

AGREEMENT
BETWEEN THE COUNTY OF LAKE
AND THE VILLAGE OF LINCOLNSHIRE
FOR THE CONSTRUCTION OF A ROUNDABOUT
AT THE INTERSECTION OF RIVERWOODS ROAD (COUNTY HIGHWAY 58)
AND EVERETT ROAD (COUNTY HIGHWAY 52)

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 LINCOLNSHIRE, an Illinois Municipal Corporation, acting by and through its Mayor and Board of Trustees, 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, in order to facilitate the free flow of traffic and ensure the safety of the motoring public, is desirous to make certain improvements at the intersection of Riverwoods Road (County Highway 58) and Everett Road (County Highway 52), hereinafter referred to as the IMPROVEMENT. Said IMPROVEMENT shall be known as COUNTY Section **04-00136-06-CH**; and,

WHEREAS, said IMPROVEMENT shall include the realignment of the intersection of Riverwoods Road at Everett Road slightly northward and the construction of a roundabout (hereinafter ROUNDABOUT), complete with one (1) planted central island (hereinafter CENTRAL ISLAND) and four (4) planted splitter islands (hereinafter SPLITTER ISLANDS); and,

WHEREAS, the COUNTY has applied for and received Congestion Mitigation/Air Quality (CMAQ) Federal Highway Administration (FHWA) funding administered through the Illinois Department of Transportation (IDOT) relating to the IMPROVEMENT. Said CMAQ funding normally covers 80% of the construction and construction engineering supervision costs of federally eligible items, but the total amount to be supplied by IDOT may be fixed; and,

WHEREAS, the COUNTY has jurisdictional authority over both Riverwoods Road and Everett Road; and,

WHEREAS, the VILLAGE is desirous of entering into an agreement with the COUNTY, specifically addressing the LANDSCAPING PLAN, ADDITIONAL LIGHTING, IRRIGATION SYSTEM and Signage (all as hereinafter defined and collectively referred to as the "VILLAGE IMPROVEMENTS") within and about the CENTRAL ISLAND and SPLITTER ISLANDS.

WHEREAS, the ROUNDABOUT will be of immediate benefit to the VILLAGE, the COUNTY and the motoring public at large;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, made and pursuant to all applicable statutes and local ordinances, 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.

Construction of the IMPROVEMENT

1. It is mutually agreed by and between the parties hereto that the COUNTY agrees to prepare all: surveys, design engineering plans and specifications, bid documents and furnish construction engineering supervision, and cause the IMPROVEMENT to be built, in accordance with the approved plans, specifications, and construction contract, subject to the approval of IDOT (hereinafter PLANS).

It is further mutually agreed by and between the parties hereto that the VILLAGE shall also have the opportunity to review and approve such plans as they relate to the

VILLAGE IMPROVEMENTS and that said approval shall not be unnecessarily withheld by either party.

2. It is mutually agreed by and between the parties hereto that, as of this writing, the anticipated letting date for the IMPROVEMENT is April, 2010.

SECTION III.

Landscaping

1. It is mutually agreed by and between the parties hereto that the VILLAGE has prepared and provided to the COUNTY an "Aesthetic Enhancement Concept Plan" (hereinafter LANDSCAPING PLAN) which has been reviewed by the COUNTY in accordance with the specifications of Paragraph 2 of this Section III and the COUNTY has fully incorporated said LANDSCAPING PLAN into the PLANS.
2. It is mutually agreed by and between the parties hereto that should any of the specified trees/shrubs/bushes (hereinafter PLANTINGS) included in the LANDSCAPING PLAN show signs of decline and/or disease, as mutually determined by the COUNTY and the VILLAGE, except to the extent covered by the guarantee described in Paragraph 4 below, the VILLAGE shall promptly remove and replace said PLANTINGS at its sole expense.
3. It is mutually agreed by and between the parties hereto that the COUNTY shall supply and plant the specified PLANTINGS included in the LANDSCAPING PLAN (as part of the IMPROVEMENT), with reimbursement by the VILLAGE as hereinafter stipulated in the attached EXHIBIT A to THIS AGREEMENT.

