which is necessitating access through such security gates.

6. County Easement Grants to Forest Preserve District. The County hereby agrees to grant a Fifty (50) foot wide ingress and egress easement to the Forest Preserve District over and upon Parcel D-EAS to serve as ingress and egress for the adjacent areas and other properties owned by it. The easement to be granted on Parcel D-EAS shall be further subject to the continued right by County to access portions of retained property, expressly including the area included in Parcel G-LIC and the County's continued right to make modifications and improvements to the landfill infrastructure from time to time as it may be required under any agreement or regulatory authority oversight or as it may deem necessary. Any permanent roadway improvement, whether constructed with gravel or other impervious surface or otherwise shall be subject to approval by County and all construction, maintenance and repair or re-surfacing costs associated therewith shall be borne exclusively by the Forest Preserve District.

7. County Grant of Licenses to the Forest Preserve District. The County hereby grants to the Forest Preserve District a license for the continued use of Parcel B-LIC, being that portion of the former Settlers' Hill Landfill site which contains all or portions of holes 2, 3, 4, and 10, for golf course use in the manner in which that portion has been used prior to the date hereof, subject to the Landfill License Restrictions, all of which shall be subject to a comprehensive license agreement relating to same. The County further agrees to grant to the Forest Preserve District a license for the use of the Parcel G-LIC, subject to the Landfill License Restrictions and further subject to the approval by the County of the final specific uses to which Parcel G-LIC shall be put in the future as hereinafter set forth and reasonable regulations which may then be adopted related to such uses.

With respect to Parcel G-LIC, the parties acknowledge the unique nature and configuration of the parcel and the fact that it has been contemplated to be put to recreational uses as may be permitted by the underlying prior use as a landfill site. A Conceptual End-use Plan dated December 5, 2006 drawn by Lannert Group shall guide the parties as to the anticipated acceptable uses on Parcel G-LIC, but in any event, the ultimate use, if any, to which Parcel G-LIC is put by the Forest Preserve District and any improvements proposed to be installed or constructed thereon shall be expressly subject to the approval by the County pursuant to the Landfill License Restrictions to be established hereafter. Any development and use to which Parcel G-LIC is put shall be subject to the use and parking by the general public upon the

adjacent parking areas serving Elfstrom Stadium and the Ice Arena pursuant to reasonable rules and regulations adopted by the Forest Preserve District from time to time in connection therewith. Nothing set forth herein shall bind the Forest Preserve District to any active maintenance obligations, including mowing or brush removal, until and unless Parcel G-LIC is improved by the Forest Preserve District for specific recreational uses as may be approved by the County.

8. Surrender of Building G by Forest Preserve District to County. The Forest Preserve District has occupied Building G at the Kane County Government Center as its central offices for many years and has extensively remodeled and improved the interior as office space during that time, as well as undertaking routine maintenance and repair from time to time as necessary. The Forest Preserve District has completed the remodeling of the third floor office space area of the Ice Arena facility (the "Third Floor Offices") to enable the Forest Preserve District to relocate its administrative offices from Building G at the Kane County Government Center to the Third Floor Offices as soon as reasonably practicable. The Forest Preserve District will complete its relocate to the Third Floor Offices within 60 days of the completion of the remodeling project and deliver possession of the present offices in Building G to the County upon completion of such relocation. Additionally, the parties acknowledge that the lease of the Building G offices by the Forest Preserve District contemplated that at the time the Building G offices are surrendered to the County by the Forest Preserve District, the Forest Preserve District would provide funds to the County in the amount of _____ Thousand Dollars (\$XX,000.00) for improvements to Building G to be performed by or on behalf of the County.

9. Elimination of Existing Golf Course Entrance and Relocation of Same. The Forest Preserve District agrees further to produce or have produced for it at its sole cost and to submit to the County Preliminary Engineering Plans depicting the elimination of the existing access drive into the golf course, which shall be re-routed through the existing entrance to the prior landfill site (over Parcel 3-EAS) in such a manner as will conform with Kane County Highway Department requirements for same relative to "car stacking" distances and the like. It is contemplated that this entrance as revised will be served by a signalized intersection at that location, which signalization shall be at the sole cost of the County. The parties shall coordinate the preparation and delivery of the Preliminary Engineering Plans so as to attempt to synchronize the timing of the opening of the relocated entrance drive with the installation and activation of the signalization of the intersection after final County improvements to the intersection. The parties further acknowledge that expediency and efficiency will result in cost savings to the parties, so the engineering consultant used by County for the intersection shall also be used by the Forest Preserve District in the preparation of the Preliminary Engineering Plans and related additional documentation. Further, to the

extent any of such work (and subsequent construction work based thereon) is coordinated by County as a part of the intersection improvement and is paid by County through inclusion by such outside consultants and contractors in their billings for the overall improvements, such itemized expenses shall be reimbursed by the Forest Preserve District to County.

10. Fabyan Parkway Dedication by Forest Preserve District. The Forest Preserve shall dedicate an additional twenty-five feet (25') of right of way along the south line of Parcel No. 12-14-200-029 from the east line of Parcel 3-EAS to the west line of Parcel No. 12-14-200-029 in conjunction with the signalization and re-routing of the golf course entrance as contemplated above.

11. Additional Documentation to Effectuate Terms Hereof. The conveyances and grants of easements and licenses and other rights hereunder shall be effectuated by applicable signed deeds, easements, license agreements and such other and additional appropriate documentation which shall be prepared by the respective parties hereto after completion of necessary surveying, engineering, or other preparation by staff and legal counsel and contemporaneously delivered to the parties hereto on or before July 17, 2009. The parties acknowledge and agree that to the extent necessary to obtain legal descriptions not presently known, such of the foregoing parcels shall be surveyed and the legal descriptions generated from such surveys shall be used for all purposes hereof and the parties shall enter into formal easement agreements, a global license agreement with respect to the site or multiple individual license agreements. The cost of such surveys shall be borne by County. Further each such agreement shall legally describe the portions of the site which are subject to such agreement and shall include indemnification provisions by the County indemnifying the Forest Preserve District with respect to the existence of landfill materials within the landfill site areas under any license agreements and easement agreements. The foregoing shall be embodied in separate license agreements that shall be prepared and entered into by the parties as soon as reasonably practicable in light of the additional planning and engineering contemplated to be undertaken as provided above.

12. The effective date of this agreement shall be the date on which this agreement is approved and last executed by the parties as set forth below.

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

COUNTY OF KANE

**FOREST PRESERVE DISTRICT OF
KANE COUNTY**

By: _____
Its Chairman

By: _____
Its President

Date of signature: _____

Date _____ of
signature: _____

###

Debra Allan stated that the Board should not do this transfer at this time due to budget constraints. Allan said the Board did not have the mandated items paid for and need to take care of necessity items before the ones that the Board wants to do. Chairman McConnaughay said that there are two different accounts, operating and capital accounts. This would be a capital account. Chairman McConnaughay asked if the County Board should use capital accounts to fund operating accounts. Allan responded that is a different issue. John Hoscheit said that this agreement has been many years in the making. He continued by stating that the board started talking about this when discussing relocating the jail facilities. The source of the money is not tax levy but from the Environmental Fund from the Landfill which is a special purpose fund. This is part of the Comprehensive Agreement, Hoscheit said. Forest Preserve moved forward with the agreement and acquired the properties. Hoscheit further stated that it may maximize the jail site facility to use for economic development. He stated that this passed the Forest Preserve Committee. Chairman McConnaughay stated that this will be used as a recreational site and that this is the first step in accomplishing it. Bonnie Kunkel stated that as a Forest Preserve Commissioner she voted for this and as a County Board member she feels conflicted and will abstain. Mike Kenyon stated that this will be investing in the Forest Preserve. Tom Van Cleave stated that it is a benefit to wear two hats and this agreement is no surprise. The Forest Preserve has been working on this for quite a few years and he is grateful that the County can participate in this acquisition. He further stated that this will give access off of Fabyan Parkway and does make greater possibility for the use of the jail site. Further discussion followed.

ROLL CALL as follows: AYES: Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Lewis, Lindgren, Mayer, Mitchell, Shoemaker, Tredup, Van Cleave, Vasquez, Wojnicki, Wyatt NAYES: Allan, Leonberger ABSTAIN: Castro (Present), Kunkel, Mihalec (Present). AYES: 19 NAYES: 2 ABSTAIN: 3 **RESOLUTION #09-369 IS ADOPTED.**

RESOLUTION #09-393

Motion by Bill Wyatt, second by Jerry Jones that Resolution #09-393 be adopted.

ORDINANCE NO. 09 - 393

ORDINANCE AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF UP TO \$40,000,000 GENERAL OBLIGATION ALTERNATE BONDS (REGIONAL TRANSPORTATION AUTHORITY SALES TAX ALTERNATE REVENUE SOURCE), SERIES 2009, OF THE COUNTY OF KANE, ILLINOIS, CONSISTING OF NOT TO EXCEED \$24,500,000 GENERAL OBLIGATION ALTERNATE BONDS (REGIONAL TRANSPORTATION AUTHORITY SALES TAX ALTERNATE REVENUE SOURCE), SERIES 2009A, AND NOT TO EXCEED \$17,500,000 TAXABLE GENERAL OBLIGATION ALTERNATE BONDS (REGIONAL TRANSPORTATION AUTHORITY SALES TAX ALTERNATE REVENUE SOURCE), SERIES 2009A, FOR THE PURPOSE PAYING A PORTION OF THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING VARIOUS ROAD, BRIDGE AND TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS WITHIN THE COUNTY, AND RELATED COSTS AND EXPENSES; PROVIDING FOR THE PLEDGE OF REVENUES DERIVED FROM THE DISTRIBUTIONS TO THE COUNTY OF REGIONAL TRANSPORTATION AUTHORITY SALES TAX REVENUES TO THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE SERIES 2009 BONDS; PROVIDING FOR THE LEVY OF A DIRECT ANNUAL TAX FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE SERIES 2009 BONDS; PROVIDING PROCEDURES FOR THE ABATEMENT OF SUCH TAX BASED ON THE AVAILABILITY OF ALTERNATE REVENUES; DELEGATING TO AUTHORIZED OFFICERS THE AUTHORITY TO DETERMINE CERTAIN TERMS OF THE SERIES 2009 BONDS WITHIN PARAMETERS ESTABLISHED IN THIS ORDINANCE; PROVIDING FOR THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE UNDERTAKING IN CONNECTION WITH THE SERIES 2009 BONDS; AND CONCERNING RELATED MATTERS.

BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF KANE, ILLINOIS, AS FOLLOWS:

Section 1. Findings and Determinations. It is found and declared by the County Board (the “**County Board**”) of The County of Kane, Illinois (the “**Issuer**”), as follows:

(a) The Issuer is a duly organized and existing county created under the provisions of the laws of the State of Illinois operating under the provisions of the Counties Code, as amended, 55 ILCS 5/1-1001 *et seq.* (the “**Counties Code**”), and is a “governmental unit” as defined in Section 2(i) of the Local Government Debt Reform Act of the State of Illinois, as amended, 30 ILCS 350/1 *et seq.* (the “**Debt Reform Act**”).

(b) The County Board has determined that it is advisable, necessary and in the best interests of the County and its residents, in order to promote and protect the public health, welfare, safety and convenience, to acquire, construct, improve and equip various road, bridge and transportation infrastructure improvements within the County and, incidental to those project

costs, to pay bond discount, interest, bond reserve requirements, and legal, other financing and related administrative fees and costs (collectively, the “**Project**”), all in accordance with preliminary estimates of costs which have been prepared for the County.

(c) The estimated costs of the Project, including all of the costs previously described, are now anticipated to be not less than \$40,000,000 plus estimated investment earnings on the borrowing provided for in this Bond Ordinance during the time prior to the expenditure of such amount.

(d) The Issuer does not have sufficient funds on hand or available from other sources with which to pay the costs of the Project and the Issuer’s costs incurred in connection with the borrowing of money provided for in this Bond Ordinance, and it is necessary to issue additional obligations of the Issuer to pay such costs.

(e) Undertaking the Project is a lawful corporate purpose of the Issuer, including pursuant to authority granted by the Counties Code.

(f) The County Board determined that there exists for the Issuer a “revenue source” as defined in Section 3(1) of the Debt Reform Act consisting of (i) revenues derived from the taxes imposed by the Regional Transportation Authority pursuant to 70 ILCS 3615/4.03, as amended (the “**RTA Sales Tax Act**”), and distributed to the County under 70 ILCS 3615/4.03(n), and (ii) revenues derived from any replacement or substitute tax for such tax (collectively, the “**RTA Sales Tax Revenues**”).

(g) The RTA Sales Tax Revenues are a revenue source that is not limited in its purposes and applications.

(h) In accordance with the provisions of the Debt Reform Act, the County Board, on September 8, 2009, adopted Ordinance No. 09-334 (the “**Alternate Bond Authorizing Ordinance**”) entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION ALTERNATE BONDS (REGIONAL TRANSPORTATION AUTHORITY SALES TAX ALTERNATE REVENUE SOURCE) OF THE COUNTY OF KANE, ILLINOIS, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$40,000,000 FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING VARIOUS ROAD, BRIDGE AND TRANSPORTATION INFRASTRUCTURE IMPORVEMENTS WITHIN THE COUNTY, AND RELATED COSTS AND EXPENSES.

authorizing the issuance of General Obligation Alternate Bonds (the “**Alternate Bonds**”) as provided in the Debt Reform Act in an amount not to exceed \$40,000,000.

(i) On September 11, 2009, the Alternate Bond Authorizing Ordinance, together with a notice of intent to issue the Alternate Bonds, was published in the *Daily Herald*, a daily secular newspaper that is (i) qualified to publish legal notices under Section 5 of the Notice by Publication Act, (ii) published in the Issuer, and (iii) of general circulation in the Issuer.

(j) More than thirty (30) days elapsed after the date of publication of the Alternate Bond Authorizing Ordinance and the notice, and no petitions with the requisite number of valid signatures on them were filed with the County Clerk requesting that the question of the issuance of the Alternate Bonds be submitted to referendum. The Issuer is therefore authorized to issue the Alternate Bonds for the purposes described above in an aggregate principal amount not exceeding \$40,000,000 in accordance with the provisions of the Debt Reform Act.

(k) It is necessary and in the best interests of the Issuer to borrow a sum not exceeding \$40,000,000 in order to pay a portion of the costs of the Project and the Issuer's costs incurred in connection with the borrowing of money provided for in this Bond Ordinance and, to evidence its obligation to repay that borrowing, to issue the Alternate Bonds in a principal amount not exceeding \$40,000,000 (the "**Series 2009 Bonds**") as provided in this Bond Ordinance.

