

AGREEMENT
BETWEEN THE COUNTY OF LAKE AND THE VILLAGE OF ANTIOCH
FOR CERTAIN ROADWAY IMPROVEMENTS
ALONG NORTH AVENUE (COUNTY HIGHWAY 3),
FROM THE CANADIAN NATIONAL RAILWAY
(FORMERLY WISCONSIN CENTRAL RAILROAD) CROSSING
TO DEEP LAKE ROAD (COUNTY HIGHWAY 36)

THIS AGREEMENT is 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 VILLAGE OF ANTIOCH, an Illinois Municipal Corporation, acting by and through its Mayor and Board of Trustees, hereinafter referred to as the VILLAGE. The COUNTY and the VILLAGE are hereinafter referred to collectively as "parties" to THIS AGREEMENT, and either one is referred to individually as a "party" to THIS AGREEMENT.

WITNESSETH

WHEREAS, the COUNTY, in order to facilitate the free flow of traffic and ensure the safety of the motoring public, is desirous of making certain permanent roadway improvements along North Avenue (County Highway 3), from the Canadian National Railway (formerly Wisconsin Central Railroad) crossing eastward to Deep Lake Road (County Highway 36). Said roadway improvements shall include, but not be limited to, the following: (1) the widening and reconstruction of North Avenue, to become a three-lane urban section; (2) the removal of approximately 1,279 feet of VILLAGE-owned 12-inch diameter watermain from under proposed pavement, the abandonment of (and fill around and about) approximately 1,941 feet of VILLAGE-owned 8-inch diameter asbestos/cement-type (i.e., "Transite") watermain and the installation of approximately 3,334 feet of 12-inch diameter watermain, from the Canadian National Railway (formerly Wisconsin Central Railroad) crossing eastward to Rembrandt Drive (hereinafter the WATERMAIN RELOCATION); (3) the adjustment of certain VILLAGE-owned facilities, including, but not limited to: water valves, sanitary sewers, water service lines, fire hydrants, manholes and valve vaults (hereinafter UTILITY ADJUSTMENTS), and (4) the installation of VILLAGE-owned sidewalk along both the north and south sides of North Avenue, from the Canadian National Railway crossing eastward to Nelson Road (approximate length per side is 4,500 feet, approximate total length is 9,000 feet; hereinafter SIDEWALK INSTALLATION). The WATERMAIN RELOCATION, UTILITY ADJUSTMENTS and SIDEWALK INSTALLATION are fully-reimbursable work items, performed at the request of the VILLAGE, the costs for which are solely the responsibility of the VILLAGE; and,

WHEREAS, the above-listed construction work items labeled (1) through (4), plus any other necessary associated work items, shall hereinafter be referred to as the IMPROVEMENT and shall also be known as **County Section Number 03-00119-09-WR**; and,

WHEREAS, the COUNTY has maintenance and jurisdictional authority over North Avenue (County Highway 3); and,

WHEREAS, the estimated total cost to the VILLAGE for its share of the IMPROVEMENT is as indicated in EXHIBIT A to THIS AGREEMENT, which is attached hereto and is hereby made a part hereof; and,

WHEREAS, said IMPROVEMENT as heretofore described will be of immediate benefit to the residents of the COUNTY and of the VILLAGE;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, made pursuant to all applicable statutes, local ordinances and authority, the COUNTY and the VILLAGE do hereby enter into the following:

**SECTION I.
Recitals/Headings**

1. It is mutually agreed by and among the parties hereto that the foregoing preambles are hereby incorporated herein as though fully set forth.
2. It is mutually agreed by and among the parties hereto that the "headings" as contained in THIS AGREEMENT are for reference only and the actual written provisions, paragraphs and words of THIS AGREEMENT shall control.

**SECTION II.
Construction of the IMPROVEMENT**

A. The COUNTY's Responsibilities

1. The COUNTY agrees to prepare, or cause to be prepared, the necessary surveys and design engineering plans and specifications and contract letting documents for the IMPROVEMENT, in accordance with Lake County Division of Transportation (LCDOT) policies and standards. The VILLAGE shall have the opportunity to review and amend the COUNTY-prepared design engineering plans for the WATERMAIN RELOCATION, UTILITY ADJUSTMENTS and SIDEWALK INSTALLATION. Said review by the VILLAGE shall not be unnecessarily withheld.
2. The COUNTY agrees to let and award the construction contract for the construction of the IMPROVEMENT.
3. The COUNTY agrees to cause the IMPROVEMENT to be constructed and to perform, or cause to be performed, the construction engineering supervision for the IMPROVEMENT, in

accordance with LCDOT procedures and requirements, with reimbursement from the VILLAGE as hereinafter stipulated.

