

License Agreement  
For the Construction of a Storm Water Compensatory Storage Area and  
the Reconstruction of the Parking Lot in Butler Park

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_, by and between the Village of Libertyville, an Illinois Municipal Corporation (the “Village”), and the County of Lake, an Illinois body politic and corporate, acting by and through its Chair and County Board (the “County”).

**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 to Winchester Road (County Highway 69) (hereinafter the “Project”, which shall also be referred to as County Section Number 10-00151-22-CH).

**WHEREAS**, Butler Lake Park is a public park owned by the Village; (the “Park”); and,

**WHEREAS**, the Park is adjacent to a portion of Winchester Road which will be included in the Project; and,

**WHEREAS**, the Park includes a parking lot which is adjacent to the Project and which is available for use by members of the public (the “Parking Lot”); and,

**WHEREAS**, the first of the two phases of the Project includes the construction of a compensatory storage area within the Park (hereinafter the “Compensatory Storage Area”),

**WHEREAS**, the second of the two phases of the Project includes the widening of Winchester Road and the reconstruction of the Parking Lot; and,

**WHEREAS**, the County agrees to prepare, or cause to be prepared, the necessary surveys, design engineering plans and specifications, and contract documents for the Project (hereinafter the “Plans”) in accordance with Lake County Division of Transportation (LCDOT) policies and standards; and,

**WHEREAS**, as of this writing, there are two plan sets developed for the project. The Plans for Proposed Winchester Road (CH69) are the pre-final set of plans prepared by Manhard Consulting Limited, with a submission date of June 17, 2013 and the Plans for Proposed Winchester Road (CH69) Compensatory Floodplain Storage are the pre-final set of plans prepared by Manhard Consulting Limited, with a submission date of April 3, 2013. Both sets of

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said Plans, by reference herein, hereby become a part hereof; and,

**WHEREAS**, the construction of the Project including the Compensatory Storage Area and Parking Lot work shall be in accordance with the Plans; and,

**WHEREAS**, as of this writing, the scheduled letting date for the Project is October 22, 2013; and,

**WHEREAS**, the date of said scheduled letting is subject to change without notice to the Village and is a function of the availability of funding and project readiness; and,

**WHEREAS**, the Project will require the reconstruction of the Parking lot, including the proposed relocation of the entrance to the Parking Lot on Winchester Road, all as is more fully set forth in the Plans; and

**WHEREAS**, the Village has agreed and determined that the completion of the Compensatory Storage Area and the reconstruction of the Parking Lot would be in the best interests of the Village and its residents; and,

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Village and the County agree as follows:

1. **Recitals:** The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.
2. **License:** The Village hereby grants to the County and its approved employees, agents and contractors a non-exclusive license for the construction of the Compensatory Storage Area, and the reconstruction of the Parking Lot, including the right to construct and maintain a temporary construction entrance (the "Temporary Construction Entrance"), all in conformity with the Plans. Any modification of the Compensatory Storage Area, the Temporary Construction Entrance, or the Parking Lot which is not in accordance with the Plans shall only be allowed upon prior written approval from the Director of Public Works for the Village. Hereinafter, the construction of the Compensatory Storage Area, the Temporary Construction Entrance and the reconstruction of the Parking Lot may be referred to individually or collectively be referred to as "the Butler Park Projects". The County shall be responsible for assuring that all work performed in conjunction with the Butler Park Projects shall be in compliance with the provisions of the Illinois Prevailing Wage Act. The construction of the Butler Park Projects shall not commence prior to July 14, 2013.
3. **Restoration of Park:** Upon completion of the Butler Park Projects, the County shall restore any areas of the Park which were damaged by any of the activities related to the Butler Park Projects to a condition similar or equal to that existing before the commencement of the Butler Park Projects, except as may be provided for in the Plans, including but not limited to any

seeding or sodding as necessary. This shall include, within limiting the foregoing, the restoration of the Temporary Construction Entrance.

4. Costs of Construction and Restoration: All costs relating to the Butler Park Projects, including but not limited to all costs of restoration, as provided above, shall be the responsibility of the County and the County shall not seek nor be entitled to any compensation or reimbursement from the Village for any of the materials, labor, or any other expenses which are, in any manner, related to the Butler Lake Projects or restoration.

5. Village's Right of Inspection and Approval: The Village shall maintain the right to inspect and provide final approval of the Butler Park Projects, which final approval shall not be unreasonably withheld.

6. Guaranty by County: The County shall guarantee that seeding performed in connection with the construction of the Compensatory Storage Area shall properly germinate by not later than April 30, 2014. Any portion of such area which does not successfully germinate by this date shall be reseeded at the cost of the County.

7. Maintenance by Village: Except for such maintenance as may be required in connection with the guaranty provided by the County pursuant to paragraph six (6) above, the Village shall be solely responsible for the maintenance of the Compensatory Storage Area and the Parking Lot following completion and approval by the Village of the Butler Park Projects.

8. Release; Hold Harmless/Insurance: The County agrees to, and does hereby, release, indemnify and save harmless the Village and its elected and appointed officers, officials, agents, representatives, attorneys and employees from, and waive all of its rights against the Village and its elected and appointed officers, officials, agents, representatives, attorneys and employees for, all claims, litigation and liability, including administrative costs and attorneys' fees incidental thereto, on account of injury to or death of any person or persons whomsoever, on account of damage to any property, or on account of any other claim, injury or loss, no matter how sustained, allegedly caused by, connected with, or in any way attributable to, the rights herein granted to the County in connection with the Butler Lake Projects. Prior to commencing the Butler Lake Projects, the County will cause its Contractor to obtain from an insurance company, licensed in the State of Illinois and acceptable to the Village, liability insurance with the Village named as an additional insured, providing for limits no less than \$1,000,000 per person in any one claim, and an aggregate limit of \$2,000,000 for any number of persons or claims arising from any one accident with respect to bodily injuries or death resulting from such accident, and \$250,000 for property damage suffered by any person or persons resulting from the Butler Lake Projects as well as Workers Compensation coverage with statutory limits of liability.

9. Enforcement: The parties herein may, in law or in equity, by suit, action, mandamus or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement, provided, however, that the County agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village or any Village elected or appointed officers, officials, agents, representatives, attorneys or employees on account of the negotiation, execution or breach of any of the terms or

conditions of this Agreement. In the event of a judicial proceeding brought by either party to this Agreement against the other party for enforcement or for breach of any provision of this Agreement, the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including attorney's fees incurred in connection with such judicial proceeding.

10. Severability: If any portion of this Agreement shall be held invalid or illegal, the validity of all of the other provisions of this Agreement shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

**VILLAGE OF LIBERTYVILLE**

By: \_\_\_\_\_  
Terry L. Wepler  
Village President

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Village Clerk

**RECOMMENDED FOR EXECUTION**

\_\_\_\_\_  
Paula J. Trigg, P.E.  
Director of Transportation/County Engineer  
Lake County

**COUNTY OF LAKE**

**ATTEST:**

\_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
Chairman  
Lake County Board

Date: \_\_\_\_\_