(l) Pursuant to the requirements of the Bond Issue Notification Act, 30 ILCS 352/1 *et seq.*, as amended, on August 26, 2009, notice of a public hearing concerning the intention of the County to issue the Alternate Bonds was published in the *Daily Herald*.

(m) The County Board held the public hearing for which published public notice was given as described in paragraph (l) on September 8, 2009, beginning at 9:45 o'clock a.m., at the Kane County Government Center, Second Floor Board Room at 719 South Batavia Avenue, Geneva, Illinois. At the public hearing, the County Board explained the reasons for the proposed financing and permitted persons desiring to be heard an opportunity to present written or oral testimony within reasonable time limits, and all persons desiring to be heard were heard. At least seven days have passed since the public hearing was held and the County Board is now authorized under the Bond Issue Notification Act to adopt this Bond Ordinance.

(n) 50 ILCS 405/1, as amended, provides generally that no county having a population less than 500,000 may incur any indebtedness which, when added to all existing indebtedness of the county, exceeds in aggregate amount an amount equal to 2.875% of the assessed valuation of all taxable property located within the county, as ascertained by the most recent assessment for state and county purposes as equalized by the Department of Revenue. The County has a population of 404,119 as determined by the 2000 U.S. Census, the most recent available.

(o) The aggregate assessed valuation of all taxable property in the Issuer as assessed by Kane County and equalized by the Department of Revenue for the year 2008, being the most recent assessment now available, is \$15,878,595,580. Two and seven-eighths percent of that amount is \$456,509,622.

(p) The Issuer has issued and there are now outstanding (i) the General Obligation Bonds (Motor Fuel Tax Alternate Revenue Source), Series 2001 (the "**Series 2001 Bonds**"), now outstanding in the aggregate principal amount of \$30,535,000, (ii) the General Obligation Refunding Bonds (Alternate Revenue Source), Series 2002 (the "**Series 2002 Bonds**"), now outstanding in the aggregate principal amount of \$5,010,000, (iii) the General Obligation Refunding Bonds (Alternate Revenue Source), Series 2004 (the "**Series 2004 Bonds**"), now outstanding in the aggregate principal amount of \$26,755,000, (iv) the Debt

Certificates, Series 2005 (the “**Series 2005 Debt Certificates**”), now outstanding in the aggregate principal amount of \$8,420,000, (v) the Debt Certificates, Series 2006 (the “**Series 2006 Debt Certificates**”), now outstanding in the aggregate principal amount of \$23,795,000, and (vi) the General Obligation Limited Tax Bonds, Series 2007 (the “**Series 2007 Bonds**”), now outstanding in the aggregate principal amount of \$7,010,000. The Series 2001 Bonds, the Series 2002 Bonds and the Series 2004 Bonds (collectively, the “**Outstanding Alternate Bonds**”), are alternate bonds issued under Section 15 of the Debt Reform Act. None of the conditions set forth in Section 15 of the Debt Reform Act, the existence of which would require the outstanding principal amount of any of the Outstanding Alternate Bonds to be included in the computation of indebtedness of the Issuer, exists or has occurred. Accordingly, as provided in Section 15, the Outstanding Alternate Bonds need not be regarded as or included in any computation of indebtedness of the Issuer for purposes of any statutory provision or limitation. The amount of all existing bonded indebtedness of the Issuer is therefore \$7,010,000, the amount of debt certificate and installment contract indebtedness of the Issuer is \$32,215,000, the amount of accrued claims and judgments against the Issuer is not more than \$5,000,000, and there is no other outstanding non-bond indebtedness of the Issuer, including contracts, leases, installment contracts, and judgments.

(q) Section 15 of the Debt Reform Act provides that the Series 2009 Bonds shall not be regarded as or included in any computation of indebtedness of the Issuer for the purpose of any statutory provision or limitation except as expressly provided in Section 15. None of the conditions set forth in Section 15, the existence of which would require the outstanding principal amount of the Series 2009 Bonds to be included in the computation of indebtedness of the Issuer, exists or has occurred.

(r) The Series 2009 Bonds authorized to be issued by this Bond Ordinance will not, when issued, cause the aggregate indebtedness of the Issuer to exceed the limit set forth in subsection (n) above.

(s) The Issuer will pledge the RTA Sales Tax Revenues (“**Pledged Revenues**” as defined below) to pay the principal of and interest on the Series 2009 Bonds. The pledge of Pledged Revenues to the payment of the Bonds will be on a parity with the pledge of the Pledged Revenues to the payment of any series of alternate bonds issued in the future in accordance with the provisions of the Debt Reform Act on a parity with and sharing ratably and equally in the Pledged Revenues with the outstanding Series 2009 Bonds (“**Additional Bonds**”).

(t) The Series 2009 Bonds will be payable from the Pledged Revenues and the Pledged Taxes (defined below). The Issuer has not previously issued any other obligations to the payment of which the Pledged Revenues have been pledged. There are no contractual obligations payable from the Pledged Revenues.

(u) The County Board determines that the Pledged Revenues will be sufficient to provide or pay in each year to the final maturity of the Series 2009 Bonds an amount not less than 1.25 times aggregate debt service of (i) all alternate bonds previously issued and payable from Pledged Revenues (there being none), and (ii) the Series 2009 Bonds now proposed to be issued.

(v) The most recent audit of the Issuer does not show that the Pledged Revenues will be sufficient to support the determination of sufficiency of the County Board in subsection (u) above. As authorized by Section 15 of the Act, such determination of the sufficiency of the Pledged Revenues is supported by reference to a report (the “**Report**”) prepared by Speer Financial, Inc., an independent feasibility analyst having a national reputation for expertise in such matters, demonstrating the sufficiency of Pledged Revenues and the means by which the Pledged Revenues will be greater than as shown in the most recent audit. A copy of the Report together with extracts from the County’s financial statements for its most recently completed fiscal year is attached to this Bond Ordinance as *Exhibit A*.

(w) The Issuer through its financial consultant distributed copies of the Official Statement (defined below) including the Official Notice of Sale for the Series 2009 Bonds to prospective purchasers. The Issuer will receive bids for the purchase of the Series 2009 Bonds at the time and place and utilizing the electronic bidding system specified in such Official Notice of Sale. The Issuer will accept the bid received from a responsible bidder that produces the lowest true interest costs computed as provided in the Official Notices of Sale.

(x) The ability of the Issuer to issue the Series 2009 Bonds and sell them at a competitive sale without further action by the County Board at the time, in the amounts, bearing interest at the rate or rates, maturing in the years and in the amounts, subject to mandatory sinking fund redemption upon the terms and having the other terms established by the Authorized Officers (defined below) in the Determination Certificate (defined below) within the limits established in this Bond Ordinance will enhance the Issuer’s opportunities to obtain financing upon the most favorable terms possible.

Section 2. Definitions; Rules of Interpretation.

(a) In addition to terms defined in Section 1 or elsewhere in this Bond Ordinance, the following capitalized terms have the following meanings when used in this Bond Ordinance, unless the context or use indicates otherwise:

“**Abatement Ordinance**” means as provided in Section 21.

“**Additional Bonds**” means any alternate bonds issued in the future in accordance with the provisions of the Debt Reform Act on a parity with and sharing ratably and equally in the Pledged Revenues with the Series 2009 Bonds.

“**Administrative Costs**” means administrative costs associated with the Series 2009 Bonds, including but not limited to expenses incurred by the Issuer to employ and pay fiscal agents, financial advisers, rebate consultants, attorneys, and other persons to assist the Issuer in the administration of the Series 2009 Bonds.

“**Administrative Expense Account**” means the account of that name created in the Bond Fund in Section 17.

“**Alternate Bond Authorizing Ordinance**” means as provided in Section 1(h).

“**Alternate Bonds**” means the bonds authorized by the Alternate Bond Authorizing Ordinance.

“**Authenticating Agent**” means the Bond Registrar acting in the capacity of Authenticating Agent under this Bond Ordinance, or any successors to it appointed in accordance with Section 27.

“**Authorized Officers**” means (a) the County Board President, or (b) the County Clerk and the County Treasurer.

“**Bond Fund**” means the “General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009 Bond and Interest Fund” created in Section 17.

“**Bond Ordinance**” means this Ordinance No. 09-__ adopted by the County Board on October 13, 2009 and the Determination Certificate.

“**Bond Register**” means the bond registration books of the Issuer maintained by the Bond Registrar pursuant to Section 10.

“**Bond Registrar**” means U.S. Bank National Association, Chicago, Illinois, appointed in Section 8, or any successors to it appointed in accordance with Section 27.

“**Bondholder**” means the registered owner of any Series 2009 Bond as shown on the Bond Register.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Continuing Disclosure Undertaking**” means as provided in Section 37.

“**Counties Code**” means as provided in Section 1(a).

“**County Board**” means the County Board, the governing body of the Issuer.

“**County Board Chairman**” means the Chairman of the County Board.

“**County Clerk**” means the County Clerk of the Issuer elected or appointed as provided in the Counties Code.

“**County Treasurer**” means the County Treasurer of the Issuer elected or appointed as provided in the Counties Code.

“**Dated Date**” means the date on which a Series 2009 Bond is issued.

“**Debt Reform Act**” means as provided in Section 1(a).

“**Determination Certificate**” means the certificate of the Authorized Officers with respect to the Bonds addressed to the County Board, executed by the Authorized Officers and filed with the office of the County Clerk, as provided in Section 16 of this Bond Ordinance.

“**Fiscal Year**” means the twelve month period beginning on January 1 of any calendar year and ending on December 31 of that calendar year.

“**Issuer**” means The County of Kane, Illinois.

“**Official Statement**” means as provided in Section 16(g).

“**Outstanding**” means as provided in Section 25.

“**Paying Agent**” means the Bond Registrar acting as Paying Agent under this Bond Ordinance, or any successors to it appointed pursuant to Section 27.

“**Pledged Revenues**” means the RTA Sales Tax Revenues.

“**Pledged Revenues Subaccount**” means the subaccount of that name established in the Principal and Interest Account in Section 17.

“**Pledged Taxes**” means the direct annual *ad valorem* tax levied upon all of the taxable property within the Issuer in Section 19.

“**Pledged Taxes Subaccount**” means the subaccount of that name established in the Principal and Interest Account in Section 17.

“**Principal and Interest Account**” means the account of that name established in the Bond Fund in Section 17.

“**Project**” means as provided in Section 1(b).

“**Project Fund**” means the “General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009 Project Fund” established in Section 18.

“**Purchaser**” means the winning bidder at the sale of the Series 2009 Bonds.

“**Rebate Account**” means the account of that name established in Section 17.

“**Rule**” means Section (b)(5) of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

“**RTA Sales Tax Revenues**” means as provided in Section 1(f).

“**Serial Bonds**” means Series 2009 Bonds that are not subject to mandatory sinking fund redemption in advance of maturity by operation of the Bond Fund as identified in the Determination Certificate.

“**Series 2009 Bonds**” means the General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009, of the Issuer authorized by the Alternate Bond Authorizing Ordinance and this Bond Ordinance. The Series 2009 Bonds are comprised of the Series 2009A Bonds and the Series 2009B Bonds.

“**Series 2009A Bonds**” means the General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009A, of the Issuer authorized by the Alternate Bond Authorizing Ordinance and this Bond Ordinance and designated as provided in this Bond Ordinance and the Determination Certificate.

“**Series 2009B Bonds**” means the Taxable General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009B, of the Issuer authorized by the Alternate Bond Authorizing Ordinance and this Bond Ordinance.

“**Tax-exempt**” means, with respect to the Series 2009 Bonds, if any, intended to be issued as such, the status of interest paid and received on such bonds as not includible in the gross income of their owners under the Code for federal income tax purposes except to the extent that such interest will be taken into account in computing an adjustment used in determining the alternative minimum tax for certain corporations and in computing the “branch profits tax” imposed on certain foreign corporations.

“**Term Bonds**” means Series 2009 Bonds that are subject to mandatory sinking fund redemption in advance of maturity by operation of the Bond Fund as identified in the Determination Certificate.

(b) The headings of this Bond Ordinance are for convenience of reference only and shall not define or limit the provisions of this Bond Ordinance.

(c) Unless another document is identified, references to Sections and other subdivisions are to the designated Sections and subdivisions of this Bond Ordinance. Unless otherwise specified, references to Sections and other subdivisions of this Bond Ordinance are to the designated Sections and other subdivisions of this Bond Ordinance as amended from time to time.

(d) References to the masculine include the feminine and neuter and vice versa and references to the singular include the plural and vice versa, unless the context or use indicates otherwise.

Section 3. Authorization of the Series 2009 Bonds. The sum of not more than \$40,000,000 shall be borrowed by the Issuer to finance the costs of the Project and to pay costs of the Issuer in connection with the issuance of the Series 2009 Bonds. In evidence of such borrowing, negotiable bonds of the Issuer in an aggregate principal amount not exceeding \$40,000,000 to be established in the Determination Certificate shall be issued as provided in this Bond Ordinance under the authority of the Debt Reform Act. The Series 2009 Bonds shall be issued without referendum under the authority of Section 15 of the Debt Reform Act.

Section 4. Series, Principal Amounts, Denominations, Numbers, Designations and Date.

(a) The Series 2009 Bonds shall be designated “General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009”. The Series 2009 Bonds shall be issued in two series, which shall be designated, respectively,

“General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009A” (the “**Series 2009A Bonds**”) and “Taxable General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009B” (the “**Series 2009B Bonds**”), *provided* that the Determination Certificate may provide a different designation of the Series 2009A Bonds in order to reflect the status of the interest on the Series 2009A Bonds as Tax-exempt or taxable. The Series 2009A Bonds shall be issued in an aggregate principal amount not exceeding \$24,500,000 to be established in the Determination Certificate. The Series 2009B Bonds shall be issued in the aggregate principal amount not exceeding \$17,500,000 to be established in the Determination Certificate.

(b) The Series 2009 Bonds shall be issued only in fully registered form without coupons in the denominations of \$5,000 and integral multiples of that sum. The Series 2009A Bonds shall be numbered consecutively from RA-1 upward but need not be authenticated or delivered in consecutive order. The Series 2009B Bonds shall be numbered consecutively from RB-1 upward but need not be authenticated or delivered in consecutive order. Series 2009 Bonds authenticated and delivered prior to June 15, 2010, shall be dated as of their Dated Date. Series 2009 Bonds authenticated and delivered on or after June 15, 2010, shall be dated as of the June 15th or December 15th next preceding the date of their authentication and delivery to which interest has been paid, except Series 2009 Bonds authenticated and delivered on a June 15th or December 15th to which interest has been paid, which Series 2009 Bonds shall be dated as of that June 15th or December 15th.

