Agenda Item # 17

Old Mill Creek Area: Right of Way Appropriation and Agreements

County Administration
Central Services (2) cert.
Transportation (2) cert.

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS
ADJOURNED REGULAR JUNE A.D. 2006 SESSION

JULY 11, A.D. 2006

MADAM CHAIR AND MEMBERS OF THE COUNTY BOARD:

Your Public Works and Transportation Committee and Financial and Administrative Committee present herewith a resolution providing for the execution of Addendum No. 1 to the agreement between the Illinois State Toll Highway Authority and Lake County for the reconstruction of the Wadsworth Road Bridge. Said Addendum # 1 to provide for the County, not the Toll Highway Authority, to acquire the needed parcel from the property owner. This resolution also provides for the execution of Addendum # 1 to the September 15, 2000, agreement with the same property owner, *(which included land transfers),* for the improvement of Stearns School Road including the re-alignment of Stearns School Road at Hutchins Road. Said Addendum #1 to provide for further land transfers including the said Wadsworth Road parcel. This resolution appropriates $100,000.00 of Matching Tax funds for right-of-way acquisition and designated as Section 06-00076-16-LA.

We RECOMMEND adoption of this Resolution.

	Aye	Nay		Aye	Nay
Chair	✓		Chair	✗	
Vice-Chair	✓		Vice-Chair	✗	
	✓			✓	
	✓			✓	
	✓			✓	
	✓			✓	
Public Works and Transportation Committee			Financial and Administrative Committee		

RESOLUTION

WHEREAS, the Illinois State Toll Highway Authority and Lake County, by prior resolution approved December 13, 2005, entered into an agreement, dated January 26, 2006, for the reconstruction of the bridge carrying Wadsworth Road *(County Highway 17)* over the Tri-State Tollway as part of the reconfiguration of the Waukegan Toll Plaza for "Open Road Tolling" and designated as Section 05-00076-15-BR; and

WHEREAS, as part of said agreement, the Illinois State Toll Highway Authority agreed to accommodate the installation of a bike path on the new Wadsworth Road bridge and its associated approaches to be constructed by the Illinois State Toll Highway Authority; and

WHEREAS, said agreement provided terms and conditions by which the Illinois State Toll Highway Authority would acquire necessary right-of-way and be reimbursed by Lake County for said right-of-way acquisition; and

WHEREAS, the Illinois State Toll Highway Authority has identified properties to be acquired in order to accommodate said installation of the bike path on the new Wadsworth Road bridge and its associated approaches; and

WHEREAS, a copy of the legal description and plat of the property to be acquired from one of the property owners, *(Tim Smith, Jr.),* is attached as Exhibit A; and

WHEREAS, the Illinois State Toll Highway Authority and Lake County are now desirous of revising said agreement via an Addendum # 1, providing the terms and conditions by which Lake County will first attempt to directly acquire from the said property owner said parcel described in Exhibit A.

WHEREAS, the County and Tim Smith, Jr., have entered into an agreement, dated September 15, 2000, for property transfers on various sections of Stearns School Road for the

improvement of Stearns School Road, including the re-alignment of Stearns School Road at Hutchins Road currently under construction; and

WHEREAS, the County and Tim Smith Jr., are now desirous of amending said agreement via an Addendum # 1 providing the terms and conditions by which further property transfers will be provided for and including the purchase by Lake County of the Wadsworth Road parcel described in Exhibit A; and

WHEREAS, to effectuate said purchase of the Wadsworth Road parcel described in Exhibit A and other properties to be determined for the improvement of other county highways *(including the intersections of Hunt Club Road at Wadsworth Road/Millburn Road)*, an initial amount of funds needs to be appropriated.

NOW, THEREFORE BE IT RESOLVED that the County Engineer is authorized and hereby directed to negotiate and prepare the final Addendum # 1 to the Tollway Agreement for the reconstruction of the Wadsworth Road Bridge over the Tri-State Tollway.

