

**INTERGOVERNMENTAL AGREEMENT BETWEEN COUNTY OF DUPAGE,  
ILLINOIS AND MILTON TOWNSHIP HIGHWAY DEPARTMENT FOR THE  
NATIONAL STREET DRAINAGE IMPROVEMENT PROJECT**

This INTERGOVERNMENTAL AGREEMENT (hereinafter "AGREEMENT") is made this 9th day of June 2026, by and between the County of DuPage, a body politic and corporate, with offices at 421 North County Farm Road, Wheaton, Illinois (hereinafter the "COUNTY") and Milton Township Highway Department, a body politic and corporate, with offices at 23W040 Poss Street, Glen Ellyn, IL 60137 (hereinafter the "TOWNSHIP"), individually referred to at times as "Party" or collectively referred to as the "Parties".

**R E C I T A L S**

**WHEREAS**, the TOWNSHIP and the COUNTY are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act" and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois; and

**WHEREAS**, the purposes of the "Intergovernmental Cooperation Act" and Article 7 of the Constitution of the State of Illinois include fostering cooperation among government bodies; and

**WHEREAS**, the Illinois General Assembly has granted the COUNTY authority to take action to control flooding, manage stormwater runoff and improve drainage throughout the COUNTY'S territory and to enter into agreements for the aforesaid purposes (Illinois Compiled Statutes, Chapter 55 paragraphs 5/5-1062.3 and 5/5-15001 et. seq.); and

**WHEREAS**, pursuant to said authority, the COUNTY and TOWNSHIP have sought to undertake a project to improve drainage by performing removal and replacement of storm sewer along National Street, generally located between Natalie Court and Richard Avenue within unincorporated Milton Township; and

**WHEREAS**, the COUNTY and TOWNSHIP have developed a plan to rehabilitate existing drainage improvements associated with the National Street storm sewer, titled National Street Design & Permit Project (herein referred to as the "PROJECT"); and

**WHEREAS**, the COUNTY and the TOWNSHIP have determined and intend that the PROJECT will benefit local citizens by improving drainage and reducing the occurrence of localized flooding within Milton Township; and

**WHEREAS**, the COUNTY and TOWNSHIP have determined to each contribute funding for the PROJECT'S construction costs, with the COUNTY'S contribution via its Drainage Assistance Program constituting either fifty percent (50%) of the PROJECT's allowable construction costs or an amount not to exceed thirty thousand dollars and zero cents (\$30,000.00), whichever is lesser, and the TOWNSHIP's contribution being thirty thousand

dollars and zero cents (\$30,000.00) or the remainder of the PROJECT's cost, whichever is greater; and

**WHEREAS**, the COUNTY and TOWNSHIP shall jointly undertake the PROJECT, with the TOWNSHIP responsible for the award of the construction contract, if applicable, and payment of all PROJECT allowable construction costs up front, subject to reimbursement by the COUNTY following substantial completion of the PROJECT, per the this AGREEMENT.

**NOW, THEREFORE**, in consideration of the premises, the mutual covenants, terms, 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 AND CONSTRUCTION.**

- 1.1 All recitals set forth above are incorporated herein and made a 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 PROJECT DESCRIPTION.**

- 2.1 The PROJECT involves removal and replacement of existing storm sewer associated with National Street and any related site restoration.
- 2.2 The PROJECT shall be completed by the TOWNSHIP in substantial conformity to the design prepared by V3 Engineering, Ltd. titled National Street Drainage Improvement Project, specifically to remove and replace existing storm sewer along the National Street right of way corridor.

**3.0 FUNDING.**

- 3.1 The Parties acknowledge and agree that the total PROJECT costs for construction are estimated to be two hundred eleven thousand three hundred seventy dollars and no cents (\$211,370.00). The COUNTY's total contribution amount shall not exceed the amount of thirty thousand dollars and no cents (\$30,000.00), or fifty percent (50%) of the total PROJECT costs, whichever is lesser. The TOWNSHIP's total contribution shall be either thirty thousand dollars and no cents (\$30,000.00) or the remainder of the total project costs in excess of the COUNTY's contribution, whichever is greater.
- 3.2 The COUNTY'S contribution amount shall only be used towards payment of allowable PROJECT construction expenses. Allowable PROJECT construction expenses shall include services directly related to the construction of the PROJECT, including labor and materials, but shall not

include construction management, bid advertising, professional services, administrative costs, overhead, payroll, land acquisition, and/or legal or accounting services, etc.

- 3.3 The TOWNSHIP shall be responsible for securing, at its own expense, any third-party professional services (architectural, construction management, etc.) related to the PROJECT's completion. The TOWNSHIP shall also be responsible for bearing all administrative costs, overhead, payroll, land acquisition, and/or legal or accounting services related to the PROJECT.
- 3.4 The TOWNSHIP shall be responsible for bearing any cost overruns or expenses in excess of the total PROJECT costs estimate listed in Paragraph 3.1, regardless of the cause, unless the TOWNSHIP and COUNTY agree to apportion such extra costs in writing before they are incurred.
- 3.5 This AGREEMENT shall in no way obligate the COUNTY or TOWNSHIP to undertake or complete the PROJECT if the COUNTY or TOWNSHIP in their sole discretion determines that it is no longer in their best interest to proceed with this PROJECT. In the event the PROJECT is cancelled prior to completion, the TOWNSHIP shall reimburse the COUNTY fifty percent (50%) of the actual total project costs incurred at the time of the PROJECT'S cancellation.