Section 5. Terms of the Series 2009 Bonds. Each of the Series 2009 Bonds shall initially be dated as of its Dated Date, and shall bear interest from the Dated Date until paid. Interest on the Series 2009 Bonds shall be payable on June 15th and December 15th in each year, with the first interest payment date being June 15, 2010. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Series 2009 Bonds shall mature on December 15th in the years and the amounts and shall bear interest at the rates per year, all as set forth in the Determination Certificate.

Section 6. Redemption.

(a) Series 2009 Bonds Not Subject to Optional Redemption. The Series 2009 Bonds are not subject to optional redemption prior to maturity.

(b) Bonds Subject to Mandatory Sinking Fund Redemption. The Determination Certificate may provide that some or all of the Series 2009 Bonds are Term Bonds and are subject to mandatory redemption by operation of the Bond Fund at a price of par and accrued interest, without redemption premium, on December 15th of the years and in the amounts set forth in the Determination Certificate.

The Issuer covenants that it will redeem any Term Bonds pursuant to the mandatory redemption required for such Term Bonds. Proper provision for mandatory redemption having been made, the Issuer covenants that the Term Bonds so selected for redemption shall be payable as at maturity.

If the Issuer purchases Term Bonds and cancels the same either from moneys in the Principal and Interest Account which were deposited in such account to pay principal of such Term Bonds or from other legally available moneys, then an amount equal to the principal amount of Term Bonds so redeemed or purchased shall be deducted from the mandatory redemption requirement as provided for the Term Bonds of such maturity (i) in such order of years of such requirement as then remaining as the Issuer may specify or, if the Issuer does not specify, then (ii) in the inverse order of years of such requirement as then remaining, fully reducing the requirement for each year before applying any amount to the requirement for the next year.

(c) Procedures for Redemption. If less than all of the Series 2009 Bonds of any maturity are to be redeemed on any redemption date, the Bond Registrar appointed in this Bond Ordinance shall assign to each Series 2009 Bond of the maturity to be redeemed a distinctive number for each \$5,000 of principal amount of that Series 2009 Bond. The Bond Registrar shall then select by lot from the numbers so assigned, using such method as it shall deem proper in its discretion, as many numbers as, at \$5,000 per number, shall equal the principal amount of Series 2009 Bonds of that maturity to be redeemed; *provided*, that the method selected shall be such that any \$5,000 Series 2009 Bond or \$5,000 portion of a Series 2009 Bond of that maturity is as likely to be called for redemption as any other \$5,000 Series 2009 Bond or \$5,000 portion of a Series 2009 Bond of that maturity.

The Bond Registrar shall promptly notify the Issuer and the Paying Agent in writing of the Series 2009 Bonds or portions of Series 2009 Bonds selected for redemption and, in the case of any Series 2009 Bond selected for partial redemption, the principal amount of such Series 2009 Bond to be redeemed.

Upon the payment of the redemption price of Series 2009 Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Series 2009 Bonds being redeemed with the proceeds of such check or other transfer.

(d) Notice of Redemption. Unless waived by the Bondholder of Series 2009 Bonds to be redeemed, notice of the redemption of any Series 2009 Bonds which by their terms shall have become subject to redemption shall be given to the Bondholder of each Bond or portion of a Series 2009 Bond called for redemption not less than 30 or more than 60 days before any date established for redemption of Series 2009 Bonds, by the Bond Registrar on behalf of the Issuer, by registered or certified mail sent to the Bondholder's last address, if any, appearing on the registration books kept by the Bond Registrar.

All official notices of redemption shall include at least the following information:

- (i) the redemption date;
- (ii) the redemption price;
- (iii) the series and maturity or maturities of the Series 2009 Bonds being redeemed and, if less than all of the Series 2009 Bonds of a single series and maturity are to be redeemed, the identification (and, in the case of partial redemption of any Series 2009 Bonds, the respective principal amounts) of the Series 2009 Bonds of such series to be redeemed;

(iv) a statement that on the redemption date the redemption price will become due and payable upon each such Series 2009 Bond or portion of a Series 2009 Bond called for redemption and that interest shall cease to accrue on the Series 2009 Bonds so called for redemption from and after said date; and

(v) the place where such Series 2009 Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Bond Registrar.

Prior to any redemption date, the Issuer shall deposit with the Bond Registrar an amount of money sufficient to pay the redemption price of all the Series 2009 Bonds or portions of Series 2009 Bonds which are to be redeemed on that date.

(e) *Effect of Notice of Redemption; Waivers.* Official notice of redemption having been given as prescribed above, the Series 2009 Bonds or portions of Series 2009 Bonds so to be redeemed shall, on the redemption date, become due and payable at the applicable redemption price, and from and after such date (unless the Issuer defaults in the payment of the redemption price), such Series 2009 Bonds or portions of Series 2009 Bonds shall cease to bear interest. Neither the failure to mail such redemption notice, nor any defect in any notice so mailed, to any particular Bondholder, shall affect the sufficiency of such notice with respect to other Series 2009 Bonds. Notice having been properly given, failure of a Bondholder to receive such notice shall not invalidate, limit or delay the effect of the notice or redemption action described in the notice. Such notice may be waived in writing by the Bondholder entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Bondholders shall be filed with the Bond Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

(f) *Payment of Redemption Price.* Upon surrender of such Series 2009 Bonds for redemption in accordance with said notice, such Series 2009 Bonds shall be paid by the Bond Registrar at the redemption price. The procedure for payment of interest due on or prior to the redemption date shall be as provided in this Bond Ordinance for payment of interest otherwise due. Upon surrender for the partial redemption of any Series 2009 Bond, there shall be prepared for the Bondholder a new Series 2009 Bond or Series 2009 Bonds of like tenor, of authorized denominations, of the same series and maturity and bearing the same rate of interest in the amount of the unpaid principal. If any Series 2009 Bond or portion of a Series 2009 Bond called for redemption shall not be so paid upon its surrender for redemption, the principal and premium (if any) shall, until paid or duly provided for, bear interest from the redemption date at the rate borne by the Series 2009 Bond or portion of Series 2009 Bond so called for redemption. All Series 2009 Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

(g) *Further Notice of Redemption.* In addition to the foregoing notice, if the Series 2009 Bonds are no longer held in the book-entry only system as provided in Section 11, further notice of redemption (“**Further Notice**”) shall be given by the Bond Registrar on behalf of the Issuer as set out in this subsection. No defect in the Further Notice nor any failure to give all or any portion of such Further Notice shall in any manner invalidate, limit or delay the redemption action if notice of redemption is given as above prescribed.

Each Further Notice shall contain the information required above for an official notice of redemption plus (a) the CUSIP numbers of all Series 2009 Bonds being redeemed; (b) the date of issue of the Series 2009 Bonds as originally issued; (c) the rate of interest borne by each Series 2009 Bond being redeemed; (d) the series and maturity date of each Series 2009 Bond being redeemed; and (e) any other descriptive information needed to identify accurately the Series 2009 Bonds being redeemed.

Each Further Notice shall be sent at least 35 days before the redemption date by registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds (such depositories now being The Depository Trust Company, of New York, New York), and to one or more national information services, chosen in the discretion of the Bond Registrar, that disseminate notice of redemption of obligations such as the Series 2009 Bonds.

Each Further Notice shall be published one time in *The Bond Buyer*, a financial newspaper published in New York, New York or, if such publication is impractical or unlikely to reach a substantial number of the Bondholders, in some other financial newspaper or journal which regularly carries notices of redemption of obligations similar to the Series 2009 Bonds, such publication to be made at least 30 days prior to the date fixed for redemption.

Section 7. Execution and Authentication of Series 2009 Bonds.

(a) *Execution.* Each Series 2009 Bond shall be executed by the manual or facsimile signature of the County Board Chairman and the manual or facsimile signature of the County Clerk and shall have the corporate seal of the Issuer affixed to or impressed on it (or a facsimile of that seal printed on it).

(b) *Facsimile Signatures.* The County Board Chairman and the County Clerk (if they have not already done so) are authorized to file with the Illinois Secretary of State their manual signatures certified by them pursuant to the Uniform Facsimile Signatures of Public Officials Act, as amended, which shall authorize the use of their facsimile signatures to execute the Series 2009 Bonds. Each Series 2009 Bond so executed shall be as effective as if manually executed. In case any officer of the Issuer whose signature or a facsimile of whose signature appears on the Series 2009 Bonds ceases to be such officer before authentication and delivery of any of the Series 2009 Bonds, that signature or facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until authentication and delivery.

(c) *Authentication.* No Series 2009 Bond shall be valid for any purpose unless and until a certificate of authentication on that Series 2009 Bond substantially in the form set forth in the bond form attached as *Exhibit C* and incorporated in Section 13 of this Bond Ordinance has been duly executed by an authorized officer of the Authenticating Agent. That certificate upon any Series 2009 Bond shall be conclusive evidence that the Series 2009 Bond has been authenticated and delivered under this Bond Ordinance. It is not necessary that the same officer sign the certificate of authentication on all of the Series 2009 Bonds.

Section 8. Appointment of Paying Agent, Authenticating Agent and Bond Registrar. U.S. Bank National Association, Chicago, Illinois, is appointed as Paying Agent, Bond Registrar and Authenticating Agent under this Bond Ordinance.

Section 9. Payment of Principal and Interest. The Series 2009 Bonds shall be payable in lawful money of the United States of America at the principal office of the Paying Agent. The principal of each Series 2009 Bond shall be payable at maturity upon presentment of the Series 2009 Bond at the principal office of the Paying Agent. Interest on each Series 2009 Bond shall be payable on each interest payment date by check or draft of the Paying Agent mailed to the person in whose name that Series 2009 Bond is registered on the books of the Bond Registrar at the close of business on the 1st day of the month in which that interest payment date falls.

Section 10. Registration, Transfer and Exchange of Series 2009 Bonds. The Series 2009 Bonds shall be negotiable, subject to the following provisions for registration and registration of transfer. The Issuer shall maintain or cause to be maintained books for the registration of the Series 2009 Bonds at the principal office of the Bond Registrar. Each Series 2009 Bond shall be registered on those books. Transfer of each Series 2009 Bond shall be registered on those books only upon surrender of that Series 2009 Bond to the Bond Registrar by the Bondholder or his or her attorney duly authorized in writing together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Bondholder or his or her duly authorized attorney. Upon surrender of a Series 2009 Bond for registration of transfer, the Issuer shall execute and the Authenticating Agent shall authenticate and deliver, in the name of the transferee, one or more new Series 2009 Bonds of the same series, of the same aggregate principal amount and of the same maturity as the Series 2009 Bonds surrendered.

Series 2009 Bonds may be exchanged, at the option of the Bondholder, for an equal aggregate principal amount of Series 2009 Bonds of the applicable series and of any other authorized denominations upon surrender of those Series 2009 Bonds at the principal corporate trust office of the Bond Registrar together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Bondholder or his or her duly authorized attorney.

In all cases in which the privilege of exchanging or transferring Series 2009 Bonds is exercised, the Issuer shall execute, the Authenticating Agent shall authenticate, and the Bond Registrar shall deliver, Series 2009 Bonds in accordance with the provisions of this Bond Ordinance. All Series 2009 Bonds surrendered in any exchange or transfer shall be canceled immediately by the Bond Registrar. The Issuer is authorized to prepare, and if it does so the Bond Registrar (or such other agent as the County Board may from time to time designate) is authorized to maintain custody of, multiple blank Series 2009 Bonds executed on behalf of the Issuer as provided in Section 7 for use in connection with the transfer and exchange of Series 2009 Bonds.

For every exchange or registration of transfer of Series 2009 Bonds, the Issuer or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge, other than one imposed by the Issuer, required to be paid with respect to that exchange or transfer, and payment of that charge by the person requesting exchange or registration of transfer shall be a condition precedent to that exchange or registration of transfer.

No other charge may be made by the Issuer or the Bond Registrar as a condition precedent to exchange or registration of transfer of any Series 2009 Bond.

The Bond Registrar shall not be required to exchange or register the transfer of any Series 2009 Bond (a) during the period from the close of business on the 15th day preceding an interest payment date on the Series 2009 Bonds to the opening of business on such interest payment date, or (b) after notice of redemption of that Series 2009 Bond or any portion of that Series 2009 Bond has been mailed, or (c) during the 15 days next preceding mailing of a notice of redemption of Series 2009 Bonds.

Section 11. Book - Entry Only System for the Series 2009 Bonds.

(a) *General.* The Series 2009 Bonds of each series shall be initially issued in the form of a separate single fully registered Bond for each of the maturities. Upon initial issuance, the ownership of each such Series 2009 Bond shall be registered in the Bond Register in the name of Cede & Co., as nominee of The Depository Trust Corporation (“DTC”), and except as provided in subsections (d) and (e) of this Section, all of the outstanding Series 2009 Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC.

(b) *Limitations on Obligations.* With respect to Series 2009 Bonds registered in the Bond Register in the name of Cede & Co., as nominee of DTC, the Issuer, the Paying Agent and the Bond Registrar shall have no responsibility or obligation to any participating member of DTC (“DTC Participant”) or to any person on behalf of whom such a DTC Participant holds an interest in the Series 2009 Bonds. Without limiting the immediately preceding sentence, the Issuer, the Paying Agent and the Bond Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Series 2009 Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Bondholder, as shown in the Bond Register, of any notice with respect to the Series 2009 Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Bondholder, as shown in the Bond Register, of any amount with respect to principal of, premium, if any, or interest on the Series 2009 Bonds.

(c) *Persons Treated as Owners Under Book-Entry System.* Notwithstanding any other provision of this Bond Ordinance to the contrary, the Issuer, the Bond Registrar and the Paying Agent shall be entitled to treat and consider the person in whose name such Series 2009 Bond is registered in the Bond Register as the absolute owner of such Series 2009 Bond for the purpose of payment of principal, premium, if any, and interest on such Series 2009 Bond, for the purpose of giving notices of redemption and other matters with respect to such Series 2009 Bond, for the purpose of registering transfers with respect to such Series 2009 Bond, and for all other purposes whatsoever. The Bond Registrar and the Paying Agent shall pay all principal of, premium, if any, and interest on the Series 2009 Bonds only to or upon the order of the respective Bondholders, as shown in the Bond Register as provided in this Bond Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to satisfy and discharge the Issuer’s obligations fully with respect to payment of principal of, premium, if any, and interest on the Series 2009 Bonds to the extent of the sum or sums so paid. No person other than a Bondholder, as shown in the Bond Register, shall receive a

Series 2009 Bond certificate evidencing the obligation of the Issuer to make payments of principal, premium, if any, and interest pursuant to this Bond Ordinance.

