

AN INTERGOVERNMENTAL AGREEMENT BETWEEN - 2299
THE COUNTY OF LAKE AND THE VILLAGE OF LINCOLNSHIRE RELATING TO WATER
INTERCONNECTION FOR SYSTEM MAINTENANCE AND EMERGENCY PURPOSES

This **INTERGOVERNMENTAL AGREEMENT** (the "**Agreement**"), is made and entered into as of this 24 day of May, 2021 ("**Effective Date**"), by and between the **COUNTY OF LAKE** (hereinafter, the "**County**"), and the **VILLAGE OF LINCOLNSHIRE** (hereinafter, "**Lincolnshire**"), a municipal corporation (the County and Lincolnshire are collectively referred to as the "**Parties**").

WITNESSETH:

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois authorizes units of local government to contract and associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act, as amended, (5 ILCS 220), (the "**Act**"), also authorizes units of local government to exercise and enjoy jointly their powers, privileges or authority and to enter into Intergovernmental Agreements for that purpose; and

WHEREAS, the Parties are "public agencies" within the meaning of the Intergovernmental Cooperation Act, 5 ILCS 220/2(1); and

WHEREAS, the County owns a water distribution system, is a member of the Central Lake County Joint Action Water Agency (CLCJAWA) and is furnished Lake Michigan water by CLCJAWA, which it distributes and sells to residents and businesses; and

WHEREAS, Lincolnshire owns its water system and purchases Lake Michigan water from the City of Highland Park via a Water Purchase and Sale Contract dated May 11, 1998, as amended (the "Highland Park Agreement"); and

WHEREAS, the County maintains, as part of its water distribution system, a water main located on the east side of Milwaukee Avenue south of Apple Orchard Lane; and

WHEREAS, Lincolnshire maintains, as part of the Lincolnshire System, a water main located on the east side of Milwaukee Avenue (the "**Lincolnshire System Terminus**"); and

WHEREAS, the County wishes to construct and install an interconnection ("**Interconnection**") between its watermain on Milwaukee Avenue with the Lincolnshire System at the Lincolnshire System Terminus near 1101 S. Milwaukee Avenue, as generally depicted in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, the Parties agree that, subject to the Highland Park Agreement, the County may use the Interconnection to acquire and purchase water from Lincolnshire while repairs are being performed on the County's water distribution system that serves the Vernon Hills/Knollwood system; and

WHEREAS, in order to properly safeguard and promote the health, welfare and well-being of their residents, subject to the Highland Park Agreement, the County and Lincolnshire also desire to use the Interconnection to supply each other with a limited supply of water under emergency conditions when their normal source of supply is unavailable;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the County and Lincolnshire agree to furnish water upon the following terms and conditions, and for the considerations, hereinafter set forth:

SECTION 1. RECITALS. The foregoing recitals are incorporated into this Agreement as substantive provisions hereof.

SECTION 2. DEFINITIONS. For purposes of this Agreement, the following words and phrases shall have the meanings respectively ascribed to them by this Section, except when the context otherwise indicates:

“Emergency Condition.” Any temporary and/or unexpected disruption of the designed and established manner of public water supply production and distribution within either or both the County water distribution system and/or the Lincolnshire System resulting from acts of God, catastrophes, major system failures, and other similar events. Repeated and chronic production outages lacking reasonable aggressive correction efforts and the inability of the designed production capacity to meet peak water use demands shall not be regarded as an Emergency Condition. Notification of an anticipated concern that repeated and chronic productions are being observed shall be made in writing prior to either party declaring that an Emergency Condition is not going to be met.

“Emergency Request.” A request for the supply of water by the Director of Public Works or designee of either party for the supply of water upon the occurrence of an Emergency Condition. An Emergency Request must be written and reasonably inform the other party of the nature of the Emergency Condition and Emergency Request, including the expected duration of the condition and scope of the request.

“Measuring Equipment.” Equipment and/or devices necessary for measuring the quantity of the water.

“Planned Water Transfer.” Any planned temporary transfer of water between the Parties which will allow for one party to perform system maintenance or repairs which otherwise would be impossible or very difficult to perform without receiving water from the other party. A Planned Water Transfer shall not exceed one week in duration, unless otherwise agreed to in writing by the Parties.

SECTION 3. CONSTRUCTION OF THE INTERCONNECTION.

