

**AGREEMENT  
BETWEEN THE COUNTY OF LAKE  
AND THE VILLAGE OF LIBERTYVILLE  
FOR MAINTENANCE OF THE NORTH SHORE BIKE PATH**

**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 Libertyville, an Illinois Municipal Corporation, acting by and through its Village President and Village Board, 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 has jurisdiction of the North Shore Bike Path (hereinafter BIKE PATH), located on the right-of-way of the former Chicago, North Shore and Milwaukee Railroad (hereinafter NORTH SHORE RIGHT-OF-WAY) located adjacent to or in proximity of Illinois Route 176 from the Village of Mundelein to the Village of Lake Bluff; and,

**WHEREAS**, the NORTH SHORE RIGHT-OF-WAY is owned by the State of Illinois, by and through its Department of Transportation (hereinafter STATE); and,

**WHEREAS**, the COUNTY and the STATE entered into an agreement, dated January 21, 1991, to allow for construction and maintenance of said BIKE PATH (hereinafter STATE AGREEMENT); and,

**WHEREAS**, said STATE AGREEMENT provides the COUNTY the sole and exclusive right to enter into agreements with any unit of local government as to the maintenance of the BIKE PATH as initially constructed, reconstructed and/or relocated; and,

**WHEREAS**, the COUNTY and the VILLAGE 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 various responsibilities for the maintenance of the BIKE PATH located within the VILLAGE are governed by an agreement between the COUNTY and the VILLAGE dated July 9, 1991 (hereinafter PRIOR AGREEMENT); and,

**WHEREAS**, said PRIOR AGREEMENT defined the limits of the VILLAGE's maintenance responsibilities for the BIKE PATH as from Illinois Route 21 to Butterfield Road (County Highway 57); and,

**WHEREAS**, presently the VILLAGE performs maintenance of the BIKE PATH from 1,000 feet west of Butterfield Road to 4<sup>th</sup> Street; and,

**WHEREAS**, both the VILLAGE and the COUNTY are desirous to enter into a new agreement which more clearly defines maintenance responsibilities and limits of maintenance for the BIKE PATH. The VILLAGE agrees to perform routine maintenance (hereinafter ROUTINE MAINTENANCE) and the COUNTY agrees to perform capital maintenance (hereinafter CAPITAL MAINTENANCE); and,

**WHEREAS**, the locations of the BIKE PATH where maintenance is to be performed are as listed in EXHIBIT A of THIS AGREEMENT, which is attached hereto and hereby made a part hereof; and,

**WHEREAS**, THIS AGREEMENT hereby terminates said PRIOR AGREEMENT between the COUNTY and the VILLAGE, hereto relating to the subject matter hereof; and,

**WHEREAS**, the VILLAGE agrees to perform ROUTINE MAINTENANCE of the BIKE PATH within the maintenance limits listed on EXHIBIT A; and,

**WHEREAS**, the COUNTY agrees to perform CAPITAL MAINTENANCE of the BIKE PATH within the maintenance limits listed on EXHIBIT A; and,

**WHEREAS**, the VILLAGE's authority regarding enforcement of the COUNTY's BIKE PATH Use Ordinance on the NORTH SHORE RIGHT-OF-WAY is governed by a separate agreement between the COUNTY and the VILLAGE dated July 9, 1991 (hereinafter ENFORCEMENT AGREEMENT), which shall remain in full force and effect and by reference herein is hereby made a part hereof; and,

**WHEREAS**, said BIKE PATH as heretofore described has been and will continue to be of benefit to the residents of the COUNTY and the VILLAGE and is permanent in nature.