(d) Substitution of DTC Nominee. Upon delivery by DTC to the Bond Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Bond Ordinance, with respect to interest checks or drafts being mailed to the registered owner as of the close of business on the Record Date, the words “Cede & Co.” in this Bond Ordinance shall refer to such new nominee of DTC; and upon receipt of such a notice the Bond Registrar shall promptly deliver a copy of the same to the Paying Agent.

(e) Successor Securities Depository; Transfers Outside Book-Entry Only System. If the Issuer or the Bond Registrar determines that DTC is incapable of discharging its responsibilities described in this Bond Ordinance or that it is in the best interest of the beneficial owners of the Series 2009 Bonds that they be able to obtain certificated Series 2009 Bonds, the Issuer or the Bond Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Series 2009 Bond certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Series 2009 Bond certificates and transfer one or more separate Series 2009 Bond certificates to DTC Participants having Series 2009 Bonds credited to their DTC accounts. In such event, the Series 2009 Bonds shall no longer be restricted to being registered in the Bond Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Bondholders transferring or exchanging Series 2009 Bonds shall designate, in accordance with the provisions of this Bond Ordinance.

(f) Payments and Notices to DTC Nominee. Notwithstanding any other provision of this Bond Ordinance to the contrary, so long as any of the Series 2009 Bonds is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Series 2009 Bond and all notices with respect to such Series 2009 Bond shall be made and given, respectively, in the manner provided in the blanket issuer letter of representations referred to below and in the DTC Operational Arrangements from time to time in effect as provided in the blanket issuer letter of representations. The Bond Registrar shall request in each notice sent to Cede & Co. pursuant to the terms of this Bond Ordinance that Cede & Co. forward or cause to be forwarded such notice to the DTC Participants, but neither the Bond Registrar nor the Issuer shall be liable if the Bond Registrar fails to make such request or if Cede & Co. fails to honor such request.

(g) Blanket Letter of Representations. The County Board Chairman or, in his absence, the County Clerk or the County Treasurer are each authorized to execute and deliver to DTC and the Paying Agent DTC’s standard form of “Blanket Issuer Letter of Representations”.

Section 12. Persons Treated as Owners of Series 2009 Bonds. The Issuer, the Paying Agent and the Bond Registrar may treat the Bondholder of any Series 2009 Bond as its absolute owner, whether or not that Series 2009 Bond is overdue, for the purpose of receiving payment of the principal of or interest on that Series 2009 Bond and for all other purposes, and

neither the Issuer, the Bond Registrar nor the Paying Agent shall be affected by any notice to the contrary. Payment of the principal of and interest on each Series 2009 Bond shall be made only to its Bondholder, and all such payments shall be valid and effective to satisfy the obligation of the Issuer on that Series 2009 Bond to the extent of the amount paid.

Section 13. Form of the Series 2009 Bonds. The Series 2009 Bonds shall be in substantially the form set forth in *Exhibit C* to this Bond Ordinance, with appropriate insertions and changes. *Exhibit C* is incorporated by reference in this Section 13 and shall for all purposes be a part of this Bond Ordinance.

Section 14. Nature of Obligation. The Series 2009 Bonds shall constitute general obligations of the Issuer. The Pledged Revenues, the Pledged Taxes and the full faith and credit of the Issuer are pledged to the payment of the principal of and interest on the Series 2009 Bonds.

Section 15. Treatment of Series 2009 Bonds As Indebtedness. The Series 2009 Bonds shall be payable from the Pledged Revenues and the Pledged Taxes, as provided in Section 15 of the Debt Reform Act, and shall not constitute indebtedness of the Issuer within the meaning of any constitutional or statutory limitation unless the Pledged Taxes shall have been extended pursuant to the Issuer's pledge of its full faith and credit in Section 14 and the general obligation tax levy made in Section 19. In that event, as provided in Section 15 of the Debt Reform Act, the amount of the Series 2009 Bonds then Outstanding shall be included in the computation of indebtedness of the Issuer for purposes of all statutory provisions or limitations until such time as an audit of the Issuer shows that the Series 2009 Bonds have been paid from the Pledged Revenues for a complete Fiscal Year, in accordance with the Debt Reform Act.

Section 16. Sale of Series 2009 Bonds; Determination of Terms of the Series 2009 Bonds; Ratification of Certain Actions; Approval of Official Statement; Authentication and Delivery of Series 2009 Bonds.

(a) The Authorized Officers are authorized to determine the terms of the Series 2009 Bonds and to sell the Series 2009 Bonds on such terms as the Authorized Officers may deem to be in the best interests of the Issuer within the limitations set forth in this Bond Ordinance.

(b) The Authorized Officers may in the Determination Certificate make such changes to the terms of the Series 2009 Bonds and the form of the Series 2009 Bonds from those provided in this Bond Ordinance as they shall determine but which shall result in the Series 2009 Bonds having substantially the terms and being in substantially the form provided by this Bond Ordinance.

(c) Any one of the Authorized Officers is authorized to accept the best bid received by the Issuer at the sale of the Series 2009 Bonds and to execute and deliver the bid or any related bond purchase agreement submitted by the Purchaser on behalf of the City.

(d) Upon a finding by the Authorized Officers that the purchase of a policy of municipal bond insurance for all or any portion of the Series 2009 Bonds is likely to facilitate the

marketing and sale of the Series 2009 Bonds and permit completion of such sale in a timely fashion, and that such policy is available at an acceptable premium, the Authorized Officers are authorized to cause the Issuer to purchase a policy of municipal bond insurance for all or any portion of the Series 2009 Bonds, payable from amounts received from the sale of the Series 2009 Bonds, and (i) to include in the Determination Certificate such customary terms, covenants and administrative provisions relating to the insurance for such Series 2009 Bonds as the provider of such municipal bond insurance policy may require or (ii) to execute any related agreements with the provider of such municipal bond insurance policy containing such terms, covenants and administrative provisions. Such policy shall be provided by a bond insurance company or association approved by the Authorized Officers.

(e) Subsequent to the sale of the Series 2009 Bonds, the Authorized Officers shall file in the office of the Clerk, addressed to the County Board,

(i) a Determination Certificate setting forth the terms and terms of sale of the Series 2009 Bonds, including, without limitation, the aggregate principal amount of the Series 2009 Bonds (*provided* that the aggregate principal amount of the Series 2009 Bonds may not exceed the lesser of (A) \$40,000,000 and (B) the amount necessary to accomplish the public purposes for which the Series 2009 Bonds are being issued, the aggregate principal amount of the Series 2009A Bonds may not exceed \$24,500,000, and the aggregate principal amount of the Series 2009B Bonds may not exceed \$17,500,000), the Series 2009 Bonds of each series (if any) the interest on which is intended to be Tax-exempt and a designation of those Series 2009 Bonds as “qualified tax-exempt obligations” under Section 265(b)(3)(B) of the Code pursuant to Section 35, the designation of the Series 2009A Bonds if necessary or desirable to reflect the status of interest on the Series 2009A Bonds as Tax-exempt or taxable, the designation of all or any portion of the Series 2009A Bonds as “Build America Bonds” pursuant to Section 35(b), the interest rate or rates per year payable on each maturity of each series of the Series 2009 Bonds (*provided* that the rate per year for any maturity of Tax-exempt Series 2009A Bonds may not exceed nine percent and the rate per year for any maturity of the Series 2009B Bonds and any maturity of the Series 2009A Bonds that are not Tax-exempt may not exceed thirteen percent), the maturities of the Series 2009 Bonds of each series (*provided* that (A) the final maturity of the Series 2009 Bonds may not be later than December 15, 2014, and (B) the amounts of principal of and interest due on the Series 2009 Bonds in any calendar year, including principal scheduled to fall due pursuant to mandatory sinking fund redemptions applicable to Term Bonds, may not exceed the amounts of the *ad valorem* taxes levied to pay such amounts in Section 19 of this Bond Ordinance), the issuance of the Series 2009 Bonds of each series as Serial Bonds, Term Bonds, or any combination of Serial Bonds and Term Bonds, the amount of any net original issue discount or net original issue premium upon the sale of the Series 2009 Bonds (which shall not exceed in the aggregate an amount equal to 10% of the face amount of the Series 2009 Bonds), the sale price of each series of the Series 2009 Bonds (which shall be in the aggregate not less than 98 percent of the original principal amount net of any net original issue discount or premium), and the amounts of the proceeds of sale of the Series 2009 Bonds to be applied to the purposes as provided in Section 18 (*provided* that the amount to be applied to pay the costs of issuance of the Series 2009 Bonds may not exceed two percent (2%) of the proceeds of sale of the Series 2009 Bonds), all as provided in and subject to the limitations expressed in this Bond Ordinance, and approving the final form of the Official Statement and any addenda to it as provided in subsection (g) below;

(ii) an executed copy of the winning bid; and

(iii) the Official Statement (defined below) and any addenda to it.

The Determination Certificate shall be deemed a part of this Bond Ordinance. The determinations made by the Authorized Officers in the Determination Certificate shall be final, conclusive, and binding upon the Issuer, the Bond Registrar, the Purchaser and the subsequent

holders from time to time of the Series 2009 Bonds if within the limitations set forth in this Section 16(e). The Determination Certificate shall be filed by the County Clerk in the official record of the proceedings of the County Board along with this Bond Ordinance.

(f) If the Series 2009 Bonds are sold so as to require the levy of taxes in 2010 or any subsequent year less than the aggregate amount levied pursuant to Section 19 of this Bond Ordinance, then the Authorized Officers shall include, in the Determination Certificate, the amount of any reduction in the amount levied pursuant to Section 19 for 2010 and any subsequent year resulting from the sale of Series 2009 Bonds with lesser maturities (after taking into account mandatory redemptions) or lesser payments of interest, and, in addition, the County Treasurer shall file in the office of the County Clerk a certificate of tax abatement for such years. Any certificate of tax abatement delivered pursuant to this paragraph shall refer to the amount of taxes levied pursuant to Section 19, shall indicate the amount of reduction in the amount of taxes levied pursuant to Section 19 resulting from the sale of the Series 2009 Bonds, which reduced amount is to be abated from such taxes, and shall further indicate the remainder of such taxes which is to be extended for collection by the County Clerk if not abated pursuant to Section 21.

(g) All actions of the Issuer and its officers and employees relating to the authorization, offering, issuance and sale of the Series 2009 Bonds, including the adoption and publication of the Alternate Bond Authorizing Ordinance, the publication of public notice for and the holding of the public hearing described in Section 1(m), and the preparation of an Official Notice of Sale and an Official Statement pertaining to the Series 2009 Bonds (the “**Official Statement**”) in the form attached as *Exhibit C*, are ratified, confirmed and approved.

(h) The Authorized Officers shall provide written assurance to the Purchaser, in the Determination Certificate or in a separate certificate to be delivered in connection with the issuance of the Series 2009 Bonds, that the Official Statement is “deemed final” by the Issuer for purposes of Rule 15c2-12 (the “**Rule**”) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, except for information that the Rule permits to be omitted.

(i) The Authorized Officers are authorized to cause to be prepared, and any one of the Authorized Officers is authorized to execute and deliver, any necessary addenda to the Official Statement on behalf of the Issuer pertaining to the Series 2009 Bonds setting forth such information as is necessary to supplement the Official Statement to reflect accurately the terms of the Series 2009 Bonds. In the Determination Certificate, the Authorized Officers shall approve the final version of any necessary addenda to the Official Statement.

(j) The Series 2009 Bonds shall be executed as provided in this Bond Ordinance and shall be delivered to the County Treasurer. The County Treasurer is authorized to deliver the Series 2009 Bonds to the Authenticating Agent and the Authenticating Agent is authorized and directed to authenticate the Series 2009 Bonds and deliver them to the Purchaser upon receipt by the Issuer of the purchase price specified in the Determination Certificate.

(k) The Authorized Officers are further authorized to take the actions and execute and deliver the documents and instruments specified in this Bond Ordinance and to execute and deliver such other documents and take such other actions as may be necessary or

desirable in connection with the issuance, sale and delivery of the Series 2009 Bonds, including, but not limited to, the exercise following the delivery date of the Series 2009 Bonds of any power or authority delegated to the Authorized Officers under this Bond Ordinance upon original issuance, but subject to any limitations on or restrictions of such power or authority set forth in this Bond Ordinance.

Section 17. Bond Fund – Accounts. There is created a special fund of the Issuer, which fund shall be held separate and apart from all other funds and accounts of the Issuer and shall be known as the “General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009 Bond and Interest Fund” (the “**Bond Fund**”). All of the Pledged Revenues and Pledged Taxes designated to pay principal of, interest on and premium, if any, with respect to the Series 2009 Bonds shall be set aside as collected and deposited by the County Treasurer into the Bond Fund, which shall be a trust fund established for the purpose of carrying out the covenants, terms and conditions imposed upon the Issuer by this Bond Ordinance. The Series 2009 Bonds are secured by a pledge of all of the moneys from time to time on deposit in the Bond Fund, and such pledge is irrevocable until the obligations of the Issuer are discharged under this Bond Ordinance.

