

Resolution

DT-R-0525-16

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF DU PAGE, ILLINOIS
AND THE VILLAGE OF HANOVER PARK
CH 43/COUNTY FARM ROAD AT SCHICK ROAD
INTERSECTION IMPROVEMENTS
(COUNTY TO BE REIMBURSED FOR FUTURE
TRAFFIC SIGNAL MAINTENANCE COSTS)

WHEREAS, the County of DuPage (hereinafter referred to as COUNTY) and the Village of Hanover Park (hereinafter referred to as VILLAGE) are public agencies within the meaning of the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.); and

WHEREAS, Article VII, Section 10, of the 1970 Constitution of the State of Illinois encourages and provides for units of local government to contract and otherwise associate with each other to exercise, combine or transfer any power or function; and

WHEREAS, the COUNTY by virtue of its power set forth in "Counties Code" (55 ILCS 5/1001 et seq.) and "Illinois Highway Code" (605 ILCS 5/1-101 et seq.) and the VILLAGE by virtue of its power set forth in the "Illinois Municipal Code" (65 ILCS 5/1-1-1 et seq.) are authorized to enter into agreements and contracts; and

WHEREAS, in order to facilitate the free flow of traffic and to ensure the safety of the motoring public, the COUNTY and the VILLAGE desire to improve CH 43/County Farm Road at Schick Road, Section 14-00179-30-SP (hereinafter referred to as PROJECT); and

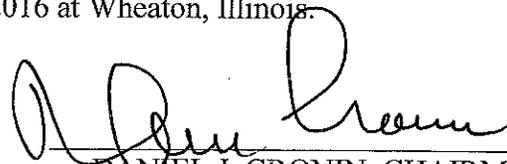
WHEREAS, an Intergovernmental Agreement has been prepared and is attached hereto that outlines the rights and responsibilities of the COUNTY and the VILLAGE related to the PROJECT; and

WHEREAS, the Intergovernmental Agreement must be executed before the rights and responsibilities of the COUNTY and the VILLAGE related to the PROJECT proceed.

NOW, THEREFORE, BE IT RESOLVED by the DuPage County Board, that the Chairman and Clerk of said Board are hereby directed and authorized to execute the attached Intergovernmental Agreement with the VILLAGE; and

BE IT FURTHER RESOLVED that two (2) duplicate original copies of this Resolution and Intergovernmental Agreement be sent to the VILLAGE, by and through the Division of Transportation.

Enacted and approved this 28th day of June, 2016 at Wheaton, Illinois.


DANIEL J. CRONIN, CHAIRMAN
DU PAGE COUNTY BOARD

Ayes: 17
Absent: 1

Attest:


PAUL HINDS, COUNTY CLERK

INTERGOVERNMENTAL AGREEMENT BETWEEN THE
COUNTY OF DU PAGE AND
THE VILLAGE OF HANOVER PARK
FOR
THE CH 43/COUNTY FARM ROAD AT SCHICK ROAD
INTERSECTION IMPROVEMENTS
SECTION NO.: 14-00179-30-SP

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as "AGREEMENT") is entered into this 28th day of June, 2016, between the County of DuPage (hereinafter referred to as the "COUNTY"), a body corporate and politic, with offices at 421 North County Farm Road, Wheaton, Illinois 60187 and the Village of Hanover Park (hereinafter referred to as the "VILLAGE"), an Illinois municipal corporation, with its principal offices at 2121 Lake Street, Hanover Park, Illinois 60133. The COUNTY and the VILLAGE are hereinafter sometimes individually referred to as a "party" or together as the "parties."

RECITALS

WHEREAS, the COUNTY in order to facilitate the free flow of traffic and to ensure the safety of the public desires to improve CH 43/County Farm Road at Schick Road, Section 14-00179-30-SP (hereinafter referred to as "PROJECT"); and

WHEREAS, CH 43/County Farm Road and the east leg of CH 50/Schick Road are under the COUNTY's jurisdiction and the west leg of Schick Road is under the VILLAGE's jurisdiction; and

WHEREAS, the COUNTY and the VILLAGE desire to cooperate in the construction of the PROJECT because of the benefit of the PROJECT to the residents of DuPage County, the VILLAGE and the public; and

WHEREAS, the COUNTY and the VILLAGE desire to establish the parties' mutual project cost and maintenance responsibilities with respect to the PROJECT; and