**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 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.  
ROUTINE MAINTENANCE and CAPITAL MAINTENANCE of the BIKE PATH**

1. It is mutually agreed by and between the parties hereto that THIS AGREEMENT hereby terminates the PRIOR AGREEMENT related to the BIKE PATH.
2. It is mutually agreed by and between the parties hereto that both parties desire to keep an area of more or less five (5) feet in width from the edge of each side of the BIKE PATH and fifteen (15) feet in height from the surface of the BIKE PATH, (hereinafter the MAINTENANCE ZONE), clear of any obstruction where practical.
3. It is mutually agreed by and between the parties hereto that for purposes of THIS AGREEMENT, the VILLAGE shall continue to perform, or continue to cause to be performed, ROUTINE MAINTENANCE within the maintenance limits listed on EXHIBIT A as it applies to the BIKE PATH. ROUTINE MAINTENANCE shall include items such as ensuring daily accessibility, removal of debris and garbage from the NORTH SHORE RIGHT-OF-WAY, maintenance/replacement of pavement markings if initially placed by the VILLAGE, removal of graffiti from VILLAGE signage, repair of potholes, ruts and other abrupt vertical abnormalities in the BIKE PATH surface, cleaning of debris, garbage and landscape waste materials from ditches/culverts to maintain drainage and landscaping maintenance (including, but not limited to, mowing regularly during the growing season, practical removal of vegetation affecting BIKE PATH travel and/or encroaching in the BIKE PATH MAINTENANCE ZONE and/or obscuring visibility of signs or limiting sight distance at intersections, keeping areas around signs and other BIKE PATH appurtenances clear and performing maintenance of

any VILLAGE landscaping enhancements). It is mutually agreed that line-trimming/weed-whipping is not required as a part of mowing. Landscape maintenance of the NORTH SHORE RIGHT-OF-WAY beyond the MAINTENANCE ZONE requirements may be performed by the VILLAGE as part of ROUTINE MAINTENANCE but is not required. Snow plowing, ice removal and/or salting may be performed by the VILLAGE as part of ROUTINE MAINTENANCE. Any damage caused to the BIKE PATH due to snow plowing, ice removal and/or salting shall be repaired, or cause to be repaired, by the VILLAGE. Said ROUTINE MAINTENANCE shall continue to be performed, or continue to cause to be performed, by the VILLAGE at its sole expense in perpetuity without reimbursement from the COUNTY.

It is further mutually agreed by and between the parties hereto that for purposes of THIS AGREEMENT, the COUNTY shall continue to perform, or continue to cause to be performed, CAPITAL MAINTENANCE within the maintenance limits listed on EXHIBIT A as it applies to the BIKE PATH. CAPITAL MAINTENANCE shall include items such as correcting structural deficiencies, resurfacing, pavement preservation treatments such as rejuvenator, seal coat, or microsurfacing, maintenance of pavement markings if initially placed by the COUNTY, maintenance of guardrail, fences and railings, removal of graffiti from COUNTY signage and all other visible surfaces upon notice from the VILLAGE, re-grading/re-establishment of ditches and removal/replacement of culverts to maintain drainage, tree removal upon notice from the VILLAGE due to clear signs of danger (such as disease, split limbs, or excessive lean), and replacement and/or reinstallation of damaged and/or end of life COUNTY-owned signage (including all bike path crossing signs and advanced warning signs). Said CAPITAL MAINTENANCE shall continue to be performed, or continue to cause to be performed, by the COUNTY at its sole expense in perpetuity without reimbursement from the VILLAGE.

4. It is mutually agreed by and between the parties that should the VILLAGE desire to hire a contractor, or contractors, as the case may be, to perform its ROUTINE MAINTENANCE obligations under THIS AGREEMENT, the VILLAGE shall notify the COUNTY of said desire. The Village shall require said contractor(s) to provide proof of the appropriate insurance which adds the COUNTY and the Lake County Division of Transportation, and their officers, employees and duly elected and appointed officials, as additional insureds thereunder. Further, the Village shall require in its agreement(s) with said contractor(s) that said contractor(s) indemnify and hold harmless the COUNTY, its elected officials, duly appointed officials, agents, officers, employees and representatives, and the Lake County Division of Transportation, its duly appointed officials, agents, officers, employees, and representatives from and against, any and all claims, suits, settlements, actions, losses, expenses, damages, injuries, judgements and demands (collectively referred to hereinafter as "claims") arising from and relating to the ROUTINE MAINTENANCE (or lack thereof) of the BIKE PATH as heretofore described. The insurance limits required to be provided by any contractor shall be as set

and approved by Intergovernmental Risk Management Agency (IRMA). The above referenced insurance from the contractor(s) shall provide that said contractor(s)' insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the COUNTY or the Lake County Division of Transportation.