The Pledged Revenues and Pledged Taxes are to be paid to the County Treasurer by the officers who collect or receive the Pledged Revenues or Pledged Taxes. Whenever the County Treasurer receives (i) any of the Pledged Revenues designated to pay principal of, interest on and premium, if any, with respect to the Series 2009 Bonds or (ii) Pledged Taxes, he shall promptly deposit the same into the Bond Fund. The moneys on deposit in the Bond Fund shall be used by the Issuer solely and only for the purpose of carrying out the terms and conditions of this Bond Ordinance and shall be deposited as provided below to the separate accounts created within the Bond Fund to be known as the “**Principal and Interest Account**” and the “**Administrative Expense Account.**” As moneys are deposited by the Issuer into the Bond Fund, they shall be credited on or before the first business day of each month by the County Treasurer, without any further official action or direction, in the following accounts in the following order:

(a) *Principal and Interest Account.* There are established within the Principal and Interest Account separate subaccounts to be known as the “**Pledged Revenues Subaccount**” and the “**Pledged Taxes Subaccount.**” Except as provided below, moneys to the credit of the Pledged Revenues Subaccount and the Pledged Taxes Subaccount shall be used only for the purpose of paying principal of and interest on the Series 2009 Bonds as the same become due. Beginning immediately upon the issuance and delivery of the Series 2009 Bonds, the County Treasurer shall credit to and shall immediately deposit the Pledged Revenues and Pledged Taxes into the Principal and Interest Account as follows:

(i) From the Pledged Revenues, the County Treasurer, from time to time but not less often than monthly, shall first credit to and shall immediately deposit into the Pledged Revenues Subaccount (A) a fractional amount of the interest coming due on the next succeeding interest payment date on all Outstanding Series 2009 Bonds and (B) a fractional amount of the principal coming due on the next succeeding principal maturity date or mandatory sinking fund redemption date on all Outstanding Series 2009 Bonds, until there shall have been accumulated in the Principal and Interest Subaccount on or before the first day of the month in which such maturity date of principal, mandatory sinking fund redemption date

or interest payment date occurs, an amount sufficient to pay (A) such principal or redemption price or (B) such interest, or both, with respect to all Outstanding Series 2009 Bonds due on such date.

(ii) In computing the fractional amounts to be set aside each month in the Principal and Interest Subaccount, the fraction shall be computed so that sufficient funds will be set aside in this Subaccount and will be available for the prompt payment of interest on and principal or mandatory sinking fund redemption price of all Outstanding Series 2009 Bonds as the same shall become due. The fraction shall be not less than one-fifth of the interest coming due on the next succeeding interest payment date and not less than one-eleventh of the principal or principal portion of the mandatory sinking fund redemption price coming due on the next succeeding principal maturity date or mandatory sinking fund redemption date on all Outstanding Series 2009 Bonds. Such deposits shall be made until there is sufficient money in this Subaccount to pay such interest or principal or both.

(iii) Credits to the Principal and Interest Subaccount may be suspended in any Fiscal Year at such time as there is a sufficient sum in this Subaccount, held in cash and investments, to meet all principal, mandatory sinking fund redemption and interest requirements for the balance of that Fiscal Year, but such credits shall be resumed at the beginning of the next Fiscal Year.

(iv) The County Treasurer shall immediately deposit the Pledged Taxes as received to the credit of the Pledged Taxes Subaccount. Pledged Taxes are irrevocably pledged and shall be used only for the purpose of paying principal of and interest on the Series 2009 Bonds.

If there are moneys to the credit of both the Pledged Revenues Subaccount and the Pledged Taxes Subaccount on any maturity date of principal, mandatory sinking fund redemption date or interest payment date for the Series 2009 Bonds, moneys to the credit of the Pledged Taxes Subaccount shall be used first to pay principal or mandatory sinking fund redemption price of and interest on the Series 2009 Bonds and the Pledged Taxes Subaccount shall be fully depleted before moneys to the credit of the Pledged Revenues Subaccount are used to pay principal or mandatory sinking fund redemption price of or interest on the Series 2009 Bonds.

(b) Administrative Expense Account. After crediting the required amounts to the Principal and Interest Account, there shall be credited to the Administrative Expense Account from Pledged Revenues an amount sufficient to pay for Administrative Costs for the then-current month. Moneys on deposit in the Administrative Expense Account shall *first* be transferred by the County Treasurer, if necessary, to remedy any deficiencies in the Principal and Interest Account in the Bond Fund; and, *thereafter*, shall be applied to pay Administrative Costs for the then current month.

All moneys remaining in the Bond Fund, after crediting the required amounts to the Principal and Interest Account and the Administrative Expense Account as provided above and after making up any deficiency in those accounts, shall be credited to the Rebate Account in the amounts required by subsection (c) below. Remaining moneys in the Bond Fund (i) derived from Pledged Revenues may be transferred to such other fund or account of the Issuer as may be directed by the County Board and used for proper corporate purposes, and (ii) derived from Pledged Taxes on deposit in the Pledged Taxes Subaccount shall be used only to pay principal of and interest on the Series 2009 Bonds.

(c) Rebate Account. There is created by this Bond Ordinance a separate and special account within the Bond Fund known as the "Rebate Account," into which there shall be

deposited from time to time (i) investment earnings in the Principal and Interest Account, the Administrative Expense Account and the Project Fund created in Section 18 and (ii) surplus moneys in the Bond Fund, to the extent required under the Code to pay rebates, special impositions or taxes payable to the United States of America (Internal Revenue Service). All rebates, special impositions or taxes for such purpose shall be payable from the Rebate Account, and moneys in the Rebate Account may be used only for this purpose.

(d) Investments. Moneys on deposit in the Bond Fund and the various accounts in it may be invested from time to time pursuant to any authorization granted to municipalities by Illinois statute or court decision.

Any such investments may be sold from time to time by the Issuer as moneys are needed for the purposes for which the Bond Fund and such accounts have been created. In addition, the County Treasurer shall sell such investments when necessary to remedy any deficiency in the Bond Fund or such accounts created in it. Any investment earnings shall be attributed to the account within the Bond Fund for which the investment was made.

Investments in the various accounts shall mature or be subject to redemption at the option of the holder prior to the time when needed, and, in any event, within the times as follows:

| <u>Account</u> | <u>Time</u> |
|------------------------|-------------|
| Principal and Interest | 6 Months |
| Administrative Expense | 6 Months |
| Rebate Account | 6 Months |

Moneys in any of the various accounts shall be invested by the County Treasurer, if necessary, in investments restricted as to yield, which investments may be in United States Treasury Obligations — State and Local Government Series, if available, and to such end the County Treasurer shall refer to any investment restrictions covenanted by the Issuer or any of its officers as part of the transcript of proceedings for the issuance of the Series 2009 Bonds, and to appropriate opinions and written advice of counsel.

The deposits of moneys in the Bond Fund (other than the Rebate Account) and investments of moneys on deposit in the Bond Fund (other than the Rebate Account) may be commingled for deposit and investment purposes with other funds of the Issuer established solely for paying principal of and interest on other general obligation bonds of the Issuer. Moneys in the Bond Fund shall never be commingled with or loaned to any other funds of the Issuer which were not established for such a purpose or which are used for any other purpose, as long as any Series 2009 Bonds are outstanding and unpaid. Moneys in the Rebate Account and investments of moneys on deposit in the Rebate Account shall never be commingled with or loaned to any other funds of the Issuer.

(e) Transfers. Any amounts to the credit of the various accounts in the Bond Fund in excess of the then current requirement may be transferred by the County Board to such other accounts in the Bond Fund as the County Board may in its sole discretion designate;

provided, that Pledged Taxes on deposit in the Pledged Taxes Subaccount may be used only to pay principal of and interest on the Series 2009 Bonds.

(f) *Appropriation and Pledge.* Amounts deposited in the Principal and Interest Account of the Bond Fund, including amounts deposited in it pursuant to Section 21 of this Bond Ordinance, are appropriated for and irrevocably pledged to, and shall be used only for the purpose of, paying the principal of and interest on the Series 2009 Bonds, or reimbursing general funds of the Issuer expended for those purposes as provided in Section 18 of this Bond Ordinance, or for making transfers from the Bond Fund or the Rebate Account of interest and other investment earnings as allowed by the preceding subsections of this Section.

Section 18. Application of Series 2009 Bond Proceeds. The proceeds derived from the sale of the Series 2009 Bonds shall be applied as follows:

(i) The proceeds of sale of the Series 2009 Bonds shall be set aside in a separate fund which is created by this Bond Ordinance and designated as the “General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009 Project Fund” (the “**Project Fund**”), which the Issuer shall maintain as a separate and segregated account. The Project Fund shall consist of a separate and segregated account for each subseries, designated as the “Series 2009A Project Account” and the “Series 2009B Project Account”, respectively. Proceeds of the Series 2009A Bonds shall be deposited into the Series 2009A Project Account and Proceeds of the Series 2009B Bonds shall be deposited into the Series 2009B Project Account.

(ii) Money in the Project Fund shall be withdrawn from time to time as needed for the payment of costs of the Project and paying the fees and expenses incidental to it and to the issuance of the Series 2009 Bonds, and such money is appropriated for that purpose. Moneys on deposit in the Project Fund shall be disbursed by the Issuer from time to time to pay costs of the Project upon submission to the County Treasurer of the following with respect to each disbursement:

- (A) If such disbursement is for payment to a supplier, materialman or contractor for work done in connection with the Project, a certificate executed by the engineer or architect in responsible charge of the construction of the Project stating the amount of materials supplied or the nature of the work completed, that such materials have been properly accepted or such work approved by him, the amount due and payable, and the amount remaining to be paid in connection with the Project; and
- (B) For all disbursements, a duplicate copy of the order signed by an officer of the Issuer, stating specifically the purpose for which the order is issued and indicating that the payment for which the order is issued has been approved by the Issuer.
- (C) Within sixty (60) days after depletion of the Project Fund or payment of all costs of the Project as approved by the County Board, the County Treasurer shall certify to the County Board the fact of such depletion or the engineer or architect in responsible charge of the Project shall certify to the County Board the fact that the work has been completed according to approved plans and specifications, as applicable, and upon approval of such certification by the County Board funds (if any) remaining in the Project Fund shall be credited by the County Treasurer to the Bond Fund; and the Project Fund shall be closed.
- (D) Funds on deposit in the Project Fund may be invested by the County Treasurer in the same manner as provided in Section 17 of this Bond Ordinance for money in the Principal and Interest Account. All investment earnings in the Project Fund shall first be credited to the Rebate Account as necessary to maintain the Tax-exempt status of Series

2009 Bonds the interest on which is intended to be Tax-exempt and next shall be credited to the appropriate account in the Project Fund.

(b) All amounts received upon the sale of the Series 2009 Bonds, together with all interest and other investment earnings on those amounts, are appropriated and set aside for the purposes for which the Series 2009 Bonds are being issued as set forth in this Bond Ordinance.

Section 19. Tax Levy. There is levied a direct annual *ad valorem* tax (the “**Pledged Taxes**”) upon all taxable property within the Issuer sufficient to pay and discharge the principal of the Series 2009 Bonds at maturity and to pay interest on the Series 2009 Bonds due for each year, including specifically the following amounts for the following years:

| <u>Year of Levy</u> | <u>An Amount Sufficient to Produce the Sum of:</u> |
|---------------------|--|
| 2009 | \$ 9,500,000 for principal and interest |
| 2010 | 9,500,000 for principal and interest |
| 2011 | 9,500,000 for principal and interest |
| 2012 | 9,500,000 for principal and interest |
| 2013 | 9,500,000 for principal and interest |

The Pledged Taxes shall be in addition to and in excess of all other taxes levied by the Issuer. If at any time following the extension of any Pledged Taxes sufficient funds are not on hand from amounts derived from the Pledged Taxes to make a payment of interest or principal on the Series 2009 Bonds as it becomes due, that payment shall be made from the general funds of the Issuer. Those general funds shall be reimbursed from the amounts derived from the Pledged Taxes when those amounts shall be on hand (and not needed for paying other payments of interest or principal then coming due on the Series 2009 Bonds). The Issuer pledges the Pledged Taxes irrevocably to the payment of the Series 2009 Bonds, subject to the Issuer’s right to abate the Pledged Taxes provided in Section 16(f) and in Section 21.

Section 20. Filing of Tax Levy; Duties of County Clerk. A certified copy of this Bond Ordinance shall be filed after the effective date of this Bond Ordinance and prior to the issuance and delivery of the Series 2009 Bonds with the County Clerk. It shall be the duty of the County Clerk in each year to ascertain the rate necessary to produce the tax levied in Section 19 and to extend that tax for collection on the tax books against all of the taxable property situated within the Issuer, without limitation as to rate or amount, in connection with other taxes levied in such year for general Issuer purposes. Such taxes shall be computed, extended and collected in the same manner as is now or may subsequently be provided for the computation, extension and collection of taxes for general purposes of the Issuer. The taxes levied and extended pursuant to this Bond Ordinance shall be in addition to and in excess of all other taxes levied by the Issuer.

Section 21. Abatement of Pledged Taxes. Prior to the deadline for the timely annual abatement of the Pledged Taxes for the Series 2009 Bonds, but in no event *earlier* than December 1st of the year in which such Pledged Taxes are levied (*i.e.* the year prior to extension and collection), the County Treasurer shall deposit Pledged Revenues into the Pledged Revenues Subaccount in an amount necessary to provide for the payment of interest and principal coming due on the Series 2009 Bonds in the following calendar year otherwise payable from the

proceeds of such tax levy. Upon (but in no event prior to) the deposit of such moneys, the County Board, or the officers of the Issuer acting with proper authority, shall direct the abatement of the Pledged Taxes and proper notification of such abatement shall be filed with the County Clerk in a timely manner to effect such abatement.

In abating taxes, the County Board shall adopt an ordinance or ordinances (the “**Abatement Ordinance**”) setting forth the following items.

(a) The amount of funds available from Pledged Revenues or other lawfully available sources or the reduction in debt service attributable to purchases by the Issuer of the Series 2009 Bonds to enable the abatement of the Pledged Taxes.

(b) An appropriation of such funds to pay principal of and interest on the Series 2009 Bonds.

(c) A direction to the County Treasurer to deposit such funds not already held in the Bond Fund into the Bond Fund or to reimburse a fund or account from which advances to the Bond Fund in anticipation of Pledged Taxes were made and thereupon to notify the County Clerk of such deposit;

(d) A statement of the year and the amount of abatement of Pledged Taxes, which amount to be abated shall not exceed the amount of such available funds; and

(e) A direction to file a certified copy of the Abatement Ordinance in the offices of the County Clerk.

Upon notification from the County Treasurer that any deposits required by the Abatement Ordinance to be made into the Bond Fund have been made, a certified copy of the Abatement Ordinance shall be filed with the County Clerk.

The filing of such Abatement Ordinance shall be complete authority to the County Clerk to cause such abatement.

Section 22. Pledge of Pledged Revenues. The Issuer pledges irrevocably the Pledged Revenues to the payment of the Series 2009 Bonds and any Additional Bonds.

As provided in Section 15 of the Debt Reform Act, the County Board covenants, to the extent it is empowered to do so, to provide for, collect and apply the Pledged Revenues to the payment of the Series 2009 Bonds and the provision of not less than an additional .25 times debt service on the Series 2009 Bonds. As provided in Section 15 of the Debt Reform Act, this Bond Ordinance shall constitute a continuing appropriation of the Pledged Revenues as received for deposit in the Pledged Revenues Subaccount of the Principal and Interest Account of the Bond Fund.