WHEREAS, the COUNTY by virtue of its power set forth in "Counties Code" (55 ILCS 5/1-1001 et seq.) and "Illinois Highway Code" (605 ILCS 5/1-101 et seq.) and the VILLAGE by virtue of its power set forth in the "Illinois Municipal Code"

(65 ILCS 5/1-1-1 *et seq.*) are authorized to enter into this AGREEMENT; and

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 to exercise, combine or transfer any power or function, in any manner not prohibited by law; and

WHEREAS, the COUNTY and VILLAGE are public agencies as that term is defined in the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

NOW, THEREFORE, pursuant to statutory authority and their powers of intergovernmental cooperation, and in consideration of the premises, the mutual covenants, terms, obligations, and conditions herein set forth, and the understandings of each party to the other, the parties do hereby mutually covenant, promise and agree as follows:

1.0 INCORPORATION.

- 1.1. All recitals set forth above are incorporated herein and made part thereof, the same constituting the factual basis for this AGREEMENT.
- 1.2. The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

2.0 SCOPE OF WORK

- 2.1. The PROJECT includes, but is not limited to, adding a right turn lane on northbound County Farm Road at Schick Road, resurfacing the intersection, lengthening left turns within the existing medians and traffic signal modernization at the intersection (hereinafter referred to as "SIGNAL") and other necessary and appurtenant work.

3.0 RESPONSIBILITIES - JOINT

3.1. The COUNTY and the VILLAGE agree to cooperate in and make every effort to cause the construction of the PROJECT. The COUNTY shall bear all PROJECT costs.

4.0 RESPONSIBILITIES OF THE COUNTY

4.1. The COUNTY shall act as the lead agency and be responsible for completing all preliminary and design engineering, right-of-way acquisition, if any, coordinating with the Illinois Department of Transportation for letting/awarding of a construction contract, permit processing, and construction engineering for the PROJECT.

4.2. The COUNTY shall submit the Pre-Final Plans and Specifications for the PROJECT to the VILLAGE for review. The VILLAGE shall provide review comments within fourteen (14) days of receipt of the Pre-Final Plans and Specifications. The COUNTY will correct any errors and address other reasonable comments prior to the submittal of Final Plans and Specifications.

4.3. Both the COUNTY and VILLAGE agree that the COUNTY shall administer the contract for the construction of the PROJECT. The COUNTY agrees to administer the PROJECT in the best interest of both parties and to consult with, and keep advised, officials of the VILLAGE regarding the progress of the PROJECT and any problems encountered or changes recommended.

4.4. Upon completion of the PROJECT, the COUNTY shall own, operate and maintain said SIGNAL and shall provide and pay for all costs associated with the future routine maintenance of the SIGNAL with reimbursement by the VILLAGE as hereinafter referenced.

4.5. The COUNTY shall be responsible for maintenance of all pavement markings on CH 43/County Farm Road and the east leg of Schick Road.

5.0 RESPONSIBILITIES OF THE VILLAGE

5.1. The VILLAGE hereby grants to the COUNTY, its employees, contractors and agents a right-of-entry

for ingress and egress onto, over, under and above the VILLAGE property within the boundaries of the PROJECT for the purpose of constructing the PROJECT. The VILLAGE shall retain the right of ingress and egress over said areas so long as it does not interfere with the COUNTY's work. The COUNTY shall provide twenty four (24) hour notice when it will be entering VILLAGE property and commence work. Upon completion of the PROJECT, the right-of-entry shall automatically terminate.

- 5.2. The VILLAGE agrees, if necessary, to make arrangements for and issue permits for PROJECT required adjustments, relocations, modifications, etc. to VILLAGE utility facilities, which are in conflict with the PROJECT at no expense to the COUNTY.
- 5.3. The VILLAGE shall reimburse the COUNTY for one-fourth (1/4) of all future routine maintenance costs including traffic signal equipment and combination mast arm mounted luminaires for the SIGNAL by annual invoice from the COUNTY. The VILLAGE's share of routine maintenance shall be invoiced to the VILLAGE at the unit price as paid by the COUNTY for the COUNTY traffic signal maintenance in place at the time of the annual invoice. The VILLAGE's estimated one-fourth (1/4) share for 2017 is \$450.00. See 4.4 above.
- 5.4. The VILLAGE agrees that the COUNTY shall repair damages to the SIGNAL caused by motor vehicles or construction activities by others, and shall invoice the VILLAGE for one-fourth of all said costs not recovered by the COUNTY. The COUNTY agrees to execute any necessary documentation subrogating COUNTY'S rights to the VILLAGE for recovery of said cost. See 4.4 above.
- 5.5. The VILLAGE agrees to pay for all energy costs for the SIGNAL upon completion of the PROJECT and shall be invoiced directly by the energy provider for the SIGNAL. See 4.4 above.
- 5.6. The VILLAGE shall be responsible for maintenance of the west leg of Schick Road including all pavement markings.