BE IT FURTHER RESOLVED, that the County Clerk and the Chair of the Lake County Board be authorized and they are hereby directed to execute the final Addendum # 1 to the Toll Highway Agreement for the reconstruction of Wadsworth Road Bridge over the Tri-State Tollway. The County Engineer shall transmit in writing the final Addendum # 1, to the Toll Highway Agreement, to be executed by the Chair of the Lake County Board, and the County Clerk.

BE IT FURTHER RESOLVED, that the County Engineer is authorized and hereby directed to negotiate and prepare the final addendum # 1 to the Tim Smith, Jr., Agreement dated September 15, 2000. The County Engineer shall transmit in writing the final Addendum # 1, to the Tim Smith, Jr., Agreement, to be executed by the Chair of the Lake County Board, and the County Clerk.

BE IT FURTHER RESOLVED, that the County Clerk and the Chair of the Lake County Board be authorized and they are hereby directed to execute the Final Addendum # 1 to the Tim Smith, Jr., agreement, dated September 15, 2000.

BE IT FURTHER RESOLVED, that there is hereby appropriated $100,000.00 of Matching Tax funds for right-of-way acquisition for the improvement of Wadsworth Road *(County Highway 17)*, Hunt Club Road *(County Highway 29)*, and Millburn Road *(County Highway 14)*, and Hutchins Road *(County Highway 74 and 81)*, and designated as Section 06-00076-16-LA.

Dated at Waukegan, Illinois
this 11th day of July 2006

Addendum #1

AGREEMENT
BETWEEN THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND THE COUNTY OF LAKE FOR
THE RELEASE OF OBLIGATION OF PAYMENT FOR
A PORTION OF WADSWORTH ROAD RIGHT-OF-WAY

THIS AGREEMENT entered into this _____ day of _____, A.D. 20____, by and between the COUNTY OF LAKE, Illinois, an Illinois body politic and corporate, acting by and through its Chair and County Board, hereinafter referred to as the COUNTY and the Illinois State Toll Highway Authority, an instrumentality and administrative agency of the State of Illinois, hereinafter referred to as the AUTHORITY.

WHEREAS, the COUNTY and the AUTHORITY have entered into an agreement dated January 26, 2006, for the reconstruction of the Wadsworth Road Bridge over the Tri-State (I-94) Tollway, hereinafter referred to as the TOLLWAY AGREEMENT; and,

WHEREAS, the COUNTY and TEMPEL SMITH, JR., as co-trustee under the will of Tempel Smith, Sr., for the benefit of Tempel Smith, Jr. and HENRY J. LOOS, as co-trustee under the will of Tempel Smith, Sr., for the benefit of Tempel Smith, Jr., hereinafter referred to as the PROPERTY OWNER have entered into an agreement dated September 15, 2000, the TEMPLE SMITH AGREEMENT and have entered into ADDENDUM #1 to the agreement dated _____ 20__ for land transfer and future land purchase rights, THIS ADDENDUM #1 of the TEMPLE SMITH AGREEMENT is hereinafter referred to as the ADVANCE RIGHT-OF-WAY CREDIT AGREEMENT; both are attached as EXHIBIT A, and,

WHEREAS, the AUTHORITY has identified the Right-Of-Way necessary for the IMPROVEMENT that is owned by the PROPERTY OWNER, hereinafter referred to as the PROPERTY, and as specified in Exhibit B.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, made and pursuant to all applicable statutes, local ordinances, and authority, the COUNTY and the AUTHORITY do hereby amend Section 5 of the TOLLWAY AGREEMENT to release the AUTHORITY from its obligation of payment of the purchase price for acquiring the necessary Right-Of-Way to the PROPERTY OWNER as follows:

1. It is mutually agreed by and among the Parties hereto that the purchase price of WADSWORTH ROAD RIGHT-OF-WAY, shall be paid for as defined within the ADVANCE RIGHT-OF-WAY CREDIT AGREEMENT.