Section 23. Additional Obligations Payable From Pledged Revenues. The Issuer reserves the right to issue additional alternate bonds (“**Additional Bonds**”) from time to time payable from the Pledged Revenues, subject to the requirements of the Debt Reform Act

pertaining to the authorization and issuance of alternate bonds, and such Additional Bonds shall share ratably and equally in the Pledged Revenues with the Series 2009 Bonds.

Any such additional bonds and other obligations which may be issued in compliance with this Section shall be payable as to principal on December 15th and as to interest on June 15th and December 15th in each year in which principal and/or interest come due.

Section 24. Refunding Bonds. Refunding bonds issued to refund Series 2009 Bonds, whether at or in advance of maturity, may be issued by the Issuer subject to the limitations of and in accordance with the provisions of the Counties Code and the Debt Reform Act.

Section 25. Defeasance. Series 2009 Bonds which are no longer Outstanding as defined in this Bond Ordinance shall cease to have any lien on or right to receive or be paid from Pledged Revenues and Pledged Taxes and shall no longer have the benefits of any covenant made in this Bond Ordinance for the Bondholders of Outstanding Series 2009 Bonds.

The term “**Outstanding**” means Series 2009 Bonds or refunding Series 2009 Bonds or Additional Bonds which have been issued and delivered, which remain unpaid, and for the full and punctual payment of which when due no provision has been made by the Issuer. The term “Outstanding” does not include Series 2009 Bonds or refunding Series 2009 Bonds or Additional Bonds (a) which have matured or have been duly called for redemption and for which moneys are irrevocably on deposit with a Paying Agent sufficient to pay all interest due on such Bonds and all principal of such Bonds through the date of maturity or redemption, or (b) the provision for payment of which has been made by the Issuer by the deposit in an irrevocable trust or escrow of any combination of cash and non-callable direct, full faith and credit obligations of the United States of America, the principal of and interest on which will be sufficient to pay at maturity or as called for redemption all the principal of and interest on such Bonds or Additional Bonds.

Section 26. This Bond Ordinance a Contract; Amendments. Upon the issuance of the Series 2009 Bonds, the provisions of this Bond Ordinance shall constitute a contract between the Issuer and the Bondholders of the Series 2009 Bonds, and no changes, additions or alterations of any kind shall be made to this Bond Ordinance, except as provided in this Bond Ordinance. This Bond Ordinance may be amended from time to time without the consent of the Bondholders to pledge additional sources of revenue to the payment of the Series 2009 Bonds.

Section 27. Bond Registrar Covenants. If requested by the Bond Registrar, the County Board Chairman and County Clerk of the Issuer are authorized to execute the Bond Registrar’s standard form of agreement between the Issuer and the Bond Registrar with respect to the obligations and duties of the Bond Registrar under this Bond Ordinance. Subject to modification by the express terms of any such agreement, such duties shall include the following:

- (A) to act as bond registrar, authenticating agent, paying agent and/or transfer agent as provided in this Bond Ordinance;

- (B) to maintain a list of Bondholders as set forth in this Bond Ordinance and to furnish such list to the Issuer upon request, but otherwise to keep such list confidential to the extent permitted by law;
- (C) to cancel and/or destroy Series 2009 Bonds which have been paid at maturity or upon earlier redemption or submitted for exchange or transfer;
- (D) to furnish the Issuer at least annually a certificate with respect to Series 2009 Bonds canceled and/or destroyed; and
- (E) to furnish the Issuer at least annually an audit confirmation of Series 2009 Bonds paid, Series 2009 Bonds Outstanding and payments made with respect to interest on the Series 2009 Bonds.

The County Clerk is directed to file a certified copy of this Bond Ordinance with the Bond Registrar.

The Issuer covenants with respect to the Bond Registrar, and the Bond Registrar further covenants and agrees, as follows:

- (A) The Issuer shall at all times retain a Bond Registrar with respect to the Series 2009 Bonds; it will maintain at the designated office(s) of such Bond Registrar a place or places where Series 2009 Bonds may be presented for payment, registration, transfer or exchange; and it will require that the Bond Registrar properly maintain the Bond Register and perform the other duties and obligations imposed upon it as Bond Registrar and Authenticating Agent by this Bond Ordinance in a manner consistent with the standards, customs and practices of the municipal securities industry.
- (B) The Bond Registrar and Authenticating Agent shall signify its acceptance of the duties and obligations imposed upon it by this Bond Ordinance by executing the certificate of authentication on any Series 2009 Bond, and by such execution the Bond Registrar and Authenticating Agent shall be deemed to have certified to the Issuer that it has all requisite power to accept and has accepted such duties and obligations not only with respect to the Series 2009 Bond so authenticated but with respect to all the Series 2009 Bonds. The Bond Registrar and Authenticating Agent shall be the agent of the Issuer and shall not be liable in connection with the performance of its duties except for its own negligence or willful wrongdoing. The Bond Registrar and Authenticating Agent shall, however, be responsible for any representation in its certificate of authentication on Series 2009 Bonds.
- (C) The Issuer may remove the Bond Registrar and Authenticating Agent at any time. If at any time the Bond Registrar and Authenticating Agent resigns, is removed by the Issuer, becomes incapable of acting, or is adjudicated a bankrupt or insolvent, or if a receiver, liquidator, or conservator of the Bond Registrar and Authenticating Agent or of its property is appointed, or if any public officer takes charge or control of the Bond Registrar and Authenticating Agent or of its property or affairs, the Issuer shall promptly appoint a successor Bond Registrar and Authenticating Agent. The Issuer shall give notice by certified mail of any such appointment made by it to each Bondholder of any Series 2009 Bond within twenty days after such appointment. Any successor Bond Registrar and Authenticating Agent appointed under the provisions of this Section shall be a bank, trust company, or national banking association authorized to conduct a trust business in and maintaining a corporate trust office in Illinois, having capital and surplus and undivided profits in excess of \$50,000,000, and having substantial experience in serving in those capacities in connection with municipal bond issues.

Section 28. General Covenants. The Issuer covenants with the Purchaser and the Bondholders that, so long as any Series 2009 Bonds remain Outstanding:

- (A) it will take all actions, if any, which shall be necessary in order further to provide for the levy, extension, collection and application of the Pledged Taxes;
- (B) it will not take any action or fail to take any action which would in any way adversely affect (1) the levy, extension, collection and application of the Pledged Taxes, except to abate those taxes to the extent that money is on hand and irrevocably set aside in the Bond Fund to pay principal of and interest on the Series 2009 Bonds, or (2) the ability of the Issuer to collect the Pledged Revenues;
- (C) it will comply with all applicable present and future laws concerning (1) the levy, extension and collection of the Pledged Taxes in order to ensure that the Pledged Taxes will be levied, extended and collected as provided in this Bond Ordinance and deposited into the Bond Fund, and (2) the Pledged Revenues in order to ensure that the Pledged Revenues will be available and deposited into the Bond Fund; in each case so that the Issuer is able to pay the principal of and interest on the Series 2009 Bonds as they come due;
- (D) it will punctually pay or cause to be paid from the Bond Fund the principal of, interest on and premium, if any, to become due in respect to the Series 2009 Bonds in strict conformity with the terms of the Series 2009 Bonds and this Bond Ordinance, and it will faithfully observe and perform all of the conditions, covenants and requirements of the Series 2009 Bonds and this Bond Ordinance;
- (E) it will pay and discharge, or cause to be paid and discharged, from the Bond Fund any and all lawful claims which, if unpaid, might become a lien or charge upon the Pledged Revenues or Pledged Taxes, or any part of them, or upon any funds in the hands of the Paying Agent, or which might impair the security of the Series 2009 Bonds. This covenant does not require the Issuer to make any such payment so long as the Issuer in good faith contests the validity of said claims;
- (F) it will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the Project, to the Pledged Revenues, to the Pledged Taxes, and to the Bond Fund, and which shall be subject at all times during business hours to inspection and copying by Bondholders or beneficial owners of Series 2009 Bonds owning at least ten percent (10%) of the principal amount of the Series 2009 Bonds or their representatives duly authorized in writing;
- (G) it will preserve and protect the security of the Series 2009 Bonds and the rights of the Bondholders, and will warrant and defend their rights against all claims and demands of all persons. From and after the sale and delivery of any of the Series 2009 Bonds by the Issuer, the Series 2009 Bonds will be incontestable by the Issuer ;
- (H) it will adopt, make, execute and deliver any and all such further ordinances, resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention of, or to facilitate the performance of, this Bond Ordinance, and for the better assuring and confirming unto the Bondholders of the rights and benefits provided in this Bond Ordinance;
- (I) as long as any Series 2009 Bonds are Outstanding, it will continue to deposit the Pledged Revenues and, if applicable, the Pledged Taxes to the Bond Fund. So long as any Series 2009 Bonds remain Outstanding, the Issuer will take no action or fail to take any action

which in any way would adversely affect the ability of the Issuer to collect the Pledged Revenues and the Pledged Taxes; and

- (J) once issued, the Series 2009 Bonds will be and will forever remain until paid or defeased the general obligations of the Issuer, for the payment of which its full faith and credit are pledged, and will be payable, in addition to the Pledged Revenues, from the levy of the Pledged Taxes as provided in the Debt Reform Act.

Section 29. Not Private Activity Bonds. None of the Series 2009 Bonds is a “private activity bond” as defined in Section 141(a) of the Code. In support of such conclusion, the Issuer certifies, represents and covenants as follows:

- (A) Not more than five percent of the proceeds of the Series 2009 Bonds will be used, directly or indirectly, in any trade or business carried on by any person other than a state or local governmental unit other than as a member of the general public.
- (B) The payment of more than five percent of the principal of or the interest on the Series 2009 Bonds, considered separately, will not be, directly or indirectly (i) secured by any interest in (A) property used or to be used in any activity carried on by any person other than a state or local governmental unit or (B) payments in respect of such property or (ii) on a present value basis, derived from payments (whether or not by or to the Issuer) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local government unit.
- (C) None of the proceeds of the Series 2009 Bonds will be used, directly or indirectly, to make or finance loans to persons other than a state or local governmental unit.
- (D) The Project will be available for use by the general public. No user of the Project other than the Issuer will use the Project on any basis other than the same basis as the general public; and no person other than the Issuer will be a user of the Project as a result of (i) ownership or (ii) actual or beneficial use pursuant to a lease or a management, service or incentive payment contract or output contract, or (iii) any other similar arrangement, whether written or oral, that confers special legal entitlements or special economic benefits.

Section 30. General Arbitrage Covenants. The Issuer represents and certifies as follows with respect to the Series 2009 Bonds:

- (A) The Issuer has not been notified of any disqualification or proposed disqualification of it by the Commissioner of the Internal Revenue Service as a bond issuer which may certify bond issues under *Treasury Regulations* Section 1.103-13 (a)(2)(ii) (1979).
- (B) Moneys on deposit in any fund or account in connection with the Series 2009 Bonds, whether or not such moneys were derived from the proceeds of the sale of the Series 2009 Bonds or from any other source, will not be used in a manner which will cause the Series 2009 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and any lawful regulations promulgated under that Section, as the same presently exist or may from time to time be amended, supplemented or revised.
- (C) Proceeds of the Series 2009 Bonds will not be used, directly or indirectly, to reimburse the Issuer for expenditures made prior to the date of issuance and delivery of the Series 2009 Bonds, except (i) architectural or engineering costs and other “preliminary expenditures” (as defined in the regulations promulgated under Section 150 of the Code) incurred prior to commencement of the Project in an amount not greater than twenty

percent (20%) of the aggregate principal amount of the Series 2009 Bonds or (ii) expenditures for which an intent to reimburse was properly declared under Treasury Regulations Section 1.150-2.

Section 31. Arbitrage Rebate. The Issuer recognizes that the provisions of Section 148 of the Code require a rebate of “excess arbitrage profits” to the United States of America in certain circumstances. The Issuer covenants to make such rebate payments in accordance with the Code, if required. Investment earnings on the proceeds of sale of the Series 2009 Bonds in the Project Fund and on amounts on deposit in the Principal and Interest Account and the Administrative Expense Account are appropriated to the purpose of paying such rebate to the extent necessary.

Section 32. Registered Form. The Issuer recognizes that Section 149 of the Code requires the Series 2009 Bonds to be issued and to remain in fully registered form. The Issuer agrees that it will not take any action to permit the Series 2009 Bonds to be issued in, or converted into, bearer or coupon form.

Section 33. Additional Tax Covenants. The Issuer covenants with and for the benefit of the Bondholders of Series 2009A Bonds intended to be Tax-exempt that it (i) will take all actions which are necessary to be taken (and avoid any actions which it is necessary to avoid being taken) so that interest on the Series 2009 Bonds will not be or become included in gross income for federal income tax purposes under existing law including, without limitation, the Code, to an extent greater than that contemplated in the Official Statement; (ii) will take all actions reasonably within its power to take which are necessary to be taken (and avoid taking any actions which are reasonably within its power to avoid taking and which it is necessary to avoid) so that interest on the Series 2009 Bonds will not be or become included in gross income for federal income tax purposes under the federal income tax laws as in effect from time to time to an extent greater than that contemplated in the Official Statement; and (iii) will take no action in the investment of the proceeds of the Series 2009 Bonds, the Bond Fund, or any other fund of the Issuer which would result in making interest on the Series 2009 Bonds subject to federal income taxes by reason of causing the Series 2009 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code. In furtherance of the foregoing provisions, but without limiting their generality, the Issuer agrees:

- (A) through its officers, to make such further specific covenants, certifications and representations as shall be truthful, and assurances as may be necessary or advisable;
- (B) to comply with all representations, covenants and assurances contained in certificates or agreements as may be prepared by counsel approving the Series 2009 Bonds;
- (C) to consult with such counsel and to comply with such advice as may be given;
- (D) to file in a timely manner such forms, statements and supporting documents as may be required; and
- (E) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Issuer in such compliance.

Section 34. Opinion of Counsel Exception. The Issuer reserves the right to use or invest proceeds of the Series 2009 Bonds or moneys on deposit in the funds and accounts

created by this Bond Ordinance in any manner, notwithstanding the covenants in this Bond Ordinance, if it shall first have received an opinion from an attorney or a firm of attorneys of nationally recognized standing as municipal bond counsel to the effect that use or investment of such moneys as contemplated is lawful and will not adversely affect the tax-exempt status of interest on the Series 2009 Bonds.

