

INTERGOVERNMENTAL DETENTION POND AGREEMENT

THE COUNTY OF COOK

COUNTY OF LAKE

LAKE COOK ROAD
Raupp Boulevard to Hastings Lane
Cook County Sections: 14-A5015-03-RP
and 14-A5015-04-RP
Lake County Section: 14-00999-01-WR

This Intergovernmental Detention Pond Agreement (the "Agreement") is made and entered into by and between the County of Cook ("COOK"), a body politic and corporate of the State of Illinois, and the County of Lake ("LAKE"), a body politic and corporate of the State of Illinois. COOK and LAKE are sometimes collectively referred to as the "Parties."

RECITALS

WHEREAS, the Constitution of the State of Illinois, 1970, Article VII, Section 10, authorizes units of local government to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and

WHEREAS, the provisions of the Intergovernmental Cooperation Act, (5 ILCS 220/1 et seq.), authorizes and encourages intergovernmental cooperation; and

WHEREAS, COOK and LAKE are units of government within the meaning of the Constitution of the State of Illinois, 1970, Article VII, Section 10, having the power and authority to enter into an intergovernmental agreement; and

WHEREAS, Lake Cook Road is a county line separating Cook and Lake Counties; and

WHEREAS, Lake Cook Road is a county Highway under the jurisdiction of COOK from Raupp Boulevard to Hastings Lane; and

WHEREAS, Weiland Road north of Lake Cook Road is a county Highway under the jurisdiction of LAKE; and

WHEREAS, in order to facilitate the free flow of traffic and ensure the safety of the motoring public, COOK and LAKE wish to make improvements to Lake Cook Road from Raupp Boulevard to Hastings Lane; and

WHEREAS, the improvements shall include P.C.C. pavement construction including, but not limited to, pavement removal, concrete curb and gutter removal and replacement, storm sewer installation, traffic signal installation, signing, traffic protection, pavement marking, landscaping and other necessary highway appurtenances along Lake Cook Road, Weiland Road, Buffalo Grove Road and IL Route 83 and said road segments identified as Cook County Sections: 14-A5015-03-RP and 14-A5015-04-RP and Lake County Section: 14-00999-01-WR (the "PROJECT"); and

WHEREAS, it has been determined by engineering studies that storm water detention is required for the PROJECT; and

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WHEREAS, COOK and LAKE agree to construct a detention pond to route the storm water from the PROJECT to said pond to provide the required storm water detention storage; and

WHEREAS, COOK proposes to construct said detention pond along the west side of Weiland Road, south of Lake Cook Road; and

WHEREAS, COOK and LAKE established terms for the PROJECT scope and level of participation in a Cook County Letter of Understanding dated June 17, 2014 and accepted by Lake County on June 23, 2014; and

WHEREAS, COOK and LAKE, by this instrument, desire to memorialize their respective obligations and responsibilities toward construction and funding of the detention pond as well as future maintenance responsibilities of the completed detention pond; and

NOW THEREFORE, in consideration of the promises, covenants, terms and conditions set forth in this Agreement, the Parties hereto agree as follows:

SECTION 1. INCORPORATION OF RECITALS

The above recitals are incorporated into this Agreement as if fully set forth herein.

SECTION 2. TERM AND TERMINATION

This Agreement between COOK and LAKE shall not become effective unless authorized and executed by Cook County Board of Commissioners and authorized and executed by LAKE acting by and through its Chair and County Board. This Agreement is a legal, valid and binding agreement, enforceable against LAKE and, once duly authorized and executed by Cook County Board of Commissioners, against the COOK, in accordance with its terms. This Agreement shall terminate upon completion of the PROJECT. Notwithstanding the foregoing, the Parties hereto agree that the provisions of Sections 4.6 Post-PROJECT Maintenance and 5.2 Payment to COOK herein shall survive termination of this Agreement, unless expressly terminated by the Parties.