2. The COUNTY agrees to obtain an appraisal to determine the fair market value of the PROPERTY and the COUNTY agrees to make a written offer to the PROPERTY OWNER of an amount that the COUNTY believes is just compensation for the property. The COUNTY agrees to negotiate, in good faith, the purchase price with the PROPERTY OWNER. If the parties reach an agreement regarding the purchase price of the

DRAFT

PROPERTY, the COUNTY will take ownership of the PROPERTY under the terms of the ADVANCE RIGHT-OF-WAY CREDIT AGREEMENT. The COUNTY will provide a letter to the AUTHORITY stating that the PROPERTY has been acquired and the AUTHORITY is under no obligation to pay for the PROPERTY.

3. It is agreed by and between the Parties hereto that if the COUNTY has not been able to come to agreement with the PROPERTY OWNER for the sale of the PROPERTY by July ____, 2006, the COUNTY shall request in writing that the AUTHORITY proceed to acquire the PROPERTY by means of eminent domain.

4. If the AUTHORITY proceeds to condemnation, the COUNTY agrees that the AUTHORITY shall proceed based on the legitimate offer already made to the PROPERTY OWNER.

5. The AUTHORITY shall inform the COUNTY of the value of the PROPERTY as determined by the court. The COUNTY shall pay the AUTHORITY said value as specified in the original TOLLWAY AGREEMENT.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

ATTEST:

By: _____
Chairman of the Board

_____
Secretary – Chief Fiscal Officer

Date: _____

Approved as to Form and Constitutionality:

_____
Attorney General, State of Illinois

LAKE COUNTY

ATTEST:

By: _____
Chairman
Lake County Board

_____
Clerk
Lake County

Date: _____

RECOMMENDED FOR EXECUTION

By: _____
Lake County
County Engineer/Director of Transportation

EXHIBIT A
WADSWORTH ROAD PROPERTY
LEGAL DESCRIPTION

That part of the Northwest Quarter of the Northeast Quarter of Section 33, Township 46 North, Range 11 East of the Third Principal Meridian, Lake County, Illinois, being described as follows:

Commencing at the Northeast corner of said Section 33; thence North 89 degrees 21 minutes 55 seconds West, along the north line of said Section 33, a distance of 797.04 feet to the northwesterly extension of the westerly right-of-way of Dilleys Road; thence South 7 degrees 18 minutes 55 seconds East, along said extension, 70.50 feet; thence North 89 degrees 22 minutes 59 seconds West, 345.37 feet; thence South 86 degrees 48 minutes 11 seconds West, 188.98 feet to the west line of said Northeast Quarter of the Northeast Quarter said point being the **POINT OF BEGINNING**; thence South 89 degrees 48 minutes 11 seconds West, 111.68 feet; thence North 89 degrees 22 minutes 59 seconds West, 72.99 feet to the northeasterly right-of-way of the Illinois State Toll Highway Authority route I-94 according to the condemnation case number 14459 in the County Court of Lake County; thence North 32 degrees 55 minutes 32 seconds West, along said right-of-way, 23.63 feet; thence South 89 degrees 21 minutes 55 seconds East, 86.49 feet; thence North 84 degrees 55 minutes 27 seconds East, 100.11 feet; thence South 89 degrees 21 minutes 55 seconds East, 11.87 feet to the east line of said Northwest Quarter of the Northeast Quarter; thence South, 22.45 feet to the point of beginning, containing 3,999 square feet (0.092 acres), more or less.

Said part also shown on the Plat of Acquisition attached and made part hereof.