A. Construction. Lake County shall have the right to design, construct and install the Interconnection in accordance with plans, and specifications approved by the Parties before the commencement of the Interconnection’s construction (the **“Interconnection Approval”**). The County shall be responsible for any costs related to the design, construction and installation of the Interconnection. The County shall be responsible for acquiring all permits and approvals for the construction of the Interconnection. The construction of the Interconnection shall take no longer than 180 days after the date that both of the Parties have indicated in writing their Interconnection Approval, unless a longer period of time and extension is agreed to by the Parties or the delay is caused by circumstances beyond the control of Lake County. For the purpose of this Agreement, the Village’s Interconnection Approval shall not be characterized as a representation or warranty that the plans and specifications comply with any applicable law or regulation or that the Interconnect will be fit for a particular purpose, the parties being in

agreement that Lake County is solely responsible for the design, construction and installation of the Interconnect and the means and methods by which the work is completed.

SECTION 4. EMERGENCY WATER AND PLANNED WATER TRANSFER SUPPLY TERMS.

Except as otherwise provided herein, it is the intention of the Parties that they operate their water systems solely from their normal source of supply. However, should this normal source of supply be interrupted or unavailable because of an Emergency Condition, then it is the purpose of this Agreement to provide an alternate source of supply pursuant to the terms herein. Notwithstanding anything herein to the contrary, all transfers of water between the parties remain subject to any conditions and restrictions described in each party's respective water supply contract with their normal source of supply.

A. Planned Water Transfer.

1. In General. Upon thirty (30) days' notice, each Party shall permit a Planned Water Transfer to the other Party, unless the supplying party determines that a condition has developed or reasonably might develop in its water distribution system which makes the Planned Water Transfer hazardous to its customers.
2. Water Transfer. The County may perform maintenance on its water system that requires a Planned Water Transfer. Lincolnshire hereby agrees to provide this Planned Water Transfer, which shall continue until the County's maintenance is complete, but in no event shall last longer than 14 days, unless otherwise agreed to by the Parties.

B. Emergency Water Service. Upon receipt of an Emergency Request, the Parties agree to immediately tender and make water available to the requesting party through the Interconnection. The Parties shall retain the right to terminate the emergency service of water, upon oral communication or other notice as may be reasonable under the circumstances, in the event it determines that a condition has developed or reasonably might develop in its water distribution system which makes continued emergency service hazardous to its customers. Unusual delay by the requesting community in correcting the cause of the emergency service shall also justify termination of the emergency service by the supplying community upon 7 days notice.

C. Permissions. Prior to drawing water through the Interconnection, the receiving Party shall first receive permission for such service from the other Party hereto. The supplying Party shall grant the requesting Party permission for water service through the Interconnection in accordance with this Agreement, unless providing such service would present a hazard, not merely an inconvenience, to the supplying Party's water service customers.

D. Water Use Restrictions. In the event that either Party while supplying water finds it necessary to limit the use of water by its water customers, by imposing lawn and garden sprinkling restrictions, or otherwise, the receiving Party shall, upon notification by the supplier Party, impose the same water use limitations and restrictions on water customers connected to its system, and shall make every reasonable effort to publicize and enforce such limitations and restrictions until notified by the supplier Party that these limitations or restrictions are removed.

E. Water Quality. Both Parties agree the water to be delivered by the supplying Party and received by the receiving Party hereunder shall be of such quality as to meet the requirements

of the Illinois Environmental Protection Agency, or such other agency of the State of Illinois as shall have jurisdiction from time to time, for the operation of public water supplies.

F. Water Quantity. Subject to the provisions stated in this Agreement, the Parties agree, during the period of the Agreement, to tender and make available to each other water in the volume available at the normal operating pressure of the supplier system. Each Party will use its best efforts to remain in a position to furnish a sufficient supply of water, not to exceed 1,500 gpm, as may be required by other Party.

G. Point of Delivery. The Interconnection shall be the point of delivery of water between the County water system and the Lincolnshire System.

SECTION 5. INTERCONNECTION MAINTENANCE. The County shall on behalf of the Parties periodically inspect, maintain, repair, and replace the Interconnection as may be necessary to maintain the functionality of the Interconnection, including without limitation all meters, valves, vaults, pre-cast structures, and hatch covers ("***Maintenance Activities***"). Within ten (10) days following any work to inspect, maintain, repair, and replace the Interconnection, the County will deliver to the Village a report describing the work and the results thereof. Each Party shall bear its own expenses relating to repair, replacement, and/or maintenance of its respective water distribution system and improvements thereto, including all mains leading to the Interconnection.