SECTION 3. DETENTION POND FUNDS

- 3.1 COOK Share of the detention pond. The COOK share of the expenses for the detention pond shall be equal to sixty-five (65%) percent of the actual design and construction costs of the detention pond, based on the percent of new impervious area flowing to the pond, and is estimated as Seven Hundred Twenty-Two Thousand Two Hundred Sixty-Six Dollars (\$722,266.00).
- 3.2 LAKE Share of the detention pond. The LAKE share of the expenses for the detention pond shall be equal to thirty-five (35%) percent of the actual design and construction costs of the detention pond, based on the percent of new impervious area flowing to the pond, and is estimated as Three Hundred Eighty-Eight Thousand Nine Hundred Thirty-Eight Dollars (\$388,938.00).
- 3.3 Cost Estimates. LAKE Share and COOK Share are more fully described in the Detention Pond Funding Breakdown incorporated and attached hereto as Exhibit A. The Detention Pond Funding Breakdown is only an estimate and does not limit the financial obligations of the Parties as described in 3.1 and 3.2 above.

SECTION 4. COOK RESPONSIBILITIES

- 4.1 Design Engineering. COOK shall design and prepare construction plans, specifications, estimates and contract documents for the PROJECT.
- 4.2 Construction. COOK shall advertise, let, award, and cause the PROJECT to be built in accordance with the approved plans, specifications and construction contract.
- 4.3 COOK as Lead Agent; Appropriation of Funds. COOK shall finance the construction and construction engineering and act as Lead Agent for the PROJECT.
- 4.4 Coordination with LAKE. COOK shall allow LAKE to observe detention pond construction, address concerns expressed by LAKE regarding said construction, and allow LAKE to participate in the Final Inspection of said detention pond.
- 4.5 Notification of Final Inspection. COOK shall provide LAKE not less than fourteen (14) days' notice of the Final Inspection.
- 4.6 Post PROJECT Maintenance. Following completion of the PROJECT, COOK shall:
 - 4.6.1 Own, operate and maintain the structural elements, inlets and outlets of detention pond. Maintenance shall include, but not be limited to, keeping the area clear of all trash and other debris, or any other matter that might tend to impede proper flow of water and ensuring grass covered areas are mowed to a height of six inches or less at least twice each year. On areas that cannot be mowed, measures will be taken annually to eliminate unwanted woody growth larger than one-half inch in diameter. Measures will also be taken to correct any substantial erosion problems with the detention pond. The detention pond including all structural components shall be maintained in such a manner to assure that it will provide the required flow and flood water storage capacity.

SECTION 5. LAKE OBLIGATIONS

- 5.1 Final Inspection: The Parties shall be present and participate in the Final Inspection, and the scheduling of such Final Inspection shall be solely at the discretion of the COOK. LAKE shall not cause a condition that would unreasonably delay the Final Inspection.
- 5.2 Payment to COOK. The costs that LAKE is obligated to pay as described in Section 3. Detention Pond Funds shall be paid in one installment as follows:
 - 5.2.1 A single installment based upon the actual quantities used and the contract unit prices as awarded for the detention pond shall be invoiced by COOK within ninety (90) days following Final Inspection and LAKE shall pay COOK within ninety (90) days after receipt of the invoice from COOK.
 - 5.2.2 Payments to COOK shall be by check payable to the Treasurer of Cook County, for deposit into the County's Motor Fuel Tax Fund (600-585 Account). The check shall be mailed to the Superintendent, Cook County Department of Transportation and Highways.

- 5.3 Additional Work. LAKE shall pay for one hundred (100%) percent of the costs for any additional work with Lake infrastructure improved/installed as part of the PROJECT, including design engineering, construction and construction engineering.

SECTION 6. GENERAL PROVISIONS

- 6.1 Governing Law and Venue. This Agreement shall be interpreted under, and governed by, the laws of the State of Illinois, without regard to conflict-of-law principles. Any claim, suit, action, or proceeding brought in connection with this Agreement shall be in the Circuit Court of Cook County and each Party hereby irrevocably consents to the personal and subject matter jurisdiction of such court and waives any claim that such court does not constitute a convenient and appropriate venue for such claims, suits, actions, or proceedings.

- 6.2 Default. LAKE shall be in default hereunder in the event of a material breach by LAKE of any term or condition of this Agreement including, but not limited to, a representation or warranty, where LAKE has failed to cure such breach within thirty (30) days after written notice of the breach is given to Lake by COOK, setting forth the nature of such breach. Failure of Cook to give written notice of breach to LAKE shall not be deemed to be a waiver of COOK's right to assert such breach at a later time. Upon default by LAKE, COOK shall be entitled to exercise all available remedies at law or in equity, including but not limited to termination of this Agreement upon thirty (30) days written notice to LAKE.

