

ORDINANCE NO. 2355-24

AN ORDINANCE AUTHORIZING THE VILLAGE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF HAWTHORN WOODS AND THE VILLAGE OF LAKE ZURICH REGARDING THE USE OF THE VILLAGE OF LAKE ZURICH POLICE HOLDING FACILITY

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods, Illinois, that the Village be, and the same, are hereby authorized and directed, to enter into an intergovernmental agreement with the Village of Lake Zurich for the mutual benefits and purposes, as attached hereto as Exhibit "A", and, by this reference made a part hereof.

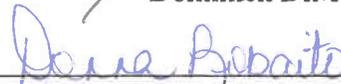
The foregoing Ordinance was adopted by the Board of Trustees of the Village of Hawthorn Woods, Illinois on May 21, 2024.

AYES: Kaiser, Rychlik, Bauer, Hurst, Roman

NAYS: 0

ABSENT AND NOT VOTING: McCarthy

APPROVED: 
Dominick DiMaggio, Mayor

ATTEST: 
Donna Lobaito, Village Clerk

ADOPTED: May 21, 2024

APPROVED: May 21, 2024

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE VILLAGE OF HAWTHORN WOODS AND THE
VILLAGE OF LAKE ZURICH REGARDING THE USE
OF THE VILLAGE OF LAKE ZURICH
POLICE HOLDING FACILITY**

THIS AGREEMENT (the "Agreement") is entered into on this 21st day of May 2024, by and between the Village of Lake Zurich, Lake County, Illinois, an Illinois municipal corporation ("Lake Zurich"), and the Village of Hawthorn Woods, Lake County, Illinois, an Illinois municipal corporation ("Hawthorn Woods").

WITNESSETH:

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et.seq.*, authorize and encourage intergovernmental cooperation; and

WHEREAS, Lake Zurich and Hawthorn Woods are units of local government as provided in Article VII of the 1970 Illinois Constitution; and

WHEREAS, Lake Zurich maintains an active and equipped police department (the "Lake Zurich Police Department"), including police officers, vehicles and equipment, and is willing and able to provide the use of the Lake Zurich Police Holding Facility, located at 200 Mohawk Trail, Lake Zurich, Illinois, to the Village of Hawthorn Woods for the purpose of temporarily holding persons in custody of the Hawthorn Woods Police Department following an arrest pursuant to the Code of Criminal Procedure of 1963 ("detainees"), but prior to a pretrial hearing; and

WHEREAS, the Village of Hawthorn Woods maintains an active and equipped police department, but does not maintain a secure facility capable of holding detainees; and

WHEREAS, Lake Zurich is equipped with a Police Holding Facility (the "Holding Facility"), the primary purpose of which is to serve Lake Zurich and to house Lake Zurich detainees; and

WHEREAS, as a secondary purpose, Lake Zurich is willing and generally able to provide use of the Lake Zurich Police Holding Facility in order to house Hawthorn Woods's detainees, when the Holding Facility has available capacity and the parties wish to associate, cooperate and enter into an intergovernmental agreement that so provides; and

WHEREAS, Section 10 of Article VII of the 1970 Illinois Constitution and the Intergovernmental Cooperation Act specifically authorize units of local government to contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not provided by law or ordinance; and

WHEREAS, Section 11-1-2.1 of the Illinois Municipal Code, 65 ILCS 5/11-1-2.1 provides express authority for such agreements between municipalities for police assistance; and

WHEREAS, it is in the best interest of Lake Zurich and Hawthorn Woods to enter into this Agreement;--

NOW, THEREFORE, in consideration of the mutual covenants and promises contained within this Agreement, Lake Zurich and Hawthorn Woods agree as follows:

SECTION 1 – RIGHTS AND RESPONSIBILITIES

- 1.1 - The above recitals to this Agreement are hereby incorporated as if fully set forth herein.
- 1.2 Lake Zurich shall, in accordance with the terms and conditions set forth in this Agreement, and in accordance with commonly accepted law enforcement practices, allow Hawthorn Woods Police Department to use the Lake Zurich Police Holding Facility for the purpose of housing detainees arrested by the Hawthorn Woods Police Department on a twenty four (24) hours a day, seven (7) days a week basis, all subject to the available capacity of the Lake Zurich Holding Facility at any point in time, as determined by the Lake Zurich Police Department personnel.
- 1.3 Hawthorn Woods agrees to be responsible for those costs related to and caused by its use of the Lake Zurich Holding Facility, including, but not limited to, the meals, transportation of its detainees to and from court, the transportation of its detainees for medical purposes and for the reimbursement for the cost of transportation of its detainees in the case of an emergency.
- 1.4 Hawthorn Woods agrees to be responsible for damages caused by its detainees to Lake Zurich property and/or staff, and for the medical or hospital costs of its detainees to be paid on behalf of its detainees, including as mandated by State and Federal law.
- 1.5 Hawthorn Woods shall provide and be responsible for the processing and authorization of the pre-trial release of all detainees transported to the ~~Lake Zurich Police~~ Holding Facility by Hawthorn Woods Police. Lake Zurich shall be responsible for the maintenance and operation of the Holding Facility and for the supervision of detainees while being held in the Holding Facility.
- 1.6 Hawthorn Woods Police Officers shall inform themselves of and abide by the following Lake Zurich ~~Police~~ Department General Orders which are attached hereto as Exhibit A and incorporated by reference. Hawthorn Woods Police Officers shall further inform themselves of and abide by any subsequent Lake Zurich Police Department General Orders which similarly relate to the use of the Holding Facility by Hawthorn Woods for its detainees.
 - 1.6.1 200.250 "*Prisoners - Booking, Housing, Transfer, and Release*"
 - 1.6.2 200.250(M)(1) "*Instructions for the Completion of the IDOC Report of Extraordinary or Unusual Occurrence*"
 - 1.6.3 200.255 "*Prisoners – Transportation and Restraint*"

