

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF DuPAGE
AND THE VILLAGE OF GLENDALE HEIGHTS
for FULLERTON AVENUE RESURFACING
SECTION NO. 21-00073-00-RS**

This Intergovernmental Agreement (hereinafter referred to as "AGREEMENT") is entered into this _____ day of _____, 2024, between the County of DuPage (hereinafter referred to as the "COUNTY"), a body corporate and politic, with offices at 421 N. County Farm Road, Wheaton, Illinois and the Village of Glendale Heights (hereinafter referred to as the "VILLAGE"), a municipal corporation and home rule unit of local government under the laws and Constitution of the State of Illinois with offices at 300 Civic Center Plaza, Glendale Heights, Illinois 60139. The COUNTY and the VILLAGE are hereinafter sometimes individually referred to as a "party" or together as the "parties."

RECITALS

WHEREAS, the VILLAGE, in order to facilitate the free flow of traffic and to ensure the safety and accessibility of the public, will be resurfacing Fullerton Avenue between Bloomingdale Road and Schmale Road, Section No. 21-00073-00-RS (hereinafter "PROJECT"); and

WHEREAS, the VILLAGE has requested that the COUNTY participate in the cost of road resurfacing and reconstruction of sidewalk ramps within the COUNTY right-of-way at the intersection of Fullerton Avenue at Bloomingdale Road, up to the edge of pavement of Bloomingdale Road (hereinafter "WORK"), within the VILLAGE as part of the PROJECT; and

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

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

WHEREAS, the COUNTY by virtue of its power set forth in "Counties Code" (55 ILCS 5/5-1001 et seq.) and "Illinois Highway Code" (605 ILCS 5/5-101 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, a cooperative intergovernmental agreement is appropriate and such an agreement is authorized and encouraged by Article 7, Section 10 of the Illinois Constitution and Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.).

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

- 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 PROJECT

- 2.1 The COUNTY and VILLAGE agree to cooperate in and make every effort to cause the construction of the PROJECT and the WORK.
- 2.2 The COUNTY and VILLAGE agree that the scope of the PROJECT includes milling, patching and resurfacing Fullerton Avenue between Bloomingdale Road and Schmale Road including curb and gutter repairs, sidewalk improvements, striping, and other appurtenant work.
- 2.3 The VILLAGE has requested that the COUNTY participate in the cost of the WORK, which involves resurfacing the Fullerton Road pavement and reconstruction of the southwest corner sidewalk ramp within the COUNTY right-of-way at the intersection of Fullerton Road and Bloomingdale Road, location details attached hereto ("Exhibit B") and incorporated herein.
- 2.4 The COUNTY has reviewed the VILLAGE's request and concurs with participating in the cost of the WORK subject to the terms and conditions herein.

3.0 RESPONSIBILITIES OF THE VILLAGE

- 3.1. The COUNTY and VILLAGE agree that the VILLAGE shall act as the lead agency and administer the contract for the construction of the PROJECT. The VILLAGE agrees to manage the PROJECT in the best interest of both parties and keep advised officials of the COUNTY regarding the progress of the PROJECT and any problems encountered or changes recommended.

4.0 RESPONSIBILITIES OF THE COUNTY

- 4.1 The COUNTY agrees to reimburse the VILLAGE ten percent (10%) of its share of the estimated cost for construction of the WORK for design engineering, estimated to be \$1,412.19.
- 4.2 The COUNTY agrees to reimburse the VILLAGE ten percent (10%) of its share of the estimated cost for construction of the WORK for construction engineering, estimated to be \$1,412.19.
- 4.3 The COUNTY will be responsible for payment of the local share for the WORK as stated in 2.3 above. The COUNTY's total estimated cost of the WORK, including the engineering costs stated in 4.1 and 4.2 above, is \$16,946.31. A Schedule of Rates is attached hereto ("Exhibit A") and incorporated herein.
- 4.4 The COUNTY agrees to pay the VILLAGE eighty percent (80%) of the total estimated cost of the WORK as stated in 4.3 above, (\$13,557.00), based on as-bid unit prices, upon award of the contract. The COUNTY agrees to payment within sixty (60) days of receipt of a properly documented invoice for the 80% amount from the VILLAGE.
- 4.5 The COUNTY also agrees to reimburse the VILLAGE the balance of the actual cost of the local share for the WORK, detailed in 2.0 as referenced herein above, within sixty (60) days of receipt of a properly documented invoice from the VILLAGE once the WORK is completed, inspected and approved by the COUNTY.
- 4.6 The VILLAGE agrees to refund the COUNTY any payment overage, should the estimated payment be higher than the actual costs, within 60 days of the final inspection and approval of the WORK by the COUNTY.
- 4.7 The COUNTY hereby grants to the VILLAGE, its employees, contractors and agents a right-of-entry for ingress and egress onto, over, under and above the COUNTY property within the boundaries of the PROJECT for the purpose of constructing the PROJECT including the WORK. The COUNTY shall retain the right of ingress and egress over said areas so long as it does not interfere with the VILLAGE's work. Upon completion of the PROJECT, the right-of-entry shall terminate.
- 4.8 The COUNTY shall agree to waive all local permit fees, if applicable, for the WORK.

