

DRAFT

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF LAKE AND
THE ANTIOCH TOWNSHIP ROAD DISTRICT
FOR THE 2023 ANTIOCH TOWNSHIP
ROAD DISTRICT RESURFACING PROGRAM**

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 ANTIOCH TOWNSHIP ROAD DISTRICT, an Illinois Unit of Local Government, acting by and through its Township Highway Commissioner, hereinafter referred to as the ROAD DISTRICT. The COUNTY and the ROAD DISTRICT are hereinafter referred to collectively as the “parties” to THIS AGREEMENT, and either one is referred to individually as a “party” to THIS AGREEMENT.

WITNESSETH

WHEREAS, the ROAD DISTRICT, in order to facilitate the free flow of traffic and ensure the safety of the traveling public, desires to make certain pavement preservation improvements on a portion of the ROAD DISTRICT’s roadway network in 2023, including pavement patching, pavement resurfacing, and shoulder repairs (hereinafter IMPROVEMENT). The IMPROVEMENT will also be identified as Section Number 23-01001-01-GM; and,

WHEREAS, the Road District has requested the use of REBUILD Illinois Bond Funds (hereinafter RBI) in addition to Township General funds for engineering and construction of the IMPROVEMENT; and

WHEREAS, in accordance with guidance provided by the Illinois Department of Transportation, RBI funds have been deposited into the ROAD DISTRICT’s Motor Fuel Tax (hereinafter MFT) account and will be processed in accordance with MFT policies and procedures; and

WHEREAS, there is an “Agreement of Understanding for Maintenance and Construction” between the State of Illinois and Lake County (hereinafter AOU), which ensures that funds administered under MFT policies and procedures are expended in a manner as prescribed by law, and rules and regulations deemed necessary by IDOT; and

WHEREAS, in accordance with the AOU, Lake County is responsible for the administration, contract letting and award of Road District projects using state funds administered under MFT policies and procedures; and

WHEREAS, the COUNTY and the ROAD DISTRICT are desirous to enter into THIS AGREEMENT which sets forth the duties and the responsibilities of the parties hereto; as the ROAD DISTRICT will be supplementing RBI funds with Township General Funds to construct the IMPROVEMENT, and,

WHEREAS, the estimated costs for design engineering, construction, and construction engineering of the IMPROVEMENT and the funding anticipated to be used by the ROAD DISTRICT to cover these costs are indicated on the attached EXHIBIT A to THIS AGREEMENT, which is attached hereto and is hereby made a part hereof; and,

WHEREAS, the COUNTY and the ROAD DISTRICT are public agencies and governmental units within the meaning of the Illinois Intergovernmental Cooperation Act, as specified at 5 ILCS 220/1, et seq., and are authorized by Article 7, Section 10 of the Constitution of the State of Illinois to cooperate, contract, and otherwise associate for public purposes; and,

WHEREAS, the purpose of the Intergovernmental Cooperation Act and Article 7 of the Constitution of the State of Illinois includes fostering cooperation among governmental bodies; and,

WHEREAS, the COUNTY and the ROAD DISTRICT, by virtue of their powers as set forth in the Illinois Highway Code (605 ILCS 5/6-201.10-1 *et. seq.*), the County Code (55 ILCS 5/1-1001 *et seq.*), and the Illinois Highway Code (605 ILCS 5/5-504), are authorized by statute to enter into THIS AGREEMENT; and,

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

**SECTION I.
Recitals/Headings**

1. It is mutually agreed by and between the parties hereto that the foregoing preambles are hereby incorporated herein as though fully set forth.
2. It is mutually agreed by and between 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.
General Description of ROAD DISTRICT & COUNTY Responsibilities**

1. The COUNTY agrees to prepare, or cause to be prepared, the contract letting documents for the IMPROVEMENT in accordance with the AOU, with reimbursement by the ROAD DISTRICT as hereinafter stipulated.
2. It is mutually agreed by and between the parties hereto that the IMPROVEMENT will be processed, let, administered, and awarded by the COUNTY. As of this writing, the anticipated letting date for the IMPROVEMENT is June 6, 2023. It is further mutually agreed that the COUNTY will enter into a contract for the IMPROVEMENT with the

lowest responsible bidder on behalf of the ROAD DISTRICT and in accordance with IDOT requirements and procedures.