- 1.7 A detainee brought to the Lake Zurich Police Department Holding Facility by Hawthorn Woods who exhibits strange or suicidal behavior, threatens to harm themselves or anyone else, has the potential to harm themselves, has a known mental condition, or has not had detention authorized by the Lake County State's Attorney's Office will not be housed in the Holding Facility. Lake Zurich Police Department personnel retain the right to make the final determination regarding such condition of the detainees, within their sole discretion.
- 1.8 Hawthorn Woods agrees to write into its action plans contingency options regards to capacity issues if the Holding Facility becomes full, or emergency circumstances dictate not accepting detainees from Hawthorn Woods or the Holding Facility is otherwise unavailable to accept Hawthorn Woods detainees.
- 1.9 In addition to any other agreed provisions herein, Hawthorn Woods shall, in accordance with the terms and conditions of this Agreement, pay to Lake Zurich the fees and costs for the provision of such services as set forth in section 5 of this Agreement.
- 1.10 Lake Zurich Police Department personnel shall have the authority to refuse to hold a detainee for Hawthorn Woods in the event the Holding Facility is at capacity or close to capacity or if the Holding Facility is otherwise unavailable.

SECTION 2 – TERM and TERMINATION

- 2.1 Unless otherwise terminated by either party pursuant to this Section, this Agreement shall remain in full force and effect for the period from May 21, 2024, through May 21, 2027 or until the Lake Zurich Police Department Public Safety Answering Point (PSAP) closes or consolidates its dispatch operations with other jurisdictions. If neither party terminates the agreement in writing at least thirty (30) days prior to May 21, 2027, and the Lake Zurich Police Department PSAP continues to operate, the Agreement shall automatically renew for additional one-year periods subject to the termination rights set forth in Paragraph 2.2.
- 2.2 This Agreement may be terminated by either party at any time, without cause upon thirty (30) days written notice.
- 2.3 In the event of any substantive breach of the terms and conditions of this Agreement, the aggrieved signatory shall notify the signatory alleged to be in breach of the nature of the breach. The signatory alleged to be in breach shall have thirty (30) days to cure the default; if the nature of the default is such that a cure cannot reasonably be affected within thirty (30) days, the signatory alleged to be in breach shall not be held in default so long as it commences a cure in the thirty (30) day period and diligently pursues completion thereof. Upon default of this Agreement, the non-defaulting party may terminate this Agreement without prejudice and shall have all legal and equitable remedies arising from the breach.

SECTION 3 – DUTIES AND AUTHORITY OF POLICE OFFICERS

3.1 Lake Zurich police officers shall be authorized at all times to enforce the laws, ordinances, and regulations of Lake Zurich, the State of Illinois, and the United States of America upon any person arrested in Hawthorn Woods and transferred to Lake Zurich to be temporarily housed in the Holding Facility.

3.2 All Lake Zurich police officers, vehicles, and equipment shall at all times remain under the sole and exclusive control and command of the Lake Zurich Chief of Police.

3.3 This Agreement shall not be construed so as to limit or decrease in any way the authority or ability of Lake Zurich police officers to enforce the laws, ordinances and regulations of Lake Zurich, the State of Illinois, or the United States of America within the corporate limits of Lake Zurich.

3.4 All Lake Zurich police officers and employees providing services under this Agreement shall remain solely under the command structure of the Village of Lake Zurich at all times.

SECTION 4 – LIABILITY AND INDEMNIFICATION

4.1 Hawthorn Woods shall defend, protect, indemnify, save and forever hold harmless Lake Zurich and/or any of its officers, officials, employees, agents, and/or representatives from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses, including but not limited to court costs, litigation expenses, insurance deductibles, and attorneys' fees and expenses, which Lake Zurich and/or its officers, officials, employees, agents, and/or representatives may incur, suffer, or sustain, or for which Lake Zurich and/or its officers, officials, employees, agents, and/or representatives may become obligated by reasons of any accident, injury to, or death of any persons, or loss of, or damage to, any property, or civil and/or constitutional infringement of civil rights or liberties (specifically including violations of any and all federal civil rights statutes, regulations, and constitutional provisions) arising directly or indirectly from, in connection with, under, or as a result of the Agreement by virtue of any act or omission of any of Hawthorn Wood's officers, officials, employees, agents, and/or representatives. This provision is entered into pursuant to Sections 5/1-4-6 and 5/1-1-2.1 of the Illinois Municipal Code, 65 ILCS 5/1-4-6; 65 ILCS 5/11-1-2.1.