5.0 FUTURE MAINTENANCE

- 5.1 It is understood and agreed by the parties hereto that this AGREEMENT is intended to address construction responsibilities of the WORK and no changes to existing right-of-way and appurtenance maintenance responsibilities and/or jurisdiction, are intended or made in the AGREEMENT.

6.0 GENERAL

- 6.1 It is understood and agreed by the parties hereto that this AGREEMENT is intended to address funding, plan/construction and maintenance participation of the PROJECT and no changes to existing roadway and appurtenance maintenance and/or jurisdiction, beyond those explicitly described herein, are proposed.
- 6.2 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.
- 6.3 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 and the VILLAGE Engineer shall meet and resolve the issue.
- 6.4 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 including the WORK. 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.
- 6.5 This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same instrument.
- 6.6 This AGREEMENT and the covenants contained herein shall be null and void in the event the contract covering the construction work contemplated herein is not awarded within four (4) years subsequent to the execution of this AGREEMENT.

7.0 INDEMNIFICATION

- 7.1. 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 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 negligent or willful acts, errors or omissions 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.

- 7.1.1. 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.
- 7.2. The VILLAGE shall 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.
- 7.2.1. The COUNTY and the VILLAGE 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.
- 7.3 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.

7.4 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 tort, or to the other party, under the law.

7.5 Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided. Except with respect to occurrences arising before the completion of the PROJECT, the VILLAGE'S and COUNTY'S indemnification under Section 7.0 hereof shall terminate when the WORK is completed and the VILLAGE and COUNTY each assume its respective maintenance responsibilities as set forth in Section 5.0 hereof.

8.0 ENTIRE AGREEMENT

8.1. 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.

9.0 NOTICES

9.1. Any notice required shall be deemed properly given to the party to be notified at the time it is personally delivered, or three days after it is mailed by certified mail, return receipt requested, or at the time it is sent by confirmed 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.

Village of Glendale Heights

300 Civic Center Plaza

Glendale Heights, IL 60139

ATTN: Rachael Kaplan

Director of Public Works

Phone: 630-260-6040

Email: rachael.kaplan@glendaleheights.org

County of DuPage Division of Transportation

421 N. County Farm Road

Wheaton, IL 60187

ATTN: William C. Eidson, P.E.

County Engineer/Acting Director of Transportation

Phone: 630-407-6900

Email: william.eidson@dupagecounty.gov

10.0 AMENDMENT, MODIFICATION OR TERMINATION OF THIS AGREEMENT

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

11.0 NON-ASSIGNMENT

11.1. This AGREEMENT shall not be assigned by either party without the written consent of the other party, whose consent shall not be unreasonably withheld.

12.0 AUTHORITY TO EXECUTE/RELATIONSHIP

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

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

13.0 GOVERNING LAW

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

13.2. 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.

14.0 SEVERABILITY

14.1. 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.

15.0 FORCE MAJEURE

15.1. 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 GLENDALE HEIGHTS

Signature on File

Deborah A. Conroy, Chair
DuPage County Board

Chodri Ma Khokhar
Village President

ATTEST:

ATTEST:

Signature on File

Jean Kaczmarek, County Clerk

Signature

MARIE A. SCHMIDT

Print Name

Village Clerk

Title

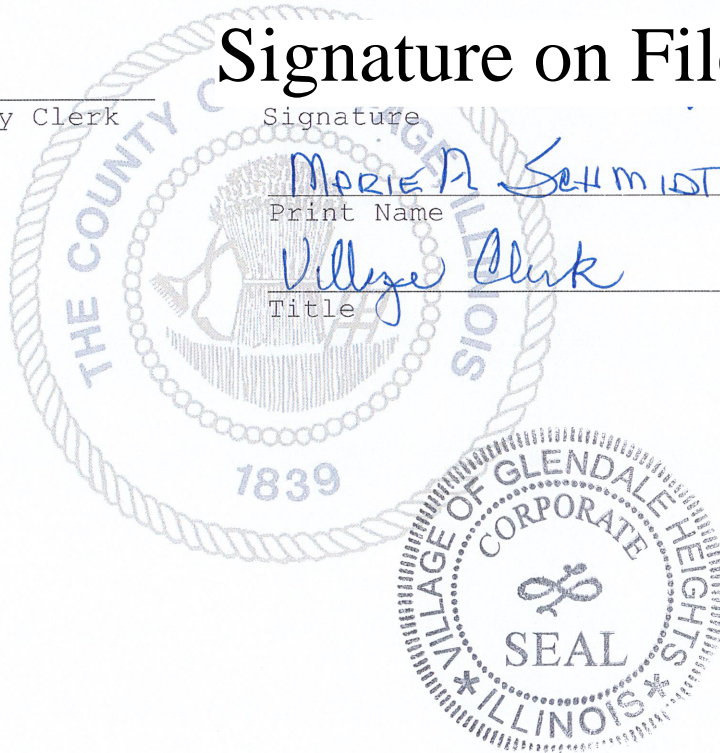


EXHIBIT A

VILLAGE OF GLENDALE HEIGHTS

W. FULLERTON AVE. RESURFACING PROJECT (SCHMALE ROAD TO BLOOMINGDALE ROAD)

ESTIMATE OF COST FOR ADA SIDEWALK IMPROVEMENT AT SOUTHWEST CORNER OF BLOOMINGDALE ROAD AND W. FULLERTON AVENUE

ESTIMATE BASED ON ANTICIPATED QUANTITIES AND AWARDED UNIT PRICES FROM CONTRACT 61J85 (SECTION NO. 21-00073-00-RS)

DATE: FEBRUARY 20, 2024

ITEM NO.	ITEM DESCRIPTION	UNIT	CONTRACT UNIT PRICE	TOTAL BID QUANTITY	ESTIMATED QUANTITY	ESTIMATED COST
21101615	TOPSOIL FURNISH AND PLACE, 4"	SQ YD	\$ 7.00	915.0	55.00	\$ 385.00
25200110	SODDING, SALT TOLERANT	SQ YD	\$ 9.00	920.0	55.00	\$ 495.00
40600290	BITUMINOUS MATERIALS (TACK COAT)	POUND	\$ 0.01	15,845.0	118.00	\$ 1.18
40603080	HOT-MIX ASPHALT BINDER COURSE, IL-19.0, N50	TON	\$ 79.70	3,290.0	25.00	\$ 1,992.50
40604060	HOT-MIX ASPHALT SURFACE COURSE, IL-9.5, MIX "D", N50	TON	\$ 93.00	1,975.0	15.00	\$ 1,395.00
42400200	PORTLAND CEMENT CONCRETE SIDEWALK 5 INCH	SQ FT	\$ 8.75	29,590.0	325.00	\$ 2,843.75
42400800	DETECTABLE WARNINGS	SQ FT	\$ 40.00	170.0	20.00	\$ 800.00
44000165	HOT-MIX ASPHALT SURFACE REMOVAL, 4"	SQ YD	\$ 5.20	23,470.0	175.00	\$ 910.00
44000600	SIDEWALK REMOVAL	SQ FT	\$ 1.25	30,295.0	350.00	\$ 437.50
66900200	NON-SPECIAL WASTE DISPOSAL	CU YD	\$ 200.00	25.0	10.00	\$ 2,000.00
66901006	REGULATED SUBSTANCES MONITORING	CAL DA	\$ 1.00	30.0	2.00	\$ 2.00
X4400503	COMBINATION CONCRETE CURB AND GUTTER REMOVAL AND REPLACEMENT, GREATER THAN 10 FEET	FOOT	\$ 60.00	980.0	31.00	\$ 1,860.00
	PEDESTRIAN PUSH BUTTON EXTENSION BRACKET*	EACH	\$ 500.00	0.0	2.00	\$ 1,000.00
CONSTRUCTION TOTAL =						\$ 14,121.93
DESIGN ENGINEERING (10%) =						\$ 1,412.19
CONSTRUCTION OBSERVATION (10%) =						\$ 1,412.19
ANTICIPATED TOTAL PROJECT COST =						\$ 16,946.31

*PEDESTRIAN PUSH BUTTON EXTENSION BRACKET PAY ITEM WILL NEED TO BE ADDED BY AN APPROVED CHANGE ORDER. COST PER EACH IS ESTIMATED BASED ON HISTORICAL PRICING DATA.

EXHIBIT B



COUNTY R.O.W.