It is further mutually agreed by and between the parties hereto that the COUNTY has credited the VILLAGE an amount of thirteen thousand two-hundred dollars (\$13,200.00), equal to the "typical" landscaping costs for a similar project.

4. The COUNTY shall include in the PLANS a requirement for a full-replacement guarantee should any of the PLANTINGS not remain in a live, healthy condition throughout the construction of the IMPROVEMENT and for a period of one (1) year following the date of planting, per the Standard Specification contained within the construction contract.

SECTION IV.

Lighting

1. It is mutually agreed by and between the parties hereto that the COUNTY shall, at its sole expense, with no reimbursement by the VILLAGE, install and maintain Type-I and Type-II pole-mounted luminaires and any associated conduits, cables, handholes and devices (hereinafter ROUNDABOUT LIGHTING) as part of the IMPROVEMENT.

It is further mutually agreed by and between the parties hereto that the VILLAGE has requested that electrical receptacles and so-called "aesthetic up-lighting" be installed within the CENTRAL ISLAND (hereinafter ADDITIONAL LIGHTING).

2. It is mutually agreed by and between the parties hereto that the COUNTY shall install, as part of the IMPROVEMENT, the ADDITIONAL LIGHTING, with reimbursement by the VILLAGE as hereinafter stipulated in the attached EXHIBIT A to THIS AGREEMENT.
3. It is mutually agreed by and between the parties hereto that the COUNTY shall pay one-hundred percent (100%) of all energy costs required for the operation of the ROUNDABOUT LIGHTING. Payment shall be made directly to the provider of energy for the operation of said ROUNDABOUT LIGHTING.

It is further mutually agreed by and between the parties hereto that the VILLAGE shall pay one-hundred percent (100%) of all energy costs required for the operation of the ADDITIONAL LIGHTING. Payment shall be made directly to the provider of energy for the operation of said ADDITIONAL LIGHTING.

It is understood by both the COUNTY and the VILLAGE that the installation of separate electrical services for the ROUNDABOUT LIGHTING and the ADDITIONAL LIGHTING is required in order for the provider of electrical energy to accurately bill the COUNTY and the VILLAGE for the energy costs for the ROUNDABOUT LIGHTING and the ADDITIONAL LIGHTING, respectively.

SECTION V.

Irrigation

1. It is mutually agreed by and between the parties hereto that the COUNTY shall install, as part of the IMPROVEMENT, a drip-type irrigation system, as requested by the VILLAGE, within the CENTRAL ISLAND and four (4) SPLITTER ISLANDS (hereinafter IRRIGATION SYSTEM), with reimbursement by the VILLAGE as hereinafter stipulated in the attached EXHIBIT A to THIS AGREEMENT.

It is further mutually agreed by and between the parties hereto that the VILLAGE shall design and install, at its sole expense, the point of connection between the IRRIGATION SYSTEM and its water feed system, which shall emanate from the VILLAGE's "North Park" recreational facility (located at the southeast quadrant of the intersection of Riverwoods Road and Everett Road) and terminate at a pre-determined point in said southeast quadrant, as determined by the COUNTY's County Engineer and as designated in the PLANS.

It is further mutually agreed by and between the parties hereto that the COUNTY shall provide, at no cost to the VILLAGE, one (1) two (2)-hour instructional seminar, the subject of which being the maintenance of irrigation systems within landscaped roundabouts. Said seminar shall be scheduled so as ensure the attendance of the appropriate personnel from the VILLAGE, which is mandatory.

2. It is mutually agreed by and between the parties hereto that the COUNTY shall construct, as part of the IMPROVEMENT, a pipe underdrain system as part of the IRRIGATION SYSTEM.

SECTION VI.

