

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA AND
FOX VALLEY PARK DISTRICT FOR THE IMPROVEMENTS OF EDGELAWN DRIVE
AT BNSF RAILWAY TRACKS LOCATED IN THE CITY OF AURORA AND
AURORA TOWNSHIP, KANE COUNTY, ILLINOIS**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") by and between the CITY OF AURORA ("CITY") an Illinois home rule municipal corporation, and the FOX VALLEY PARK DISTRICT ("PARK DISTRICT"), collectively "PARTIES" and individually "PARTY", is entered into this ____ of _____, 2025.

WITNESSETH

WHEREAS, Article VII, Section 10 of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) authorize units of local government to contract or otherwise associate among themselves to obtain or share services, do, exercise, combine or transfer any power or function in any manner not prohibited by law to use their credit, revenues, and other reserves to pay costs and to service debt related to intergovernmental activities.

WHEREAS, the CITY has a population of more than 25,000 persons and is therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, the CITY is subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the PARK DISTRICT is an Illinois park district organized and existing under and by virtue of the laws of the State of Illinois; and

WHEREAS, Edgelawn Drive is contained within the jurisdictions of and is operated and maintained by the CITY; and

WHEREAS, the CITY has prepared the Phase I Engineering documents and Phase II Engineering documents for the Edgelawn Drive at BNSF Railway Tracks Crossing project (the "Project"); and

WHEREAS, the CITY has obtained federal funding through the Illinois Department of Transportation (IDOT) for Phase I, Phase II, Construction, and Phase III Construction Engineering of the Edgelawn Drive at BNSF Railway Tracks Crossing project, at 90% federal / 10% local. The total federal portion is up to a maximum of \$490,680.00 with the City responsible for the remaining portion; and

WHEREAS, if additional federal funding is not obtained, the CITY will pay 100% of the engineering and construction costs; and

WHEREAS, the CITY shall maintain the shared-use path on the east side of Edgelawn Drive within CITY jurisdiction between the commercial access directly south of the BNSF Railway and the Virgil L. Gilman Trail, which requires an easement for construction; and

WHEREAS, the PARK DISTRICT shall maintain the shared-use path shoulder on the east side of Edgelawn Drive within PARK DISTRICT jurisdiction between the BNSF Railway and the Virgil L. Gilman; and

WHEREAS, on January 16, 2026, the project describing the crossing improvements is intended to be opened by the Illinois Department of Transportation on the State letting. If needed the project could also be opened on the State letting on March 6, April 24, or June 12 2026; and

WHEREAS, the CITY intends to concur with an award to the bidder with lowest bid as read by the IDOT; and

WHEREAS, both Parties have agreed that crossing improvements on Edgelawn Drive under the PARK DISTRICT's jurisdiction by utilizing the bid of the lowest responsible bidder is an exercise of intergovernmental cooperation that is encouraged by both the Illinois Constitution and State Statutes and would benefit both Parties and their respective constituents; and

WHEREAS, representatives of the CITY and the HIGHWAY DEPARTMENT have reached a consensus and tentative agreement regarding the scope of improvements and associated costs.

NOW, THEREFORE IT BE AGREED between the CITY and PARK DISTRICT as follows:

1. The CITY and the PARK DISTRICT have agreed that the scope of improvements and associated costs are those set forth in the contract documents for the Project that will be on the State letting.
2. The CITY agrees to pay 100% of the engineering and construction costs for the Edgelawn Drive at BNSF Railway Tracks Crossing project. No financial contributions are anticipated from the PARK DISTRICT for the construction of the Edgelawn Drive at BNSF Railway Tracks Crossing project.
3. The construction costs above are estimated based on historical contract work. The specific work items will not be tracked separately in construction, and the estimated cost will be assumed to be the total cost of the described construction activities.
4. The PARK DISTRICT shall make available the necessary land for the construction of the shared-use path by the use of an easement. The easement is shown on the plan sheet titled "Edgelawn Drive at BNSF Railway Tracks Crossing Construction Easement," attached herein as Exhibit "A." The PARK DISTRICT shall retain title to the land.
5. The CITY shall maintain the shared-use path pavement and shoulder within CITY jurisdiction.
6. The PARK DISTRICT shall maintain the shared-use path shoulder within PARK DISTRICT jurisdiction.