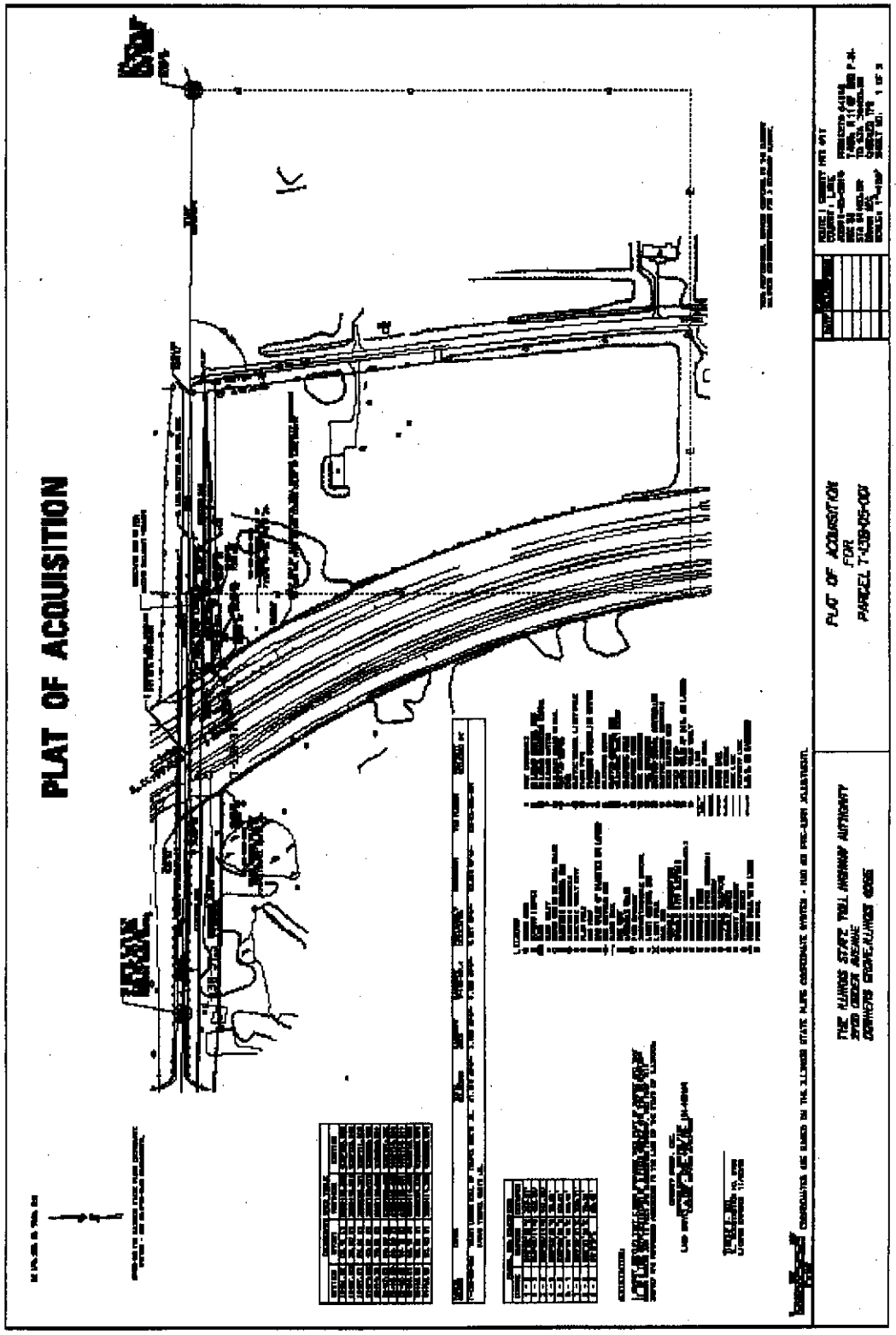

PLAT OF ACQUISITION
PLAT OF ACQUISITION
FOR
PARCEL T-138-05-001

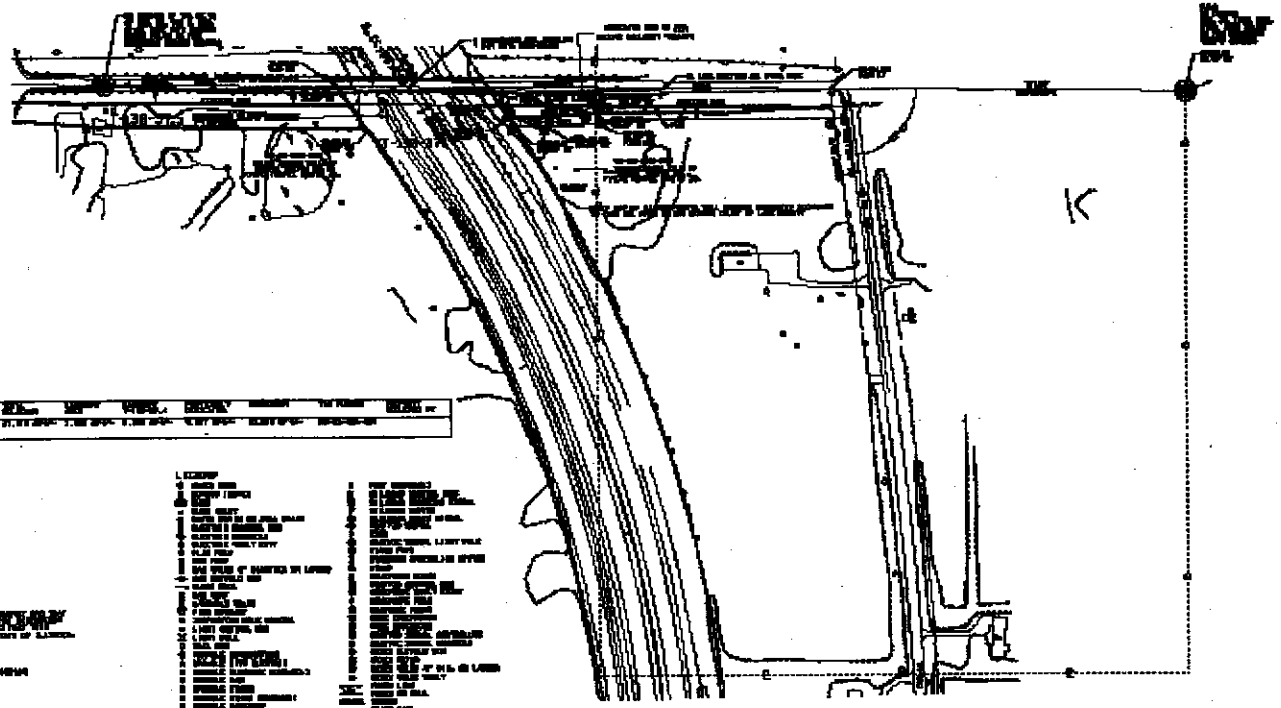
EXHIBIT A
WADSWORTH ROAD PROPERTY
LEGAL DESCRIPTION

That part of the Northwest Quarter of the Northeast Quarter of Section 33, Township 46 North, Range 11 East of the Third Principal Meridian, Lake County, Illinois, being described as follows:

Commencing at the Northeast corner of said Section 33; thence North 89 degrees 21 minutes 55 seconds West, along the north line of said Section 33, a distance of 797.04 feet to the northwesterly extension of the westerly right-of-way of Dilleys Road; thence South 7 degrees 18 minutes 55 seconds East, along said extension, 70.50 feet; thence North 89 degrees 22 minutes 59 seconds West, 345.37 feet; thence South 86 degrees 48 minutes 11 seconds West, 188.98 feet to the west line of said Northeast Quarter of the Northeast Quarter said point being the **POINT OF BEGINNING**; thence South 89 degrees 48 minutes 11 seconds West, 111.68 feet; thence North 89 degrees 22 minutes 59 seconds West, 72.99 feet to the northeasterly right-of-way of the Illinois State Toll Highway Authority route I-94 according to the condemnation case number 14459 in the County Court of Lake County; thence North 32 degrees 55 minutes 32 seconds West, along said right-of-way, 23.63 feet; thence South 89 degrees 21 minutes 55 seconds East, 86.49 feet; thence North 84 degrees 55 minutes 27 seconds East, 100.11 feet; thence South 89 degrees 21 minutes 55 seconds East, 11.87 feet to the east line of said Northwest Quarter of the Northeast Quarter; thence South, 22.45 feet to the point of beginning, containing 3,999 square feet (0.092 acres), more or less.

Said part also shown on the Plat of Acquisition attached and made part hereof.

PLAT OF ACQUISITION



THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
3500 GREEN AVENUE
DOWNERS GROVE, ILLINOIS 60515

PLAT OF ACQUISITION
FOR
PARCEL T-C18-05-001