Signage

1. It is mutually agreed by and between the parties hereto that the COUNTY, at the request of the VILLAGE, shall install, as part of the IMPROVEMENT, non-reflective signage within the CENTRAL ISLAND, the purpose of which being to identify the VILLAGE to motorists and pedestrians (hereinafter SIGNAGE), with reimbursement by the VILLAGE as hereinafter stipulated in the attached EXHIBIT A to THIS AGREEMENT.

2. The VILLAGE agrees that said SIGNAGE shall be installed subject to the following requirements: (1) the SIGNAGE shall be installed outside of the regulatory clear zone, and the exact location of the SIGNAGE shall be determined by way of a collaborative approach between the COUNTY and the VILLAGE, (2) the COUNTY shall allow one sign per approach to the ROUNDABOUT, (3) all aspects of the SIGNAGE and the installation thereof shall be in compliance with the COUNTY's Division of Transportation's usual and customary standards for the permitting of municipal signage within County Highway rights-of-way, as may be amended.

The VILLAGE further agrees that, should all or any part of the SIGNAGE be determined in the sole and exclusive judgment of the COUNTY's County Engineer, to be in conflict with any traffic control devices (including, but not limited to, directional arrows) and/or create a sight distance problem, and the VILLAGE does not rectify said conflict and/or sight distance problem within ten (10) working days, the COUNTY may remove the problematic portion(s) of the SIGNAGE, with full reimbursement by the VILLAGE.

The VILLAGE further agrees that any additional signage, requested by the VILLAGE, in the CENTRAL ISLAND or any of the four (4) SPLITTER ISLANDS not included as part of the IMPROVEMENT shall require a permit from the COUNTY.

SECTION VII.

Provisions Common to all VILLAGE IMPROVEMENTS

1. It is mutually agreed that the VILLAGE IMPROVEMENTS shall be deemed to include the LANDSCAPING PLAN, ADDITIONAL LIGHTING, IRRIGATION SYSTEM and SIGNAGE.
2. It is mutually agreed by and between the parties hereto that, following substantial completion of the IMPROVEMENT, the VILLAGE shall maintain the VILLAGE IMPROVEMENTS in the CENTER ISLAND and four (4) SPLITTER ISLANDS with no reimbursements from the COUNTY.

It is further mutually agreed by and between the parties hereto that, absent an emergency situation, the VILLAGE shall perform its maintenance on the VILLAGE IMPROVEMENTS during non-peak traffic times, namely on weekdays, between 9:00 a.m. and 3:00 p.m.

It is further mutually agreed by and between the parties hereto that the VILLAGE must submit to the COUNTY, for the COUNTY's approval, an executed standard form supplied by the COUNTY, as authorized by the COUNTY's HIGHWAY UTILITY AND FACILITY PLACEMENT ORDINANCE, as amended, MUNICIPAL UTILITY/FACILITY ACCEPTANCE ON A COUNTY HIGHWAY (hereinafter MUNICIPAL ACCEPTANCE FORM) by the effective date of THIS AGREEMENT for the VILLAGE IMPROVEMENTS, the approval of which shall not be unreasonably withheld by the COUNTY. If said MUNICIPAL ACCEPTANCE FORM is not submitted and approved, the COUNTY is under no obligation to construct the VILLAGE IMPROVEMENTS.

SECTION VIII.

The VILLAGE's Reimbursements to the COUNTY

1. It is mutually agreed by and between the parties hereto that CMAQ funding (at 80%) applies to all federally-eligible items, including construction and construction engineering supervision, up to a maximum of \$2,766,395.20 and that the COUNTY and the VILLAGE must supply the remaining 20% (Local Share).

It is further mutually agreed by and between the parties hereto that, should 80% of the total project costs exceed \$2,766,395.20, then the COUNTY and the VILLAGE are together responsible for any amount over the maximum federal participation of \$2,766,395.20 (EXCESS COSTS). It is the intent of THIS AGREEMENT that the EXCESS COSTS will be divided in accordance with the "Portion Attributable to the VILLAGE" shown in Exhibit A. This means the VILLAGE would pay 100% of any non-participating items or the Local Share of just the VILLAGE IMPROVEMENT-related costs.