6.0 FUTURE MODERNIZATION/RECONSTRUCTION

6.1. If, in the future, it is determined that the SIGNAL requires modernization or reconstruction due to age, condition, etc. or if the COUNTY improves CH 43/County Farm road which results in the need to modernize or reconstruct the SIGNAL, the parties hereby agree to share the cost of the improvement to the SIGNAL in proportion to the number of approaches to the intersection maintained by the respective parties. Said future modernization/reconstruction shall be the subject of a future agreement that will define the parties' project and financial responsibilities. The parties agree that should either party receive federal, state or other funding granted for the modernization/reconstruction of said SIGNAL that said party(s) will equitably allocate such grant funds so as to mutually benefit each party in proportion to the number of street approaches to the intersection maintained by the respective party.

7.0 MAINTENANCE

7.1. It is understood and agreed by the parties hereto that this AGREEMENT is intended to address the PROJECT and no changes to maintenance and/or jurisdiction of existing roadways and appurtenances are proposed. Upon completion of the PROJECT, the COUNTY shall own, maintain and operate elements of the PROJECT within COUNTY jurisdiction and the VILLAGE shall own, maintain and operate elements of the PROJECT within VILLAGE jurisdiction.

8.0 INDEMNIFICATION

8.1. The COUNTY shall to the extent permitted by law, indemnify, hold harmless and defend the VILLAGE, its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and action, including costs, fees and expense of defense, arising from, growing out of, or

related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with the negligent or willful acts, or errors or omissions of the COUNTY, any contractor or subcontractor, or anyone directly or indirectly employed by any of them in its performance under this AGREEMENT to the extent permitted by law. The COUNTY does not hereby waive any defenses or immunity available to it with respect to third parties.

8.1.1. The COUNTY and the VILLAGE acknowledge that the COUNTY has made no representations, assurances or guaranties regarding the COUNTY's or any successor's or assign's authority and legal capacity to indemnify VILLAGE as provided for in this AGREEMENT. In the event a court of competent jurisdiction holds that the COUNTY, or any successor or assign, is deemed to lack the lawful authority or ability to indemnify, defend or hold harmless the VILLAGE, or any person or entity claiming a right through VILLAGE, or in the event of change in the laws of the State of Illinois governing COUNTY's or any successor's or assign's indemnification authority, such occurrence(s) shall not affect the validity and enforceability of the remainder of this AGREEMENT or the parties rights and obligations provided for therein.

8.2. The VILLAGE shall to the extent permitted by law indemnify, hold harmless and defend the COUNTY, its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and action, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the VILLAGE's negligent or willful acts, errors or omissions in its performance under this AGREEMENT to the extent permitted by law. The VILLAGE does not hereby waive any defenses or immunity available to it with respect to third parties.

8.2.1. The VILLAGE and the COUNTY acknowledge that the VILLAGE has made no representations, assurances or guaranties regarding the VILLAGE's or any successor's or assign's authority and

legal capacity to indemnify COUNTY as provided for in this AGREEMENT. In the event a court of competent jurisdiction holds that the VILLAGE, or any successor or assign, is deemed to lack the lawful authority or ability to indemnify, defend or hold harmless the COUNTY, or any person or entity claiming a right through COUNTY, or in the event of change in the laws of the State of Illinois governing VILLAGE's or any successor's or assign's indemnification authority, such occurrence(s) shall not affect the validity and enforceability of the remainder of this AGREEMENT or the parties rights and obligations provided for therein.