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 IDOT and LCDOT procedures and requirements, with reimbursement by the ROAD DISTRICT as hereinafter stipulated.
4. The ROAD DISTRICT shall be responsible for one hundred percent (100%) of total costs for the IMPROVEMENT, including design engineering, construction, and construction engineering costs. The ROAD DISTRICT's cost for design engineering and construction engineering shall be calculated at eight percent (8%) of the total cost for construction and will be paid as a reimbursement to the COUNTY.
5. It is mutually agreed that the COUNTY will act as a pass-through agency for RBI funding from the State to the Contractor for the IMPROVEMENT. The COUNTY will make progress payments directly to the Contractor with the RBI funds, up to a maximum amount determined by the ROAD DISTRICT, for the IMPROVEMENT based upon pay estimates prepared by the COUNTY.

It is further mutually agreed that, upon notice from the COUNTY, the ROAD DISTRICT shall pay the Contractor directly the balance of the cost of the IMPROVEMENT less any RBI funds used. The ROAD DISTRICT intends to use Township General Funds to cover the balance of the cost of the IMPROVEMENT less the RBI funds.

It is further mutually agreed that the COUNTY will not expend any COUNTY funds to the Contractor for the IMPROVEMENT and that all costs associated with the IMPROVEMENT are the responsibility of the ROAD DISTRICT.

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 making the ROAD DISTRICT (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, or the COUNTY (including its elected officials, duly appointed officials, employees, and agents) the agent, representative, or employee of the ROAD DISTRICT for any purpose or in any manner whatsoever. The ROAD DISTRICT is to be and shall remain independent of the COUNTY, and vice-versa, 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 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. The ROAD DISTRICT agrees to indemnify, save harmless and defend the COUNTY, its agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of or in connection with the scope of service covered by THIS AGREEMENT. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the intentional and/or negligent conduct of the COUNTY, its agents, servants, or employees or any other person indemnified hereunder.
5. The COUNTY agrees to indemnify, save harmless and defend the ROAD DISTRICT, its agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of or in connection with the scope of service covered by THIS AGREEMENT. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the intentional and/or negligent conduct of the ROAD DISTRICT, its agents, servants, or employees or any other person indemnified hereunder.
6. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall take effect on the first day of the month which follows the date that the authorized agent of the parties hereto affixes his/her signature.
7. 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.

8. It is mutually agreed by and between the parties hereto that the provisions of THIS AGREEMENT are severable. If any provision 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, the illegality of such provision shall not affect the remaining portions of THIS AGREEMENT.
9. 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 relating to the subject matter hereof.
10. 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.
11. THIS AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. No party hereto shall 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 other party, except as provided for in THIS AGREEMENT.
12. THIS AGREEMENT may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute THIS AGREEMENT.
13. Except where otherwise provided in THIS AGREEMENT, the term of THIS AGREEMENT shall be perpetual in nature and terminable only by the mutual written agreement of both of the parties hereto.
14. It is mutually agreed by and between the parties hereto that any notice required by the provisions of THIS AGREEMENT shall be mailed to:

If to the COUNTY:

Director of Transportation/County Engineer
Lake County Division of Transportation
600 West Winchester Road
Libertyville, IL, 60048-1381

If to the ROAD DISTRICT:

Highway Commissioner
Antioch Township Road District
933 Bartlett Ave
Antioch, IL 60002

15. THIS AGREEMENT shall be considered null and void in the event that the construction contracts covering the IMPROVEMENT contemplated herein, are not awarded by December 31, 2023.

ANTIOCH TOWNSHIP ROAD DISTRICT

ATTEST:

Meghan Dyer Dawe
Meghan Dyer Dawe
Township Clerk

By: Eric Ring
Eric Ring
Highway Commissioner

Date: 5-5-23

RECOMMENDED FOR EXECUTION

Shane E. Schneider, P.E.
Lake County Director of Transportation/
County Engineer

COUNTY OF LAKE

ATTEST:

Anthony Vega
Clerk, Lake County

By: _____
Sandra Hart
Chair, Lake County Board

Date: _____

EXHIBIT A
Section Number 23-01001-01-GM
ROAD DISTRICT 2023 Resurfacing Program
Estimated ROAD DISTRICT Funding Breakdown

Estimated IMPROVEMENT Costs:

| | |
|--|--------------------|
| Engineer's Estimated Cost for Construction | \$ 976,781 |
| <u>Design and Construction Engineering (at 8%)</u> | <u>\$ 78,143</u> |
| Total | \$1,054,924 |

Estimated ROAD DISTRICT Funding:

| | |
|-------------------------------|--------------------|
| Programmed RBI Funds | \$ 311,099 |
| <u>Township General Funds</u> | <u>\$ 743,825</u> |
| Total | \$1,054,924 |