2. It is mutually agreed by and between the parties hereto that the COUNTY shall construct the IMPROVEMENT under the requirements of the agreement between the COUNTY and IDOT relative to the FHWA funding to be supplied by IDOT for the IMPROVEMENT, with reimbursements by the VILLAGE for its share of the IMPROVEMENT.

3. The VILLAGE agrees to pay one-hundred percent (100%) of the Local Share of the costs for the construction/installation of the VILLAGE IMPROVEMENTS [net of a credit in the amount of thirteen thousand two-hundred dollars (\$13,200.00)].
4. The VILLAGE is desirous for the COUNTY to contract with a licensed engineering firm for the "Phase II" Design Engineering for the ADDITIONAL LIGHTING and the IRRIGATION SYTEM.

The VILLAGE further agrees to pay one-hundred percent (100%) of the Design Engineering costs for the ADDITIONAL LIGHTING and the IRRIGATION SYSTEM.

The VILLAGE further agrees to pay one-hundred percent (100%) of the Local Share of the costs for Construction Supervision for the VILLAGE IMPROVEMENTS.

The VILLAGE further agrees that its total obligation under this agreement is estimated to be **\$73,302.24**, as presented in the attached EXHIBIT A to THIS AGREEMENT.

5. The VILLAGE agrees that upon award of the contract, the VILLAGE will pay to the COUNTY within thirty (30) days of the receipt of an invoice from the COUNTY, in a lump sum based on awarded contract unit prices, an amount equal to fifty percent (50%) of its obligation incurred under THIS AGREEMENT. Payment at the time of the award and receipt of an invoice is estimated to be **\$36,651.12**.

The VILLAGE further agrees to pay the COUNTY the remaining fifty percent (50%) of its obligation under this AGREEMENT in a lump sum amount by the latter of: (1) June 30, 2011, or (2) thirty (30) days from the receipt of an invoice from the COUNTY, following completion of the project. Said remaining fifty percent shall be based on final costs at contract unit prices for actual work performed. Final payment to the COUNTY is estimated to be **\$36,651.12**.

6. In the event that the COUNTY received more than the specified amount of \$2,766,395.20 towards the 80% federal share of the total cost of the IMPROVEMENT, then the parties mutually agree that the remaining 20% (Local Share) shall be based upon that amount.

SECTION IX.
General Provisions

1. It is agreed by and between the parties hereto that THIS AGREEMENT is subject to the requirements of the agreement between the COUNTY and IDOT relative to the FHWA funding to be supplied by IDOT for the IMPROVEMENT.

It is further mutually agreed by and between the parties hereto that, should IDOT determine that the costs of one or more of the VILLAGE IMPROVEMENTS is not eligible for federal funding, the VILLAGE shall be responsible for one-hundred percent (100%) of all non federally-eligible costs for the ineligible portion of the VILLAGE IMPROVEMENTS.

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's County Engineer to maintain, operate, improve, construct, reconstruct, repair, 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 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 constituting the VILLAGE (including its elected officials, duly appointed officials, officers, employees and agents), 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.
4. 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 provisions of law nor any applicable order, writ, injunction or decree of any government, commission, board, bureau, agency or instrumentality applicable to such party.
5. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be

deemed to take effect on February 1, 2010, provided the duly authorized agents of the parties hereto duly execute THIS AGREEMENT by affixing their signatures prior to February 1, 2010. In the event the date that the last authorized agent of the parties hereto affix their signature to THIS AGREEMENT is subsequent to February 1, 2010, 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.

6. 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. In the event any claim is filed in a court of competent jurisdiction, the judgment or relief awarded to the prevailing party shall include, but not be limited to, reimbursement for its attorneys' and consultants' fees arising from such claim.
7. It is mutually agreed by and between the parties hereto that the Provisions of THIS AGREEMENT are severable. If any provision, paragraph, section, subdivision, clause, phrase or word 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, such decision shall not affect the remaining portions of THIS AGREEMENT.
8. It is mutually agreed by and between the parties hereto that the entire 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.
9. 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. Except as otherwise expressly provided in writing, no waiver granted hereunder shall be deemed a general or continuing waiver for future acts or omissions and such waiver shall not limit a party's right to strict enforcement of THIS AGREEMENT in all other circumstances.
10. THIS AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. Neither party hereto may 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 to THIS AGREEMENT.