4. The COUNTY agrees to prepare, or cause to be prepared, all necessary documents for any rights-of-way or easements, either permanent or temporary, that may be necessary to construct the IMPROVEMENT, inclusive of any appraisals, plats, deeds and legal descriptions that may be necessary to acquire those rights-of-way or easements, either permanent or temporary, with no reimbursement from the VILLAGE.
5. The COUNTY agrees to record all rights-of-way and easements, either temporary or permanent, that may be acquired in connection with the IMPROVEMENT, with no reimbursement by the VILLAGE.
6. It is mutually agreed by and between the parties hereto that, upon completion of the IMPROVEMENT, the COUNTY shall continue maintenance and jurisdictional responsibility over North Avenue.

B. The VILLAGE's Responsibilities

1. The VILLAGE agrees to sign the COUNTY's permitting document, MUNICIPAL UTILITY/FACILITY ACCEPTANCE ON A COUNTY HIGHWAY, the need for which arises from the new WATERMAIN RELOCATION and SIDEWALK INSTALLATION. Said document must be signed by the VILLAGE and on-file with the COUNTY before the construction of the IMPROVEMENT shall commence.
2. The VILLAGE agrees to grant a temporary construction easement with a term of three (3) years (hereafter the TEMPORARY EASEMENT) to the COUNTY for one (1) "T"-shaped area of real property contained within the VILLAGE-owned parcel, known as 22821 West North Avenue. The TEMPORARY EASEMENT is generally depicted as EXHIBIT B to THIS AGREEMENT.

The VILLAGE further agrees to execute the necessary documents (hereafter the GRANT DOCUMENT) for the legal grant of said TEMPORARY EASEMENT. The term of said TEMPORARY EASEMENT shall begin on the execution date of the GRANT DOCUMENT. The COUNTY warrants to the VILLAGE that the COUNTY shall, at its sole expense, restore the TEMPORARY EASEMENT to its condition as of the execution date of the GRANT DOCUMENT prior to final acceptance of the IMPROVEMENT by the COUNTY. Said restoration, if necessary, might include the placement of grass seed and/or sod and minor grading work.

3. It is mutually agreed by and between the parties hereto that a one-story wooden frame structure now lies partially within the COUNTY's right-of-way and partially within the VILLAGE-owned parcel, 22821 West North Avenue (hereinafter the BARN). The present location of said BARN is in conflict with the proposed SIDEWALK INSTALLATION.

The VILLAGE agrees to raze said BARN, at sole expense of the VILLAGE, with no reimbursement from the COUNTY.

The VILLAGE further agrees that the razing of the BARN (and the removal of any and all debris, including, but not limited to: timbers, shingles, wood, flooring, joists, foundations, nails, hardware, etc.) shall be completed on or before March 1, 2010, based upon the County's anticipated letting in June of 2009.

4. The VILLAGE agrees that by executing THIS AGREEMENT, the VILLAGE concurs in the award of the construction contract by the COUNTY in accordance with the standard policies and procedures as adopted and used by LCDOT.
5. During the construction of the IMPROVEMENT, the VILLAGE shall retain the right, but not the obligation, to inspect the workmanship and/or materials as these relate to the WATERMAIN RELOCATION, UTILITY ADJUSTMENTS and SIDEWALK INSTALLATION. Should the VILLAGE wish to raise objection to any part of said workmanship or materials, the VILLAGE shall express said objection in writing to the COUNTY's Resident Engineer. The COUNTY's Resident Engineer shall then expeditiously consult with the VILLAGE in order to collaboratively determine a best course of action to bring resolution to said objection(s), and the COUNTY's Resident Engineer shall require the COUNTY's contractor(s) to modify work practices and/or materials used in order to affect the agreed-upon change(s), not inconsistent with the awarded construction contract.
6. The VILLAGE agrees that it shall be responsible for one-hundred percent (100%) of all costs relating to the WATERMAIN RELOCATION, UTILITY ADJUSTMENTS and SIDEWALK INSTALLATION, as indicated in EXHIBIT A.
7. The VILLAGE agrees that on or before June 30, 2010, and following the award of the construction contract and the receipt of an invoice from the COUNTY, the VILLAGE will pay to the COUNTY a lump-sum amount based on awarded contract unit prices, an amount equal to fifty percent (50%) of its obligation for the WATERMAIN RELOCATION and an amount equal to one-hundred percent (100%) of its obligation for the UTILITY ADJUSTMENTS. At such time, it is estimated that the VILLAGE shall owe to the COUNTY an amount equal to **\$226,796.00**.

The VILLAGE further agrees that on or before June 30, 2011, and following the award of the construction contract and the receipt of an invoice from the COUNTY, the VILLAGE will pay to the COUNTY a lump-sum amount based on awarded contract unit prices, an amount equal to fifty percent (50%) of its obligation for the WATERMAIN RELOCATION and an amount equal to one-hundred percent (100%) of its obligation for the SIDEWALK INSTALLATION. At such time, it is estimated that the VILLAGE shall owe to the COUNTY an amount equal to **\$440,475.00**.