COOK shall be in default hereunder in the event of a material breach by COOK of any term or condition of this Agreement including, but not limited to, a representation or warranty, where COOK has failed to cure such breach within thirty (30) days after written notice of breach is given to COOK by LAKE, setting forth the nature of such breach. Failure of LAKE to give written notice of breach to COOK shall not be deemed to be a waiver of LAKE's right to assert such breach at a later time. Upon default by COOK, LAKE shall be entitled to exercise all available remedies at law and in equity, including but not limited to termination of this Agreement upon thirty (30) days written notice to COOK.

- 6.3 Modification. This Agreement may not be altered, modified or amended except by a written instrument signed by both Parties. Provided, however, the Parties agree that provisions required to be inserted in this Agreement by laws, ordinances, rules, regulations or executive orders are deemed inserted whether or not they appear in this Agreement and that in no event will the failure to insert such provisions prevent the enforcement of this Agreement.

- 6.4 Binding Successors. COOK and LAKE agree that their respective successors and assigns shall be bound by the terms of this Agreement.

- 6.5 Compliance with COOK Department of Transportation and Highways Permits. This Agreement shall serve in lieu of a separate COOK permit for the detention pond or any other LAKE infrastructure improved/installed as part of the PROJECT; and, by execution of this Agreement, LAKE shall be bound by the General Terms for COOK Department of Transportation and Highways Permits as they exist on the date of the execution of this Agreement by COOK, as described in Exhibit "B" (attached hereto).

- 6.6 Force Majeure. Neither COOK nor LAKE shall be liable for failing to fulfill any obligation under this Agreement to the extent any such failure is caused by any event beyond such Party's control and which event is not caused by such Party's fault or negligence. Such events shall include, but are not limited to acts of God, acts of war, fires, lightning, floods, epidemics or riots.
- 6.7 Notices. Unless otherwise specified, any notice, demand or request required under this Agreement must be given in writing at the addresses set forth below by any of the following means: personal service, overnight courier or first class mail.

TO COOK COUNTY:

Mr. John Yonan, P.E.
Superintendent
Cook County Department of Transportation and Highways
69 West Washington, Suite 2400
Chicago, IL 60602

TO LAKE COUNTY:

Ms. Paula J. Trigg, P.E.
Director of Transportation/County Engineer
Lake County Division of Transportation
600 West Winchester Road
Libertyville, IL 60048

- 6.8 Entire Agreement. This Agreement constitutes the entire agreement between COOK and the Lake, and merges all discussion between them and supersedes and replaces any and every other prior or contemporaneous agreement, negotiation, understanding, commitment and writing with respect to such subject matter hereof.

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IN WITNESS, WHEREOF, Cook County and Lake County have caused this Agreement to be executed by their respective officials on the dates as shown.

EXECUTED BY COOK COUNTY:

EXECUTED BY LAKE COUNTY:

Toni Preckwinkle
President
Cook County Board of Commissioners

Aaron Lawlor
County Board Chairman

This ____ day of _____ A.D. 2017.

This ____ day of _____ A.D. 2017.

ATTEST: _____
Cook County Clerk

ATTEST: _____
Lake County Clerk

(SEAL)

(SEAL)

RECOMMENDED BY:

APPROVED AS TO FORM:
Kimberly M. Foxx, State's Attorney

John Yonan, P.E.
Superintendent
County of Cook
Department of Transportation and Highways

Assistant State's Attorney

Lake County
Director of Transportation/County Engineer

EXHIBIT A

Detention Pond Funding Breakdown

ITEM	ESTIMATED TOTAL COST	LAKE COST	COOK COST
Detention Pond Design Costs	\$33,334.00	\$11,683.00	\$21,651.00
Detention Pond Construction Costs	\$1,077,870.00	\$377,255.00	\$700,615.00
TOTAL	\$1,111,204.00	\$388,938.00	\$722,266.00