11. THIS AGREEMENT may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute THIS AGREEMENT.
12. THIS AGREEMENT shall remain in full force and effect for such a period of time as the IMPROVEMENT remains in place, in use and in operation.

13. THIS AGREEMENT shall be considered null and void in the event that the construction contract covering the IMPROVEMENT contemplated herein is not awarded by December 1, 2012.

ATTEST:

Village Clerk

VILLAGE OF LINCOLNSHIRE

By: _____
Mayor

Date: _____

RECOMMENDED FOR EXECUTION

Martin G. Buehler, P.E.
Director of Transportation/County Engineer
Lake County

ATTEST:

County Clerk
Lake County

COUNTY OF LAKE

By: _____
Chair
Lake County Board

Date: _____

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EXHIBIT A
Estimated Division of Costs
County Section No. 04-00136-06-CH

Pay Item	Estimated Cost	Portion Attributable to the FHWA (IDOT)	Portion Attributable to the COUNTY	Portion Attributable to the VILLAGE
TOTAL PROJECT: Installation of a roundabout at the intersection of Riverwoods Road and Everett Road	\$ 3,457,994.00	\$ 2,766,395.20	\$ 618,296.56	\$ 73,302.24

Breakdown for the Portion Attributable to the VILLAGE

Pay Item	Estimated Cost	Portion Attributable to FHWA (IDOT)		Portion Attributable to the COUNTY		Portion Attributable to the VILLAGE	
		Percentage	Cost	Percentage	Cost	Percentage	Cost
LANDSCAPING PLAN	\$ 192,282.00	80.0%	\$ 153,825.60	0.0%	\$ -	20.0%	\$ 38,456.40
ADDITIONAL LIGHTING	\$ 22,000.00	80.0%	\$ 17,600.00	0.0%	\$ -	20.0%	\$ 4,400.00
Phase II Design Costs for ADDITIONAL LIGHTING	\$ 4,780.00	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 4,780.00
IRRIGATION SYSTEM	\$ 42,900.00	80.0%	\$ 34,320.00	0.0%	\$ -	20.0%	\$ 8,580.00
Phase II Design Costs for IRRIGATION SYSTEM	\$ 8,662.00	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 8,662.00
SIGNAGE	\$ 8,800.00	80.0%	\$ 7,040.00	0.0%	\$ -	20.0%	\$ 1,760.00
Subtotal							\$ 66,638.40
Construction Supervision <i>(10% of construction costs)</i>							\$ 6,663.84
Total Reimbursable Costs							\$ 73,302.24

NOTES:

1. Estimate of Total Project costs taken from CMAQ application (i.e., IDOT Job Request Form, dated 11/25/09)
2. Estimates of costs for LANDSCAPING PLAN, ADDITIONAL LIGHTING, IRRIGATION SYSTEM and SIGNAGE are derived from units costs supplied by the VILLAGE to the COUNTY on 11/25/09
3. Estimates of Phase II Design Costs for ADDITIONAL LIGHTING and Phase II Design Costs for IRRIGATION SYSTEM by HDR, Inc., dated 11/13/09 and 11/23/09, respectively
4. A credit in the amount of \$13,200 was granted by the COUNTY to the VILLAGE for a standard landscape plan
5. CMAQ funding (at 80%) applies to all federally-eligible items, up to a maximum of \$2,766,395.20. The COUNTY and the VILLAGE must supply the remaining 20%. Should 80% of the total project costs exceed \$2,766,395.20, then the COUNTY and the VILLAGE are responsible for any amount over the maximum federal participation of \$2,766,395.20