SECTION 6. METER TESTING. The Parties shall agree as to when the meters for the Interconnection shall be tested; the County shall be responsible for the cost of the tests. Written notice of such tests shall be given to the Parties at least four (4) weeks prior to such test, so that such test may be conducted in the presence of representatives of both Parties, should such be desired. Copies of the results of any such tests shall be delivered to the Parties within ten (10) days of such results becoming available.

1. At the written request and at the cost of the requesting party, additional tests may be conducted by the requesting party of any such meters in the presence of the other party's designated representatives.
2. No meter shall be placed in service or allowed to remain in service which has an error in registration in excess of two percent (2%), plus or minus, under normal operating conditions. Any such meter shall be repaired or replaced as provided in Section 5.

SECTION 7. PAYMENT. The Parties agree to pay the other for: (i) the water delivered in either direction pursuant to the terms of this Agreement; and (ii) any other costs to be shared or otherwise paid pursuant to the terms of this Agreement. Water transfers will be invoiced to the receiving Party at the lowest then-current residential water rate of the County or Lincolnshire, less any other charges such as sewer, metering and the like. Payment for other costs due under this Agreement shall be described in reasonable detail in a written invoice to the other Party. Any invoice for payments due under this Agreement as set forth above shall be made within (30) days of receipt of an invoice from the other Party.

SECTION 8. HOLD HARMLESS.

a. The County agrees to hold harmless and defend Lincolnshire, its officials, officers, independent contractors, agents, and employees from and against any loss, damage, cause of action, fine or judgment, including all costs connected therewith (such as reasonable attorneys'

and witness fees, filing fees and any other expenses incident thereto) which may result from the County's actions pursuant to this Agreement.

b. Lincolnshire agrees to hold harmless and defend the County, its officials, officers, independent contractors, agents, and employees from and against any loss, damage, cause of action, fine or judgment, including all costs connected therewith (such as reasonable attorneys' and witness fees, filing fees and any other expenses incident thereto) which may result from Lincolnshire's actions pursuant to this Agreement.

c. Both parties agree to maintain commercially reasonable public liability insurance which provides coverage against claims arising from personal injury, death, and loss of use or destruction of property resulting from the acts or omissions of the insured party. Each party shall cause the other party to be characterized as an additional insured under their respective liability insurance policies.

SECTION 9. TERM. This Agreement shall continue in full force and effect for a period of ten (10) years from the Effective Date and shall be automatically renewed for additional periods of ten (10) years unless a notice of termination is served by the party wishing to terminate on the other party at least one (1) year prior to the expiration of the initial period or any renewal period.

SECTION 10. GENERAL PROVISIONS.

A. Modifications. This Agreement may be changed or modified only with the consent of the governing bodies of both the County and Lincolnshire. Such modification must be in writing and executed by both Parties.

B. Notifications. With the exception of an Emergency Request or notice of terminating emergency service, all notices or communications provided for herein shall be in writing and shall be personally delivered to the either County or Lincolnshire, or if mailed, shall be sent by certified mail, postage prepaid, addressed to:

For notices and communications to the County:

County of Lake
18 North County Street
Waukegan, Illinois 60065
Attn: County Administrator

and

Lake County Department of Public Works
650 Winchester Road
Libertyville, Illinois 60046
Attn: Director of Public Works

For notices and communications to Lincolnshire:

Village of Lincolnshire
1 Olde Half Day Road
Lincolnshire IL 60069

Attn: Village Manager

And

Lincolnshire Public Works
205 Schelker Road
Lincolnshire, Illinois 60069
Attn: Director of Public Works

By notice complying with the foregoing requirements of this Section 10.B, each party shall have the right to change the addressees or addresses or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

C. Miscellaneous.

1. Should any part, term, or provision of this Agreement be decided by the Courts to be illegal or in conflict with any law, the validity of the remaining portions or provisions shall not be affected thereby.
2. The Parties understand and agree that monetary damages are not an adequate remedy for the breach of this Agreement by either of the Parties and that, therefore; all of the terms and conditions contained herein are specifically enforceable in any Court of competent jurisdiction.
3. The Parties understand and agree that neither Party may assign its obligations or benefits hereunder without the express written consent of the other Party.
4. This Agreement shall be subject to all valid rules, regulations and laws applicable hereto passed or promulgated by the United State of America, the State of Illinois, and any governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.

IN WITNESS WHEREOF, the Parties hereto acting under authority of their respective governing bodies have caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first written above.

THE COUNTY OF LAKE

THE VILLAGE OF LINCOLNSHIRE

By: _____
Chairman

By: Elizabeth J Brandt
Mayor

ATTEST:

ATTEST:
Barbara Mastandrea

EXHIBIT A

DEPICTION OF INTERCONNECTION