7. Both parties herein represent and warrant that they have the authority to execute this Agreement on behalf of the entities described herein.
8. The invalidity of any provision of this Agreement shall not impair the validity of any other provisions. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, that provision shall be deemed severable and the Agreement shall be enforced with the provisions severed or as modified by the Court.
9. The validity, construction and interpretation of this Agreement shall be governed by the laws of the State of Illinois. The parties hereto irrevocably agree that all actions or proceedings in any way, manner or respect arising out of or from or related to this Agreement shall be litigated only in the Circuit Court Sixteenth Judicial Circuit, Kane County, Illinois. Each party hereby consents and submits to the personal jurisdiction in the State of Illinois and waives any right such party may have to transfer the venue of any such action or proceeding.
10. This Agreement supersedes any and all prior agreements and understandings, both written and oral, between the Parties with respect to the Project, and represents the entire agreement between the Parties. This Agreement shall inure to the benefit of all successors and assigns of the Parties hereto. Any Party to this Agreement may propose an amendment. Any amendment shall be effective when executed in writing, by both of the governing bodies of the Parties to this Agreement.
11. The PARK DISTRICT agrees to indemnify and hold harmless the CITY against any loss, damage, claim, demand, or lawsuit incurred as a result of any injury or loss occurring during Project execution pursuant to the terms of this Agreement, except to the extent such loss, damage, claim, demand or lawsuit arises out of the direct or indirect conduct, act or omission of the CITY. The CITY agrees to indemnify and hold harmless the PARK DISTRICT against any loss, damage, claim, demand, or lawsuit incurred as a result of any injury or loss occurring during Project execution pursuant to the terms of this Agreement, except to the extent such loss, damage, claim, demand or lawsuit arises out of the direct or indirect conduct, act or omission of the PARK DISTRICT.
12. At all times while this Agreement remains in effect, each Party shall procure adequate insurance and/or self-insurance to protect itself, its officers, employees and agents, from any liability for bodily injury, death, and property damage in connection with the improvements covered by this Agreement.
13. Nothing contained in this Agreement is intended to constitute, nor shall constitute, a waiver of the rights, defenses, and immunities provided for or available to either Party under statutory law or common law, including, but not limited to, the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 et seq.
14. Any statement or writing to be presented to a Party hereunder shall be so presented by personal delivery or by deposit in the United States mail, with postage properly prepaid, and properly addressed to the offices of the other Party, as listed below, and shall be deemed presented on the date of mailing.

If to the CITY:

City of Aurora
Attn: Timothy V. Weidner, P.E., Engineering Coordinator
44 E. Downer Place
Aurora, IL 60505

With a copy to:

Klein, Thorpe & Jenkins, Ltd.
Attn: Jason A. Guisinger
15010 S. Ravinia Ave., Ste. 10
Orland Park, IL 60462

If to the PARK DISTRICT:

With a copy to:

15. This Agreement is not and shall not be binding upon either Party unless and until executed by both Parties. The Agreement may be executed in counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.

IN WITNESS HEREOF, the PARTIES hereto have executed this Agreement on date indicated above.

{signature page to follow}

FOX VALLEY PARK DISTRICT

Representative: Matt Hicks
Title: President

Signature: Matt Hicks, Jr.
Date: October 20, 2025

Witnessed By: Kim Neencaster
Title: Secretary
Signature: Kim Neencaster
Date: October 20, 2025

CITY OF AURORA

Representative: _____

Title: _____

Signature: _____

Date: _____

Witnessed By: _____

Title: _____

Signature: _____

Date: _____