COUNTY OF COOK
HIGHWAY DEPARTMENT
GENERAL CONDITIONS FOR PERMIT FOR WORK

1. Capitalized terms used in this Permit and not otherwise defined herein shall have the meanings ascribed to them in the Public Way Regulatory Ordinance (the "Ordinance"), Chapter 66, Article III, and Sections 50 et seq. of the Cook County Code. Requirements set forth in these General Conditions are in addition to and not in limitation of the requirements of the Ordinance.
2. No lane closures or traffic detours relating to Permitted Work will be allowed between the hours of 6 a.m. to 9 a.m. and 3 p.m. to 6:30 p.m., (other than as allowed for emergency maintenance per the Ordinance). All traffic control devices must conform to the latest edition of the State of Illinois "Manual on Uniform Traffic Control Devices for Streets and Highways."
3. Permittee shall furnish all material to do all work required, and pay all costs which may be incurred in connection with such work, and shall prosecute the same diligently and without delay to completion. See Ordinance for additional requirements as to work in the Public Way.
4. Permittee shall perform all Permitted Work in accordance with the current Standard Specifications for Road and Bridge Construction of the Illinois Department of Transportation including the Supplemental Specifications thereto of the County of Cook, and as detailed in the Permit and the Ordinance, and all submittals made pursuant to the application process, as modified at the request of the Cook County Highway Department and as finally approved by the Cook County Highway Department.
5. Upon completion of the Permitted Work, Permittee shall, at its own cost, and in a timely manner, (but in no event more than 30 days unless another time frame is directed by the Cook County Highway Department) restore the Public Way substantially to the same condition in which it was before the Permitted Work was commenced and shall remove all debris, rubbish, materials, apparatus, tools, and equipment, as well as all excess excavated materials, from the Public Way, all to the satisfaction of the Cook County Superintendent of Highways.
6. Should future construction and operation of the highways by the County of Cook require alteration or relocation of the Permittee's Facilities, such change shall be made by the Permittee, its successor or assigns upon the written request of the Cook County Superintendent of Highways without expense to said County or State. Requirements for any such requested alteration or relocation are further detailed in the Ordinance.
7. Permittee, its successor and assigns assume all risk and liability for accidents and damages that may accrue to persons and property, during the prosecution of the work or any time thereafter, by reason of the location, construction, installation, operation, maintenance, repair and work referred to herein, and Permittee, by acceptance of this Permit, agrees to indemnify and save harmless the County of Cook from any such claims for damages and from all costs and expenses incurred on account thereof and in connection therewith.
8. No changes, alterations, or revisions to the Permitted Work are allowed unless approved in writing by the Cook County Superintendent of Highways or his designee. See Ordinance for detailed requirements and fees relating to permit modifications.
9. In accordance with Ordinances of the County, and agreement by the Permittee, the Permittee acknowledges and agrees that this Permit is null and void if the Permittee is delinquent in the payment of any tax or fee administered by the County of Cook.
10. The pavement, parkway, and all drainage systems shall be kept clean and free of debris at all times.