Section 35. Designation of and Elections With Respect to the Series 2009 Bonds for Certain Purposes.

(a) The Issuer represents that the reasonably anticipated amount of tax-exempt obligations (other than “private activity bonds,” as defined in Section 141 of the Code, that are not “qualified 501(c)(3) bonds,” as defined in Section 145 of the Code) which will be issued by the Issuer and all subordinate entities of the Issuer during calendar year 2009 will not exceed \$30,000,000. The Issuer intends that the Series 2009A Bonds the interest on which is intended to be Tax-exempt (if any) qualify as “qualified tax-exempt obligations” under Section 265(b)(3)(B) of the Code and designates the Series 2009A Bonds the interest on which is intended to be Tax-exempt for such purpose. Such Series 2009A Bonds shall be identified by the Authorized Officers in the Determination Certificate. The Issuer and all subordinate entities of the Issuer have not so issued and designated any other obligations for such purposes during calendar year 2009. None of the Series 2009 Bonds is a “private activity bond” as defined in Section 141(a) of the Code.

(b) The Issuer irrevocably elects to have Section 54AA of the Code relating to Build America Bonds apply to (i) the Series 2009B Bonds, and (ii) those Series 2009A Bonds designated in the Determination Certificate as “Build America Bonds”. The Issuer irrevocably elects to have subsection (g) of Section 54AA of the Code relating to “Qualified Bonds” apply to (i) the Series 2009B Bonds, and (ii) those Series 2009A Bonds designated in the Determination Certificate as “Build America Bonds”.

Section 36. Municipal Bond Insurance. If the payment of principal of and interest on the Series 2009 Bonds is insured pursuant to a municipal bond insurance policy (the “**Municipal Bond Insurance Policy**”) issued by a bond insurer (the “**Bond Insurer**”), and as long as such Municipal Bond Insurance Policy shall be in full force and effect, the Issuer and the Bond Registrar shall comply with such usual and reasonable provisions regarding presentment and payment of the Series 2009 Bonds, subrogation of the rights of the Bondholders to the Bond Insurer when holding Series 2009 Bonds, amendment of this Bond Ordinance, or other terms, as are included in the Determination Certificate pursuant to Section 16(d), their inclusion in the Determination Certificate to constitute full and complete acceptance by the Issuer of such terms and provisions under authority of this section.

Section 37. Continuing Disclosure.

(a) So long as any Series 2009 Bonds are Outstanding, and to the extent required by the Rule or necessary to permit a secondary trading market for the Series 2009 Bonds to exist, the Issuer will provide continuing disclosure of information concerning its financial condition and the Pledged Taxes and Pledged Revenues to Bondholders, either directly or through a designated repository or by similar means.

(b) The County Board Chairman or the County Clerk is authorized, empowered and directed to execute and deliver the Continuing Disclosure Undertaking (the “**Continuing Disclosure Undertaking**”) in substantially the same form as now before the County Board, or with such changes as the officer executing the Continuing Disclosure Undertaking on behalf of the Issuer shall approve, his or her execution to constitute conclusive evidence of his or her approval of such changes.

(c) When the Continuing Disclosure Undertaking is executed and delivered on behalf of the Issuer, the Continuing Disclosure Undertaking will be binding on the Issuer and the officers, employees and agents of the Issuer. The officers, employees and agents of the Issuer are authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Rule and the Continuing Disclosure Undertaking as executed.

(d) Notwithstanding any other provision of this Bond Ordinance, the sole remedies for failure to comply with the Continuing Disclosure Undertaking shall be the ability of the beneficial owner of any Series 2009 Bond to seek mandamus or specific performance by court order, to cause the Issuer to comply with its obligations under the Continuing Disclosure Undertaking.

Section 38. Additional Authority. The County Board Chairman, the County Treasurer, the County Clerk and the other officers and employees of the Issuer are authorized to execute and deliver on behalf of the Issuer such other documents, agreements and certificates and to do such other things consistent with the terms of this Bond Ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intents and purposes of this Bond Ordinance, including without limitation to make any representations and certifications they deem proper pertaining to (a) the Official Statement and (b) the use of the proceeds of the Series 2009 Bonds and moneys in the Project Fund and the Bond Fund in order to establish that the Series 2009 Bonds shall not constitute arbitrage bonds as defined in Section 30 above.

Section 39. Repeal of Conflicting Ordinances, Etc. All ordinances, resolutions and orders or parts of ordinances, resolutions and orders in conflict with this Bond Ordinance are repealed to the extent of such conflict.

Section 40. Severability. If any section, paragraph, clause or provision of this Bond Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision will not affect any of the other provisions of this Bond Ordinance.

Section 41. Effective Date. As provided in Section 15 of the Debt Reform Act, this Bond Ordinance will be in full force and effect immediately upon its adoption. This Bond Ordinance shall be published in pamphlet form as soon as possible after its adoption.

Passed by the Kane County Board on October 13, 2009.

EXHIBIT A

[Attach copies of extracts from Fiscal Year 2008 Audit
and letter from Feasibility Analyst]

KANE COUNTY BOARD MEETING-October 13, 2009
EXHIBIT B

[Attach Official Statement]

EXHIBIT C

[FORM OF SERIES 2009 BOND]

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to County or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF WINNEBAGO

THE COUNTY OF KANE
[TAXABLE] GENERAL OBLIGATION ALTERNATE BONDS
(REGIONAL TRANSPORTATION AUTHORITY SALES TAX ALTERNATE REVENUE SOURCE),
SERIES 2009__

BOND NO. R_-__

PRINCIPAL AMOUNT: \$_____

INTEREST RATE: _____%

DATE OF BOND: _____

DATE OF MATURITY: December 15,

REGISTERED OWNER: Cede & Co.

20__

CUSIP NO. _____

The County of Kane, Illinois (the “**Issuer**”), for value received, promises to pay to the Registered Owner specified above or that person’s registered assigns, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association Chicago Illinois, or its successors as paying agent (the “**Paying Agent**”), the Principal Amount of this bond specified above on the Date of Maturity specified above and to pay to the Registered Owner of this bond interest on that sum at the Interest Rate per year specified above from the Date of Bond specified above to the date of payment of this bond, payable semi-annually on June 15th and December 15th of each year, with the first interest payment date being June 15, 2010. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Interest on this bond shall be payable on each interest payment date by check or draft of the Paying Agent mailed to the person in whose name this bond is registered at the close of business on the 15th day of the month preceding that interest payment date. The principal of and interest on this bond are payable in lawful money of the United States of America. No interest shall accrue on

this bond after its Date of Maturity unless this bond shall have been presented for payment at maturity and shall not then have been paid.

This bond is one of an authorized issue of bonds in the aggregate principal amount of \$40,000,000 issued in two series which are designated, respectively, "General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009A" (the "**Series 2009A Bonds**") in the aggregate principal amount of \$_____ and "Taxable General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009B" (the "**Series 2009B Bonds**") and, together with the Series 2009A Bonds, the "**Series 2009 Bonds**") in the aggregate principal amount of \$_____. The proceeds of the Series 2009 Bonds are to be used to pay a portion of the costs of acquiring, constructing, improving and equipping various road, bridge and transportation infrastructure improvements within the County and, incidental to those project costs, to pay bond discount, interest, bond reserve requirements, and legal, other financing and related administrative fees and costs as described in the ordinances of the Issuer adopted on September 8, 2009 and October 13, 2009, authorizing the issuance of the Series 2009 (the "**Ordinances**"). This bond was issued under the authority of the Illinois Constitution, the Local Government Debt Reform Act, and the Illinois Counties Code, and pursuant to the Ordinances and a related determination of authorized officers of the Issuer. The Series 2009 Bonds have been issued by the Issuer upon full payment for them as provided in the Ordinances. The full faith and credit of the Issuer and the tax levy and revenues referred to below are irrevocably pledged to the punctual payment of the principal of and the interest on this bond. This bond is a general obligation of the Issuer.

For the purpose of punctually paying the principal of and interest on the Series 2009 Bonds, the Issuer has in the Ordinances (i) levied *ad valorem* taxes against all of the taxable property in the Issuer without limitation as to rate or amount (the "**Pledged Taxes**"), and (ii) pledged the Pledged Revenues (as defined in the Ordinances) irrevocably to the payment of the Series 2009 Bonds, all as authorized by the Local Government Debt Reform Act. As provided in, and subject to the conditions and limitations specified in, the Ordinances, the Pledged Revenues may be pledged to pay additional series of alternate bonds of the Issuer. Under the Local Government Debt Reform Act and the Ordinances, the Pledged Revenues and Pledged Taxes will be deposited as received in the Bond Fund created by the Ordinances and in similar bond funds created by the ordinances authorizing parity bonds (if any). Moneys on deposit in the Bond Fund are pledged to and shall be used first for the payment of principal of, premium, if any, and interest on the Series 2009 Bonds and then to make deposits into certain funds and accounts established under the Ordinances. The Ordinances provide that the Pledged Taxes may be abated to the extent that the Issuer has money on hand (from the Pledged Revenues or other legally available funds) and has irrevocably set aside in the Bond Fund money to pay principal of and interest on the Series 2009 Bonds.

This bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, unless the Pledged Taxes shall have been extended pursuant to the general obligation full faith and credit promise supporting the Series 2009 Bonds. In that event, the amount of the Series 2009 Bonds then outstanding shall be included in the computation of indebtedness of the Issuer for purposes of all statutory provisions

or limitations until such time as an audit of the Issuer shall show that the Series 2009 Bonds have been paid from the Pledged Revenues for a complete fiscal year.

The issuance of the Series 2009 Bonds does not cause the indebtedness of the Issuer to exceed any limitation under the laws of the State of Illinois.

The Series 2009 Bonds are not subject to optional redemption prior to their maturity.

[Series 2009 Bonds maturing on December 15, 20__, are subject to mandatory sinking fund redemption on December 15th of each of the years 20__ through 20__, inclusive, and at maturity in the respective amounts provided in the Ordinance.]

[Series 2009 Bonds maturing on December 15, 20__, are subject to mandatory sinking fund redemption on December 15th of each of the years 20__ through 20__, inclusive, and at maturity in the respective amounts provided in the Ordinance.]

Unless waived by the registered owner of this bond, notice of the redemption of Series 2009 Bonds which by their terms shall have become subject to redemption shall be given to the registered owner of each Series 2009 Bond or portion of a Series 2009 Bond called for redemption not less than 30 or more than 60 days before any date established for redemption of Series 2009 Bonds, by the Bond Registrar (defined below) on behalf of the Issuer, by registered or certified mail sent to the registered owner's last address, if any, appearing on the registration books kept by the Bond Registrar. Official notices of redemption will contain the information specified in the Ordinances. Prior to any redemption date, the Issuer is required to deposit with the Bond Registrar an amount of money sufficient to pay the redemption price of all of the Series 2009 Bonds or portions of Series 2009 Bonds which are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Series 2009 Bonds or portions of Series 2009 Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price), such Series 2009 Bonds or portions of Series 2009 Bonds shall cease to bear interest. Neither the failure to mail such redemption notice, nor any defect in any notice so mailed, to any particular registered owner, shall affect the sufficiency of such notice with respect to other Series 2009 Bonds. Notice having been properly given, failure of a registered owner to receive such notice shall not be deemed to invalidate, limit or delay the effect of the notice or redemption action described in the notice.

This bond is negotiable, subject to the following provisions for registration and registration of transfer. The Issuer maintains books for the registration and registration of transfer of Series 2009 Bonds at the principal corporate trust office of U.S. Bank National Association, Chicago Illinois, the Bond Registrar and Authenticating Agent appointed in the Ordinance (the "**Bond Registrar**" and "**Authenticating Agent**"). This bond is registered on those books and transfer of this bond may be registered on those books only upon surrender of this bond to the Bond Registrar by the registered owner or his or her attorney duly authorized in writing together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his or her duly authorized attorney. Upon surrender of this bond for

registration of transfer, a new bond or bonds in the same aggregate principal amount will be issued to the transferee as provided in the Ordinance.

This bond may be exchanged, at the option of the registered owner, for an equal aggregate principal amount of bonds of any other authorized denominations upon surrender of this bond at the principal office of the Bond Registrar together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his or her duly authorized attorney.

For every exchange or registration of transfer of this bond, the Issuer or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge, other than one imposed by the Issuer, required to be paid with respect to that exchange or transfer, and payment of that charge by the person requesting exchange or registration of transfer shall be a condition precedent to that exchange or registration of transfer. No other charge may be made by the Issuer or the Bond Registrar as a condition precedent to exchange or registration of transfer of this bond.

The Bond Registrar will not be required to exchange or register the transfer of this bond (a) during the period from the close of business on the 15th day preceding an interest payment date on this bond to the opening of business on such interest payment date, or (b) after notice of redemption of this bond or any portion of this bond has been mailed, or (c) during the 15 days next preceding mailing of a notice of redemption of Series 2009 Bonds.

The Issuer, the Paying Agent and the Bond Registrar may treat the registered owner of this bond as its absolute owner, whether or not this bond is overdue, for the purpose of receiving payment of the principal of or interest on this bond and for all other purposes, and neither the Issuer, the Bond Registrar nor the Paying Agent shall be affected by any notice to the contrary. Payment of the principal of and interest on this bond shall be made only to its registered owner, and all such payments shall be valid and effective to satisfy the obligation of the Issuer on this bond to the extent of the amount paid.

All conditions which by law must have existed or must have been fulfilled in the issuance of this bond existed and were fulfilled in compliance with law. Provision has been made for the levy and collection of a direct annual tax, in addition to all other taxes, sufficient to pay and discharge the principal of this bond at maturity and to pay interest on this bond as it falls due. The issuance of the Series 2009 Bonds by the Issuer will not cause the Issuer to exceed or violate any applicable limitation or condition respecting the issuance of bonds imposed by the laws of Illinois or by any ordinance or resolution of the Issuer. The Series 2009 Bonds are issued for purposes for which the Issuer is authorized by law to issue bonds.

This bond shall not be valid for any purpose unless and until the certificate of authentication on this bond shall have been duly executed by the Authenticating Agent.

IN WITNESS WHEREOF, The County of Kane, Illinois, by its County Board, has caused this bond to be executed by the manual signature of its County Board Chairman and the manual signature of its County Clerk and has caused its corporate seal to be affixed to or impressed on this bond (or a facsimile of its seal to be printed on this bond), all as of the Date of Series 2009 Bond specified above.