#### **4.0 TOWNSHIP'S RESPONSIBILITIES.**

- 4.1 The TOWNSHIP, together with the COUNTY, shall be responsible for the preparation of any plans and specifications for the PROJECT. The TOWNSHIP shall, at its own expense, select, and contract with, all vendors providing professional services for the PROJECT, if determined to be necessary by the TOWNHIP.
- 4.2 The TOWNSHIP and COUNTY shall cooperate to secure all local, county, state, and federal permits necessary for completion of the PROJECT.
- 4.3 The TOWNSHIP shall be responsible for obtaining all required land rights necessary for the completion of the PROJECT.
- 4.4 Subject to the COUNTY's prior approval, the TOWNSHIP may enter into additional agreements to secure the services of other project partners to perform or undertake the TOWNSHIP'S functions under this Agreement, but in all instances the TOWNSHIP shall remain responsible for ensuring the satisfactory performance and/or substantial completion of the PROJECT by any such additional project partners.

- 4.5 The TOWNSHIP shall allow the COUNTY, including the COUNTY'S employees, contractors and consultants, etc., unlimited access to the PROJECT area to perform, supervise, review, and inspect all PROJECT work and work documents (i.e., plans, change orders, field orders, manager diaries, etc.).
- 4.6 The TOWNSHIP shall make direct payments to all parties providing allowable construction services related to this PROJECT. This requirement will not affect the COUNTY's obligation to reimburse the TOWNSHIP in the amounts herein agreed upon, nor shall this provision affect the COUNTY's obligation to reimburse the TOWNSHIP in the event the PROJECT is not undertaken or completed.
- 4.7 The TOWNSHIP shall submit a final invoice to the COUNTY within a reasonable time following substantial completion of the PROJECT'S construction. The invoice shall be supported by documentation of all allowable PROJECT expenses for which the TOWNSHIP seeks reimbursement.
- 4.8 The TOWNSHIP shall be solely responsible for the ownership, control, and maintenance of all PROJECT improvements after completion of the PROJECT.

## **5.0 COUNTY'S RESPONSIBILITIES.**

- 5.1 If the TOWNSHIP elects to construct the improvements in-house, the COUNTY may elect to assist the TOWNSHIP with construction of the PROJECT improvements, as mutually agreed upon by both the COUNTY and TOWNSHIP prior to commencement of the work.
- 5.2 The COUNTY, together with the TOWNSHIP, shall be responsible for oversight and successful completion of all phases of the PROJECT, from design and construction through maintenance.
- 5.3 The COUNTY and TOWNSHIP shall cooperate to secure all local, county, state, and federal permits necessary for completion of the PROJECT.
- 5.4 The COUNTY shall not be responsible for reimbursing the TOWNSHIP for work undertaken prior to the signing of this AGREEMENT.
- 5.5 The COUNTY may enter into additional agreements to secure the services of other project partners to perform or undertake the COUNTY'S functions under this Agreement, but in all instances the COUNTY shall remain responsible for ensuring the satisfactory performance and/or substantial completion of the PROJECT.

- 5.6 The COUNTY shall reserve the right to review all plans and specifications related to the TOWNSHIP's retention of third-party professional services for the PROJECT and any additional agreements by the TOWNSHIP to secure the services of other project partners.
- 5.7 The COUNTY shall cost share in the PROJECT as follows:
- 5.7.1 The COUNTY shall pay for a portion of all construction costs associated with the project, but in no event shall the COUNTY's total contribution towards the PROJECT amount to more than thirty thousand dollars and no cents (\$30,000.00) or 50% of the total PROJECT cost, whichever is lesser.
- 5.7.2 In the event actual costs for the PROJECT at the time of completion total less than two hundred eleven thousand three hundred seventy dollars and no cents (\$211,370.00), the COUNTY'S total reimbursement amount shall not be more than fifty percent (50%) of the final PROJECT construction costs. In the event it is determined that the COUNTY has overpaid more than its agreed share of the PROJECT'S costs, for any reason, the TOWNSHIP shall promptly refund the COUNTY the amount of such overpayment.
- 5.8 The COUNTY shall make a single payment to the TOWNSHIP in the amount of either thirty thousand dollars and no cents (\$30,000.00) or the remainder of the total project costs in excess of the COUNTY's agreed contribution, whichever is greater, upon receipt of the TOWNSHIP's final invoice following substantial completion of the PROJECT. There shall be no progress payments.

## **6.0 GOVERNMENT REGULATIONS.**

- 6.1 The COUNTY and TOWNSHIP shall comply with all local, county, state and federal requirements now in force, or which may hereafter be in force, pertaining to the PROJECT.