11. Unless particularly specified in the Permit, no equipment other than pneumatic-tired equipment used during the installation shall be permitted to stop or operate on the pavement nor shall any excavated materials be stored temporarily or otherwise on the County Highway pavement.
12. Access to driveways, houses, buildings or other property abutting the site of the Permitted Work shall not be blocked.
13. The Permittee shall conduct its operations in a manner so as to insure the minimum hindrance to traffic.
14. The use of flagmen and the number, type, color, size and placement of all traffic control devices shall conform to the latest edition of the State of Illinois "Manual on Uniform Traffic Control Devices for Streets and Highways."
15. All aerial lines crossings or parallel must have a minimum clearance of 18'3".
16. The grant of this Permit by the County of Cook and the performance by Permittee of work authorized by the Permit do not include authorization by the County under local, state, or federal law, including 55 ILCS 5/5-1095, or under 47 U.S.C. section 541 for the use of these facilities for video programming regardless of the delivery technology. Unless the Permittee holds a state-issued authorization by the Illinois Commerce Commission pursuant to P.A. 095-0009, the County reserves the right to require authorization pursuant to 55 ILCS 5/5-1095 in the form of a franchise as defined by 47 U.S.C. section 522(9) from the Permittee prior to Permittee providing video programming through any facilities authorized by this Permit, which franchise may include the imposition of franchise fees. Permittee shall provide the County with thirty (30) calendar days written notice of its intention to utilize any facilities authorized by this Permit to provide video programming within any unincorporated area of Cook County or within any incorporated area of the County where the Permittee is installing its plant and equipment in County rights-of-way in order to provide its video service. Upon written certification provided to the County by either the Permittee or the Illinois Commerce Commission that a state-issued authorization to provide video service has been granted to the Permittee, the limitations on the use of these facilities that exclude the provision of video service shall be released.
17. This Permit covers only the Permitted Work and does not release the Permittee from fulfilling the requirements of any other Laws relating to the Permitted Work. Fulfillment by Permittee of all requirements set forth in the Permit For Work Application and its instructions, including without limitation, insurance and bonding requirements ("Application Requirements") are a condition of this Permit. Issuance of this Permit, without the fulfillment of all Application Requirements by Permittee shall not act as a waiver of Permittee's obligation to comply with such Application Requirements, unless approval in writing of such change is given by the Cook County Superintendent of Highways.
18. At least two (2) days advance notice prior to the start of work shall be given to the Cook County Highway Department Permit Office, Mr. Bhanu Vyas (312) 603-1670.
19. This Permit can be revoked pursuant to the terms of the Ordinance or at the discretion of the Cook County Superintendent of Highways.
20. All trenches and openings made in the Public Way shall be backfilled with sand or limestone screening adequately compacted in accordance with Method 1 specified in Article 550.07 of the State Standard Specifications.

ADDITIONAL GENERAL CONDITIONS THAT PERTAIN TO CONSTRUCTION PERMITS

21. All pavement openings and curb cuts shall be saw cut full depth.

22. All pavement openings shall be immediately surfaced with a temporary bituminous patch at least three inches in thickness. This patch then must be inspected daily and additional bituminous patch material must be placed, daily if necessary, to maintain the patched area at the same elevation as the adjacent undisturbed pavement for a period of not less than 30 days. After 30 days, permanent replacement in kind shall be made to the base course and pavement surface.
23. All auger pits shall be a minimum of 10 feet from the edge of pavement or back of curb, and wood or steel sheeting shall be used, and auger pits left open overnight shall be protected with concrete barrier walls.
24. All casings shall be pressure grouted both inside and outside of the casing.
25. That a minimum depth of 42 inches will be maintained from the ground surface to the top of the conduit, cable, or pipe and a minimum depth of 36 inches from the true flow line of the drainage ditch to the top of the conduit, cable or pipe.
26. That all excavation work within three (3) feet of the pavement edge will be done manually.
27. If Permittee discovers during the progress of the Permitted Work that subterranean conditions prohibit the construction of said improvement in and along the alignment as outlined in the plans, it is expressly understood that all Permitted Work shall cease until a proposed revised alignment has been approved by the Cook County Highway Department and the Permit has been modified.
28. Without further action, the Cook County Highway Department reserves the right to make connections to the proposed storm sewer for the purpose of draining the highway.
29. The Permittee shall be responsible for providing positive drainage.
30. In the removal of sidewalks, curb, gutter or pavement, the use of any type of concrete breaker that will damage the underground structures will not be permitted.
31. Permittee shall provide and maintain at its own expense, such temporary roads and approaches, as may be necessary to provide access to driveways, houses, buildings or other property abutting the site of the Permitted Work.
32. For driveway installations, the Permittee shall remove earth to its full depth, starting at the edge of the pavement, for the full dimensions of the proposed driveway, and replace with materials to be used in the construction of the driveway.
33. When existing traffic control signs such as stop signs, stop ahead signs, and crossroad signs are removed in the progress of the Permitted Work, said signs shall be immediately reset as close as possible to their original location. After the construction of the Facility or the completion of the Permitted Work has been approved, said traffic control signs shall be restored to their original position and condition or as directed by the Cook County Highway Department Permit Engineer.
34. The Permittee shall conduct its operations in a manner so as to insure the minimum hindrance to traffic, using the pavement and at no time shall its operations obstruct more than one half (1/2) of the available pavement width.
35. This Permit is issued with the express understanding that the Permittee has obtained the proper authority for the said installation from the "Illinois Environmental Protection Agency Division of Public Water Supplies.