THE COUNTY OF KANE, ILLINOIS

By: _____
County Board President

[SEAL]

ATTEST:

County Clerk

[FORM OF CERTIFICATE OF AUTHENTICATION]

This bond is one of the bonds described in the Ordinance authorizing the issuance of \$_____ General Obligation Alternate Bonds (Regional Transportation Authority Sales Tax Alternate Revenue Source), Series 2009, of The County of Kane, Illinois.

_____, as Authenticating Agent

By: _____
Authorized Officer

[FORM OF ASSIGNMENT]

The following abbreviations, when used in the inscription on this Series 2009 Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

UNIF GIFT MIN ACT - _____ Custodian _____
(Cust)

(Minor)

under Uniform Gifts to Minors Act _____
(State)

- TEN COM - as tenants in common
- TEN ENT - as tenants by the entireties
- JT TEN - as joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

the within Series 2009 Bond and does irrevocably constitute and appoint _____ attorney to transfer the said Series 2009 Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated:

Signature guaranteed:

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Series 2009 Bond in every particular, without alteration or enlargement or any change whatever.

NOTICE: The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in approved Signature Guarantee Medallion Program).

###

Speaker Denny Lee Village Trustee of the Village of Montgomery and as past chairman of the MEDC Corporation. Village President of Montgomery Marilyn Michelini was signed up to speak but was not able to attend, Denny Lee is speaking on her behalf also. Denny Lee urges the Kane County board to pass the resolution of the \$40,000,000 bond issue. Urge that the

final section Orchard Road Corridor widening be part of this bond issue. This is the last section. He personally thanks Billy Wyatt and Jesse Vasquez for working with the Village of Montgomery and the MEDC with this issue. He reiterates that he wants the Board to pass the Bond Ordinance and to finish the final section of the Orchard Road Corridor next year (2010).

Speaker Brian Doland, Montgomery Economic Development Corp. echoes Denny Lee's comments regarding Bill Wyatt and Jesse Vasquez with these efforts. This past April there was a meeting that included Chairman McConnaughay and some of the County Board members. The business community for Montgomery put together a support letter on April 7, 2009 for the bond ordinance. Mr. Doland paraphrased the letter that the business community of Montgomery supports the widening and completion of the final section of Orchard Road Corridor. Signed by twelve companies, that Orchard Road serves over 70 Montgomery businesses and 30,000 vehicles on a daily basis, Mr. Nolan stated. The Orchard Road improvement would improve public safety, economic development, relieve traffic congestion. He thanked everyone for their efforts.

Chairman McConnaughay asked for discussion from the Board. Bill Wyatt stated that this would be creating jobs and for other parts of the county it would be creating jobs and commerce. Chairman McConnaughay thanked the Village of Montgomery, the businesses and the community in the cooperative effort. No further discussion.

ROLL CALL as follows: AYES: Allan, Castro, Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Tredup, Van Cleave, Vasquez, Wojnicki, Wyatt NAYES: None AYES:24 NAYES: 0 **RESOLUTION #09-393 IS ADOPTED.**

RESOLUTION #09-394

Motion by Bill Wyatt second by Phil Lewis that Resolution #09-394 be adopted.

PERIODIC IMPRISONMENT FEE

WHEREAS, pursuant to the Illinois Unified Code of Corrections , 730 ILCS 5/5-7-6, (the "Code of Corrections") the County Board with the concurrence of the Chief Judge of the Sixteenth Judicial Circuit, is authorized to set room and board rates for work release prisoners; and

WHEREAS, the current fee is Fifteen Dollars (\$15.00) per day; and

WHEREAS, the Chief Judge and Sheriff have recommended that the fee should be based upon a sliding scale which falls within the parameters set forth in the Code of Corrections ; and

WHEREAS, the Sheriff has certified that a financial record keeping system exists to account for all funds received; and

WHEREAS, all funds collected are to be remitted to the Kane County Treasurer for deposit into the County General Fund; and

WHEREAS, the County has determined that the sliding scale of fees for periodic imprisonment should be as set forth below.

DRAFT-COUNTY BOARD MINUTES – October 13, 2009

NOW, THEREFORE BE IT RESOLVED by the Kane County Board that the periodic imprisonment fee that is currently at Fifteen Dollars (\$15.00) per day will be increased according to the sliding scale.

| Daily Weekend Jail Fee Amount [1] | Household Gross Income [2] 0 Dependents | Household Gross Income 1 Dependent | Household Gross Income 2 Dependents | Household Gross Income 3 + Dependents |
|-----------------------------------|--|---------------------------------------|--|--|
| \$20 | \$0.00 - \$14,500 | \$0.00 - \$20,500 | \$0.00 - \$26,000 | \$0.00 - \$29,000 |
| \$25 | \$14,501 - \$18,500 | \$20,501 - \$24,000 | \$26,001 - \$29,500 | \$29,001 - \$32,500 |
| \$30 | \$18,501 - \$22,000 | \$24,001 - \$27,500 | \$29,501 - \$33,000 | \$32,501 - \$36,000 |
| \$35 | \$22,001 - \$25,500 | \$27,001 - \$31,000 | \$33,001 - \$36,500 | \$36,001 - \$39,000 |
| \$40 | \$25,501 - \$29,000 | \$31,001 - \$34,500 | \$36,501 - \$40,000 | \$39,001 - \$42,500 |
| \$45 | \$29,001 - \$32,500 | \$34,501 - \$37,500 | \$40,001 - \$43,000 | \$42,501 - \$49,000 |
| \$50 | \$32,501 - \$35,500 | \$37,501 - \$41,500 | \$43,001 - \$48,000 | \$49,001 - \$51,000 |
| \$55 | \$35,501 - \$39,500 | \$45,501 - \$50,000 | \$48,001 - \$52,000 | \$51,001 - \$56,000 |
| \$60 | \$39,501 - \$43,000 | \$50,001 - \$54,000 | \$52,001 - \$57,500 | \$56,001 - \$61,000 |
| \$65 | \$43,001 - \$46,500 | \$54,001 - \$58,000 | \$57,501 - \$62,000 | \$61,001 - \$66,000 |
| \$70 | \$46,501 - \$50,000 | \$58,001 - \$62,000 | \$62,001 - \$67,000 | \$66,001 - \$71,000 |
| \$75 | \$50,001 - \$54,000 | \$62,001 - \$66,500 | \$67,001 - \$72,000 | \$71,001 - \$76,000 |
| \$80 | \$54,001 - \$57,500 | \$66,501 - \$70,500 | \$72,001 - \$76,500 | \$76,001 - \$81,500 |
| \$85 | \$57,501 - \$64,500 | \$70,501 - \$74,500 | \$76,501 - \$81,500 | \$81,501 - \$86,500 |
| \$90 | \$64,501 - \$68,500 | \$74,501 - \$79,000 | \$81,501 - \$86,000 | \$86,501 - \$91,500 |
| \$95 | \$68,501 - \$71,500 | \$79,001 - \$83,000 | \$86,001 - \$91,000 | \$91,501 - \$97,000 |
| \$100 | 71,501- and above | \$83,001- and above | \$91,001 - and above | \$97,501 and above |

[1] Monthly fee amounts may be adjusted in some cases due to special financial consideration. Such cases require appropriate justification, documentation and specific findings.

[2] Income of victims/complaining witnesses (e.g. in domestic violence cases) should not be included.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect upon the concurrence of the Chief Judge of the 16th Judicial Circuit by Administrative Order.

###

Bill Wyatt stated that it is presumptive to look at someone’s tax return and their ability to pay. He stated that he would like to see people being treated equally especially in the courts. He makes a motion to make it a \$40 flat fee and strike out payment schedule, second by Jesse Vasquez. Discussion follows. Mike Kenyon states that \$40 a day is not enough to house a prisoner. He said that the judge came up with what he thought was a fair way to do this. Chairman McConnaughay stated that at Executive she wanted it to go back to Judiciary because it was proposed as a \$30 day fee structure. Kenyon said that a lot of thought went into this. Kunkel agrees that even though someone has a certain income level doesn’t mean that they can pay this amount. The person paying the fee isn’t necessarily the criminal, it usually is the family that pays it. Kunkel said she thought it should be more than \$40, with a sliding scale to top out at \$60 a day. Chairman McConnaughay asked the Kane County Public Defender Dave Kliment, he said he represents people who can’t afford an attorney. Someone who makes \$90,000 would pay the \$100 a day for weekends to keep his job. He said that those who can pay should pay. This is a guideline for the judges and they would be able to modify the fee as they see fit. Jerry Jones said that this fee schedule was by the Chief Judge and it seems reasonable. John Hoscheit agrees with Bill Wyatt and asked why should the Correction Department need to know someone’s tax return. He said that a flat fee is appropriate and the scale is too complicated. Debra Allan said that the judge would use this for probationary fees. Kliment said this would be assessed by the court. Wyatt said that a tax return is on the previous year of what was made not the current year. Mitchell said this would give discretion to the judges. Kudlicki asked the county board to consider that the financial

consideration of cases is up to the discretion of the judges. Castro made motion to Call the Question, second by Kenyon, motion passed unanimously by voice vote. Chairman McConnaughay called for a voice vote on the motion to strike the schedule and have a flat fee of \$40; Bill Wyatt called for a roll call on the motion. ROLL CALL as follows: AYES: Hoscheit, Lindgren, Tredup, Wyatt NAYES: Allan, Castro, Davoust, Fahy, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Van Cleave, Vasquez, Wojnicki AYES: 4 NAYES: 20 Motion fails. Chairman McConnaughay asked for motion to amend (replace with the blue copy) changes wording to strengthen it. Motion by Tom Van Cleave, second by Jesse Vasquez to amend the resolution with the replacement resolution. Motion carries unanimously on voice vote. Chairman McConnaughay calls for the discussion on the amended resolution (blue copy). Motion Barb Wojnicki made a motion to send it back to committee to simplify the chart, Hollie Lindgren second it. Discussion on motion to send it back to committee. Jackie Tredup wasn't happy when this came into committee and some were not pleased with it. Tredup said that she didn't have a problem with it going back to committee. Arlene Shoemaker said this has been discussed to death in committee. She said to have a vote and forget sending it back to committee. Castro said that the judiciary feels comfortable with it and let's trust they can do it and they have discretion. Castro said to call the vote, second by Jones, motion carried unanimously by voice vote to call the vote. On the motion to send it back to committee by voice vote; ROLL CALL as follows: AYES: Hoscheit, Kudlicki, Kunkel, Lindgren, Mayer, Tredup, Wojnicki, Wyatt NAYES: Allan, Castro, Davoust, Fahy, Ford, Frasz, Hurlbut, Jones, Kenyon, Leonberger, Lewis, Lindgren, Mihalec, Mitchell, Shoemaker, Van Cleave, Vasquez AYES: 8 NAYES: 17 Motion fails. Castro said to call the vote on the original amended version of the resolution, second by Mike Kenyon. Chairman McConnaughay called the question to vote on the amended version of the resolution. Motion carried unanimously by voice vote. ROLL CALL: AYES: Allan, Castro, Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Van Cleave, Vasquez, Wojnicki, Wyatt NAYES: Tredup AYES: 23 NAYES: 1 **AMENDED RESOLUTION #09-394 is ADOPTED.**

EXECUTIVE SESSION

Motion by Jones; second by Mayer, that the Board enter Executive Session for the purpose of discussing pending litigation. Motion carried unanimously by voice vote. Chairman McConnaughay closed the meeting to the public at 10:45 a.m. The Board resumed regular session at 11:00 a.m.

RESOLUTION #09-395

Motion by Jones second by Davoust that Resolution #09-395 be adopted.

RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION REGARDING THE KANE COUNTY JUDICIAL CENTER

WHEREAS, the County of Kane ("Kane County") is a body politic and corporate organized and existing under the laws of Illinois; and

WHEREAS, the Kane County Public Building Commission ("PBC") is the owner of certain property located south of Illinois Route 38 and east of Peck Road in unincorporated Kane County, which property is commonly known as the Kane County Judicial Center (the "Judicial Center"); and

DRAFT-COUNTY BOARD MINUTES – October 13, 2009

WHEREAS, the County leases the Judicial Center from the PBC pursuant to the terms of a written lease dated as of June 1, 1991 and amended December 1, 1997 (collectively referred to herein as the “Lease”); and

WHEREAS, Hussey Copper, Ltd. and Hussey Copper, Corp., (collectively, “Hussey”) manufactured lead-coated copper roofing material used in the construction of the Kane County Judicial Center (“KCJC”); and

WHEREAS, on September 15, 2003, the PBC filed a lawsuit in the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois, Case No. 03 LK 475, against Hussey seeking to recover damages to remove and replace the lead coated copper roof at the KCJC, to recover the diminished value of the adjacent property, and to remediate the KCJC and adjacent property from the alleged contaminants which the PBC and Kane County claim leached from the roof; and

WHEREAS, in the Litigation, the PBC and the County of Kane claim, *inter alia*, that the Hussey entities manufactured and distributed a defective and/or unreasonably dangerous product, failed to properly issue warnings concerning its product, breached its contract and express and implied warranties, and proximately caused the damages for which the PBC and the County complains; and

WHEREAS, the PBC and the County of Kane have been advised that the Litigation has been settled and resolved as to Hussey in the Litigation and that funds (the “Settlement Funds”) will be paid to the PBC and Kane County pursuant to such settlement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY OF KANE as follows:

Section 1: Incorporation of Recitals. The foregoing recitals are incorporated into this Resolution by reference as if set forth fully herein.

Section 2: Authorization to Execute Settlement and Release. The Kane County Board has considered the terms of the proposed settlement and has assented to the settlement terms with Hussey. The Kane County Board hereby authorizes the Chairman of the Kane County Board to take all necessary steps to execute the settlement and release with Hussey.

###

ROLL CALL as follows: AYES: Allan, Castro, Davoust, Fahy, Ford, Frasz, Hoscheit, Hurlbut, Jones, Kenyon, Kudlicki, Kunkel, Leonberger, Lewis, Lindgren, Mayer, Mihalec, Mitchell, Shoemaker, Tredup, Van Cleave, Vasquez, Wojnicki, Wyatt NAYES: None AYES: 24 NAYES: 0 **RESOLUTION #09-395 IS ADOPTED.**

ADJOURNMENT

There being no further business, motion by Bob Kudlicki; second by Hollie Lindgren, the meeting stand adjourned until the next regularly scheduled meeting. Motion carried unanimously by voice vote. Chairman McConnaughay adjourned the meeting at 11:02 a.m.