## **7.0 INDEMNIFICATION.**

- 7.1 The TOWNSHIP shall indemnify, hold harmless and defend the COUNTY and its officials, officers, employees, and agents from and against all liability, claims, suits, demands, liens, proceedings and actions, 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 TOWNSHIP'S performance under this AGREEMENT to the fullest extent the TOWNSHIP is so authorized under the law; provided, however, that the TOWNSHIP shall not be

obligated to indemnify, hold harmless and defend the COUNTY for any negligent or intentional wrongful misconduct or omissions by COUNTY officials, employees, agents, contractors or personnel.

- 7.2 The COUNTY shall indemnify, hold harmless and defend the TOWNSHIP and its officials, officers, employees, and agents from and against all liability, claims, suits, demands, liens, proceedings and actions, 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 COUNTY's performance under this AGREEMENT to the fullest extent the COUNTY is so authorized under the law; provided, however, that the COUNTY shall not be obligated to indemnify, hold harmless and defend the TOWNSHIP for any negligent or intentional wrongful misconduct or omissions by TOWNSHIP officials, employees, agents, contractors, consultants, or personnel.
- 7.3 The TOWNSHIP and COUNTY shall require each consultant and contractor responsible for the design, construction, maintenance, or monitoring of the PROJECT to name both the TOWNSHIP and COUNTY as additional insured parties on said consultant or contractor's liability insurance policy. Further, the TOWNSHIP and COUNTY shall each require that their consultants and contractors indemnify, defend, and hold harmless both the TOWNSHIP and COUNTY, their officers, employees, and elected officials from and against any claims, liability or judgments resulting from, or caused by, the negligence or willful conduct of such consultant and, or contractor.
- 7.4 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, liens, proceedings, and actions brought against them. Pursuant to Illinois law, any attorney representing the COUNTY, under this AGREEMENT, shall be the State's Attorney, or appointed thereby, in accord with the applicable law. The COUNTY'S participation in its defense shall not remove TOWNSHIP'S duty to indemnify, defend, and hold the COUNTY harmless, as set forth above. Moreover, indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage maintained by the TOWNSHIP or its consultants, contractors, or agents. The TOWNSHIP'S indemnification of the COUNTY shall survive the termination, or expiration, of this AGREEMENT.

## **8.0 AMENDMENT OR MODIFICATION OF THIS AGREEMENT.**

- 8.1 The parties may modify or amend terms of this AGREEMENT only by a written document duly approved and executed by both parties, excluding term extensions as provided for in the following provision.

8.2 Notwithstanding Paragraph 8.1, above, the term for performing this AGREEMENT may be extended by any suitable County-designated form, signed by both parties without formal amendment pursuant to Paragraph 8.1, above.

**9.0 TERM OF THIS AGREEMENT.**

9.1 The term of this AGREEMENT shall begin on the date the AGREEMENT is fully executed, and shall continue in full force and effect until the earlier of the following occurs:

9.1.1 November 30, 2026 or to a new date agreed upon by the parties.

9.1.2 The completion by the TOWNSHIP and COUNTY of their respective obligations under this AGREEMENT in the event such completion occurs before November 30, 2026.

**10.0 ENTIRE AGREEMENT.**

10.1 This AGREEMENT, including matters incorporated herein, contains the entire AGREEMENT between parties.

10.2 There are no other covenants, warranties, representations, promises, conditions, or understandings; either oral or written, other than those contained herein.

10.3 This AGREEMENT may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

10.4 In event of a conflict between the terms or conditions of this AGREEMENT and any term or condition found in any exhibit or attachment, the terms and conditions of this AGREEMENT shall prevail.

**11.0 SEVERABILITY.**

11.1 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.

## **12.0 GOVERNING LAW.**

- 12.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.
- 12.2 The venue 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.

## **13.0 NOTICES.**

- 13.1 Any required notice shall be sent to the following addresses and parties:

Mike Drew  
Highway Commissioner  
Milton Township Highway Department  
23W040 Poss St,  
Glen Ellyn, IL 60137  
(630) 682-4270

Sarah Hunn, Director  
DuPage County Stormwater Management Department  
421 North County Farm Road  
Wheaton, Illinois 60187  
(630) 407-6700

DuPage County State's Attorney's Office  
Attn: Civil Bureau  
503 North County Farm Road  
Wheaton, Illinois 60187

## **14.0 WAIVER OF/FAILURE TO ENFORCE BREACH.**


- 14.1 The parties agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this AGREEMENT with respect to a different breach.

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

COUNTY OF DUPAGE

MILTON TOWNSHIP HIGHWAY  
DEPARTMENT


\_\_\_\_\_  
Deborah A. Conroy  
Chair, DuPage County Board

  
Michael H. Drew, Highway Commissioner  
Milton Township Highway Department

ATTEST:

\_\_\_\_\_  
Jean Kaczmarek  
County Clerk

ATTEST:

  
Kasi Steinhilber  
Administrative Assistant