- 8.3. Nothing contained herein shall be construed as prohibiting the COUNTY, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, 55 ILCS 5/3-9005, any attorney representing the COUNTY, who is not already an Assistant State's Attorney, is to be appointed a Special Assistant State's Attorney, as provided in 55 ILCS 5/3-9008. The COUNTY's participation in its defense shall not remove VILLAGE's duty to indemnify, defend, and hold the COUNTY harmless, as set forth above.
- 8.4. Neither party waives, by these indemnity requirements, any defenses or protections under the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) or otherwise available to it, or to the other party, under the law.
- 8.5. Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided. The VILLAGE's and COUNTY's indemnification under Section 8.0 hereof shall terminate when the PROJECT is completed and the VILLAGE and COUNTY assume their maintenance responsibilities as set forth in Section 7.1 hereof.

9.0 GENERAL

- 9.1. Whenever in this AGREEMENT, approval or review of either the COUNTY or VILLAGE is provided for, said approval or review shall not be unreasonably delayed or withheld.
- 9.2. In the event of a dispute between the COUNTY and VILLAGE representatives in the preparation of the Plans and Specifications, or changes thereto, or in carrying out the terms of this AGREEMENT, the County Engineer of the COUNTY and the Village Manager of the VILLAGE shall meet and resolve the issue.
- 9.3. No later than fourteen (14) days after the execution of this AGREEMENT, each party shall designate a representative to the other party who shall serve as the full time representative of said party during the carrying out of the construction of the PROJECT. Each representative shall have authority, on behalf of such party, to receive notices and make inspections relating to the work covered in this AGREEMENT. Representatives shall be readily available to the other party.
- 9.4. This AGREEMENT may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which shall be deemed one in the same instrument.

10.0 ENTIRE AGREEMENT

- 10.1. This AGREEMENT represents the entire AGREEMENT between the parties with respect to the PROJECT, and supersedes all previous communications or understandings whether oral or written.

11.0 NOTICES

- 11.1. Any notice required hereunder shall be deemed properly given to the party to be notified at the time it is personally delivered or mailed by

certified mail, return receipt requested, postage prepaid, or sent by confirmed facsimile or email, to the party's address. The address of each party is as specified below; either party may change its address for receiving notices by giving notices thereof in compliance with the terms of this subsection.

Juliana Maller
Village Manager
Village of Hanover Park
400 South Eagle Street
Hanover Park, IL 60540
Phone: 630.823.5608
Facsimile:
Email: jmaller@hpil.org

Christopher C. Snyder, P.E.
Director of Transportation/County Engineer
DuPage County Division of Transportation
421 N. County Farm Road
Wheaton, IL 60187
Facsimile: 630.407.6901
Email: Christopher.snyder@dupageco.org

12.0 AMENDMENT, MODIFICATION OR TERMINATION OF THIS AGREEMENT

12.1. No modification or amendment to this AGREEMENT shall be effective until approved by the parties in writing.

13.0 ASSIGNMENT

13.1 This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

14.0 AUTHORITY TO EXECUTE/RELATIONSHIP

14.1. The parties hereto have read and reviewed the terms of this AGREEMENT and by their signature as affixed below represent that the signing party has the authority to execute this AGREEMENT and that the

parties intend to be bound by the terms and conditions contained herein.

14.2. This AGREEMENT shall not be deemed or construed to create an employment, joint venture, partnership or other agency relationship between the parties.

15.0 GOVERNING LAW

15.1. This AGREEMENT shall be governed by the laws of the State of Illinois as to both interpretation and performance.

15.2. The forum for resolving any disputes concerning the parties' respective performance, or failure to perform, under this AGREEMENT, shall be the Judicial Circuit Court for DuPage County.

16.0 SEVERABILITY

16.1 In the event, any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the AGREEMENT. The remainder of this AGREEMENT shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.

17.0 FORCE MAJEURE

17.1 Neither party shall be liable for any delay or non-performance of their obligations caused by any contingency beyond their control including but not

limited to Acts of God, war, civil unrest, strikes,
walkouts, fires or natural disasters.

IN WITNESS whereof, the parties set their hands and seals
as of the date first written above.

COUNTY OF DU PAGE

VILLAGE OF HANOVER PARK

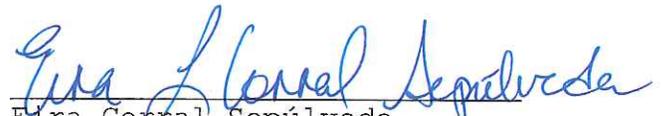

Daniel J. Cronin, Chairman
DuPage County Board


Rodney S. Craig, President

ATTEST:

ATTEST:


Paul Hinds
County Clerk


Eira Corral Sepúlveda
Village Clerk