SECTION III.
General Provisions

1. It is mutually agreed by and between the parties hereto that nothing contained in THIS AGREEMENT is intended or shall be construed as, in any manner or form, creating or establishing a relationship of co-partners between the parties hereto, or as constituting the VILLAGE (including its elected officials, duly appointed officials, employees and agents), the agent, representative or employee of the COUNTY for any purpose or in any manner, whatsoever. The VILLAGE is to be and shall remain independent of the COUNTY with respect to all services performed under THIS AGREEMENT.
2. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall not be construed, in any manner or form, to limit the power or authority of the COUNTY or the COUNTY's County Engineer to maintain, operate, improve, construct, reconstruct, repair, manage, widen or expand COUNTY Highways as may be best determined, as provided by law.
3. It is mutually agreed by and between the parties hereto that each party warrants and represents to the other party and agrees that: (1) THIS AGREEMENT is executed by duly authorized agents or officers of such party and that all such agents and officers have executed the same in accordance with the lawful authority vested in them, pursuant to all applicable and substantive requirements; (2) THIS AGREEMENT is binding and valid and will be specifically enforceable against each party; and (3) THIS AGREEMENT does not violate any presently existing provision of law nor any applicable order, writ, injunction or decree of any court or government department, commission, board, bureau, agency or instrumentality applicable to such party.
4. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be deemed to take effect on April 1, 2009, provided the duly authorized agents of the parties hereto duly execute THIS AGREEMENT by affixing their signatures prior to April 1, 2009. In the event the date that the last authorized agent of the parties hereto affix their signature to THIS AGREEMENT is subsequent to April 1, 2009, the effective date of THIS AGREEMENT shall then be the first day of the month which follows the date that the last authorized agent of the parties hereto affixes their signature.
5. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be enforceable in any court of competent jurisdiction by each of the parties hereto by any appropriate action at law or in equity, including any action to secure the performance of the representations, promises, covenants, agreements and obligations contained herein.
6. It is mutually agreed by and between the parties hereto that the provisions of THIS AGREEMENT are severable. If any provision, paragraph, section, subdivision, clause, phrase or word of THIS AGREEMENT is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of THIS AGREEMENT.

7. It is mutually agreed by and between the parties hereto that the agreement of the parties hereto is contained herein and that THIS AGREEMENT supersedes all oral agreements and negotiations between the parties hereto relating to the subject matter hereof.
8. It is mutually agreed by and between the parties hereto that any alterations, amendments, deletions or waivers of any provision of THIS AGREEMENT shall be valid only when expressed in writing and duly executed by the parties hereto.
9. THIS AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. No party hereto may assign, transfer, sell, grant, convey, deed, cede or otherwise give over, in any manner or form, any of its duties, obligations and/or responsibilities as heretofore set forth in THIS AGREEMENT without first obtaining the expressed written consent and permission of the COUNTY, except as provided for in THIS AGREEMENT.
10. THIS AGREEMENT may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute THIS AGREEMENT.

11. THIS AGREEMENT shall be considered null and void in the event that the construction contracts covering the roadway improvements contemplated herein are not awarded by January 1, 2013.

VILLAGE OF ANTIOCH

ATTEST:

Village Clerk

By: _____
Mayor

Date: _____

RECOMMENDED FOR EXECUTION

Martin G. Buehler, P.E.
Director of Transportation / County Engineer
Lake County

COUNTY OF LAKE

ATTEST:

County Clerk

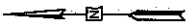
By: _____
Chair
Lake County Board

Date: _____

EXHIBIT A
Estimated Division of Costs for the IMPROVEMENT
North Avenue Roadway Improvements
County Section 03-00119-09-WR

Pay Item	Estimated Cost	Portion Attributable to the COUNTY		Portion Attributable to the VILLAGE	
		Percentage	Estimated Cost	Percentage	Estimated Cost
TOTAL PROJECT: Widening and reconstruction of North Avenue (Wisconsin Central Rail to Deep Lake Road)	\$6,517,271	--	\$5,850,000	--	\$667,271
Cost Break-Out No. 1: WATERMAIN RELOCATION	\$403,092	0%	--	100%	\$201,546 <i>(due 6/30/10)</i> \$201,546 <i>(due 6/30/11)</i>
Cost Break-Out No. 2: UTILITY ADJUSTMENTS	\$25,250	0%	--	100%	\$25,250 <i>(due 6/30/10)</i>
Cost Break-Out No. 3: SIDEWALK INSTALLATION	\$238,929	0%	--	100%	\$238,929 <i>(due 6/30/11)</i>
Total Reimbursable Costs					\$667,271

SCALE: 1" = 30'



44+00

45+00

46+00

☉ NORTH AVENUE



INV = 825.45

INV = 828.08

PSY

PUBLIC IMPROVEMENT



44+25

APPLE

20'

15'

47'

20'

58'

45+51

EXISTING
RIGHT-OF-WAY

44+72

44+93

TEMPORARY EASEMENT

EXHIBIT B