4.2 Lake Zurich shall defend, protect, indemnify, save and forever hold harmless Hawthorn Woods and/or any of its officers, officials, employees, agents, and/or representatives from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses, including but not limited to court costs, litigation expenses, insurance deductibles and attorneys' fees and expenses, which Hawthorn Woods and/or its officers, officials, employees, agents, and/or representatives may incur, suffer, or sustain, or for which Hawthorn Woods and/or its officers, officials, employees, agents, and/or representatives may become obligated by reasons of any accident, injury to, or death of any persons, or loss of, or damages to, any property, or civil and/or constitutional infringement of civil rights or liberties (specifically including violations of any and all federal civil rights statutes, regulations, and constitutional provisions) arising directly or indirectly from, in

connection with, under, or as a result of this Agreement by virtue of any act or omission of any of Lake Zurich officers, officials, employees, agents, and/or representatives. This provision is entered into pursuant to Sections 5/1-4-6 and 5/1-1-2.1 of the Illinois Municipal Code, 65 ILCS 5/1-4-6; 65 ILCS 5/11-1-2.1.

4.3 Hawthorn Woods shall carry and maintain comprehensive general public liability insurance, which shall include coverage for personal liability, contractual liability, automobile coverage, bodily injury, death and property damage, in a minimum amount of \$5,000,000 combined single limit, which insurance shall include Lake Zurich as a named additional insured. Hawthorn Woods shall present evidence of the required insurance coverage to Lake Zurich prior to the commencement of the term of this Agreement.

SECTION 5 – FEES

5.1 In addition to any other costs or fees provided for herein, Hawthorn Woods shall pay Lake Zurich two hundred fifty dollars (\$250.00) per calendar day per detainee housed in the Lake Zurich Police Holding Facility. A calendar day shall be defined as any component of a calendar day, up to 24 hours, spent by a detainee in the Lake Zurich Police Holding Facility. Lake Zurich also reserves the right to charge Hawthorn Woods for actual personnel costs incurred by Lake Zurich Police to staff the Police Holding Facility.

SECTION 6 – PAYMENT

6.1 Lake Zurich shall provide Hawthorn Woods with an invoice for housing services on a quarterly basis. Payment shall be made in accordance with the Local Government Prompt Payment Act.

SECTION 7 – FINANCING CONTINGENCY

7.1 Lake Zurich and Hawthorn Woods expressly agree to comply with all legal and administrative requirements that govern the acceptance and use of the federal grant funds received for law enforcement purposes, as such requirements may be amended from time to time.

SECTION 8 – ACCOUNTABILITY

8.1 The Lake Zurich Chief of Police and the Village Manager shall administer this Agreement on behalf of Lake Zurich. The Hawthorn Woods Chief of Police and the Village Manager shall administer this Agreement on behalf of Hawthorn Woods. The respective Chiefs of Police shall establish reasonable protocols for the admittance and discharge of prisoners.

8.2 Notice or other writings which any party desires or is required to serve upon the other party in connection with this Agreement shall be in writing and shall be delivered electronically or certified mail return receipt requested, postage prepaid, addressed to the respective Chief of Police.

For notices and communications to Lake Zurich:

Chief of Police
Village of Lake Zurich
200 Mohawk Trail
Lake Zurich, Illinois 60047

For notices and communications to Hawthorn Woods:

Chief of Police
Village of Hawthorn Woods
2 Lagoon Drive,
Hawthorn Woods, IL 60047

SECTION 9 – GENERAL TERMS AND CONDITIONS

9.1 If any provision of this Agreement is held to be invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect in the absence of the invalid provision, provided that the invalidation of such provision does not materially impact the purpose for which this Agreement was entered.

9.2 Any other agreements, understandings, representations, and/or promises between the parties hereto concerning the subject matter hereof, whether written, oral or otherwise, are hereby canceled and superseded by the Agreement upon its approval and acceptance by the parties. This Agreement encompasses the full and complete understanding of the parties with respect to the subject matter contained herein.

9.3 This Agreement shall be construed in accordance with the laws and Constitution of the State of Illinois.

9.4 All of the terms and conditions of this Agreement are hereby made binding, on the respective successors and assigns of both parties hereto.

9.5 Nothing contained in the Agreement, including, specifically its provisions with respect to insurance and indemnification, is intended to constitute, nor shall constitute a waiver of the defenses available to either of the Parties under the Illinois Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 *et seq.*) with respect to claims by third parties.

IN WITNESS WHEREOF, the undersigned municipal governments have caused this Agreement to be duly executed on this 21st of May 2024.

VILLAGE OF LAKE ZURICH

By: *Jim Peyton*
Village President



ATTEST:

By: *Katleen Johnson*
Village Clerk

VILLAGE OF HAWTHORN WOODS

By: *John Pich*
Mayor

ATTEST:

By: *Diana Roberto*
Village Clerk