5. It is mutually agreed by and between the parties hereto that EXHIBIT A of THIS AGREEMENT may be amended by Letter of Concurrence signed by both parties to add, delete or modify locations of BIKE PATH where maintenance is to be performed. Said additions, deletions or modifications may result in changes to the respective cost-sharing responsibilities of the parties hereto. The COUNTY's County Engineer (hereinafter the COUNTY ENGINEER) shall act on behalf of the COUNTY as said actions relate to changes to EXHIBIT A, and the chief elected official shall act on behalf of the VILLAGE as said actions relate to changes to EXHIBIT A.
6. The VILLAGE agrees to keep the BIKE PATH open for use at all times and to monitor and inspect the condition of the BIKE PATH on a regular basis, and if any portion of the traveled surface is in disrepair, it is the responsibility of the VILLAGE to repair potholes, ruts and other surface abnormalities and to make prompt notification to the COUNTY of any structural deficiencies of said BIKE PATH. Snow removal is not a required ROUTINE MAINTENANCE item but neither is it prohibited.
7. Either the COUNTY or the VILLAGE may terminate the maintenance obligations of the BIKE PATH under THIS AGREEMENT, at will and without cause, upon written notification providing ninety (90) days' notice of the time and date when such maintenance shall terminate. Said notification shall be given to the COUNTY's County Engineer (hereinafter the COUNTY ENGINEER) or the Mayor of the VILLAGE with a copy to the VILLAGE's Director of Public Works, as the case may be.

### **SECTION III.**

#### **Enforcement of the COUNTY's BIKE PATH Use Ordinance**

1. Pursuant to said ENFORCEMENT AGREEMENT, the VILLAGE shall continue to have the authority to enforce, or continue to cause to be enforced, the COUNTY's BIKE PATH Use Ordinance within the corporate limits of the VILLAGE, without reimbursement from the COUNTY in perpetuity.

**SECTION IV.**  
**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, nor is the VILLAGE (including its elected officials, duly appointed officials, officers, employees and agents), to be construed to be 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 ENGINEER to maintain, operate, manage, improve, construct, reconstruct, repair, widen or expand COUNTY Highways or bike paths as best determined and 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 VILLAGE agrees to indemnify, defend and hold harmless the COUNTY, its elected officials, duly appointed officials, agents, employees and representatives and the Lake County Division of Transportation, its duly appointed officials, agents, employees, and representatives from and against, any and all claims, suits, settlements, actions, losses, expenses, damages, injuries, judgements and demands (collectively referred to hereinafter as "claims") arising from and relating to the ROUTINE MAINTENANCE (or lack thereof) of the BIKE PATH as heretofore described.
5. The COUNTY agrees to indemnify, defend and hold harmless the VILLAGE, its elected officials and its duly appointed officials, agents, employees and representatives from and against any and all claims, suits, settlements, actions, losses, expenses, damages, injuries, judgements and demands (collectively referred to hereinafter as "claims") arising from and relating to CAPITAL MAINTENANCE of the BIKE PATH as heretofore described.
6. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be deemed to take effect on December 1, 2019, provided the duly authorized agents of the

parties hereto duly execute THIS AGREEMENT by affixing their signatures prior to December 1, 2019. In the event the date that the last authorized agent of the parties hereto affixes their signature to THIS AGREEMENT is subsequent to December 1, 2019, 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.

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 hereto 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.

**ATTEST:**

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

**VILLAGE OF LIBERTYVILLE**

By: \_\_\_\_\_  
Terry Wepler, Village President

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

**RECOMMENDED FOR EXECUTION**

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

**ATTEST:**

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

**COUNTY OF LAKE**

By: \_\_\_\_\_  
Chair  
Lake County Board

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

**BIKE PATH Maintenance Locations**  
**EXHIBIT A**  
**12/1/19**

<b>Location of BIKE PATH Maintenance</b>	<b>Effective Date</b>
North Shore Bike Path from 1,000 feet west of Butterfield Road to 7 <sup>th</sup> Street	12/1/19