

COUNTY BOARD, LAKE COUNTY, ILLINOIS

MARCH 12, 2024

CHAIR AND MEMBERS OF THE COUNTY BOARD:

Pursuant to State Statutes and following proper publication of public notice, a public hearing has been held by the Lake County Zoning Board of Appeals on January 17, 2024 relative to a Resolution adopted by the Lake County Board on March 14, 2023, directing the Lake County Zoning Board of Appeals to conduct a public hearing to consider certain text amendments to Chapter 151 of the Lake County, Illinois Code of Ordinances related to fill/grade operations in unincorporated Lake County.

The proceedings of this public hearing were electronically recorded and are available for public review at the office of the Lake County Zoning Board of Appeals.

At the close of the hearing held on January 17, 2024, after a final review of all evidence and testimony presented on this matter, a motion was made by Member Petersen, and seconded by Member Starkey to recommend that the amendments attached hereto as Exhibit A be adopted. Voting "Aye" on this motion were Members Petersen, Starkey, Bell, Garcia, Henderson, Roche and Chair Koeppen. Voting "Nay", none. The motion passed by a vote of 7-0.

At the direction of the Chair of the Lake County Zoning Board of Appeals, this report is herewith forwarded to your Honorable Body with the recommendation it be adopted.

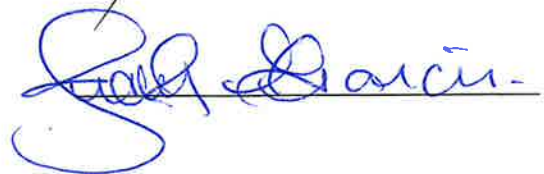

CHAIR

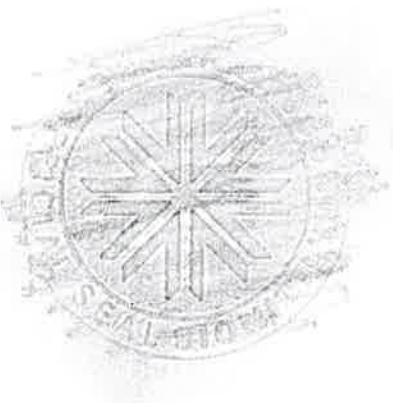

VICE-CHAIR











Dated this 13th day of February 2024.

Exhibit A: Proposed Amendments to Chapter 151 of the Lake County, Illinois Code of Ordinances

Underline and ~~Strikethrough~~ – Staff recommendations
Underline - ZBA recommendations

Amendment #1

Amend 151.111/Zoning Use Table to allow Fill/Grade Operations as a Conditional Use in the LI and II zones.

151.111 USE TABLE

		Residential												Nonresidential									
Use Category	Use Types	AG	RE	E	R1	R2	R3	R4	R4a	R5	R6	RR	GO	LC	RC	GC	LI	II	OS	Use Standard	CUP Decision		
Warehousing and freight movement	Minor Fill/Grade Operations¹⁰	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	§151.113(W)	ZBA		
	Major Fill/Grade Operations																C	C		§151.112(JJ)	Co Bd		

¹⁰ Projects involving the importation of up to 500 cubic yards of soil fill per acre, provided total fill volume is 10,000 cubic yards or less, are permitted by right in all zoning districts.

Amendment #2

Amend 151.112/Use Standards to read as follows:

(JJ) Major Fill/Grade Operations (warehousing and freight movement). The following standards shall apply to fill/grade operations.

COMMENTARY: Contaminated soil is regulated by state and federal environmental protection regulations, and fill/grade operations and activities should independently comply with all such rules and regulations adopted in accordance thereto.

(1) Total Volume. The importation of fill over 2,000 cubic yards per acre, or over a total volume of 60,000 cubic yards, to a site shall be regulated as a major fill/grade operation and subject to a non-delegated conditional use permit in the LI and II zoning districts.

(2) Site Specifications.

(a) Setbacks. Fill areas must be placed at least 30 feet from any street or public right-of-way and the fill area shall be located at least 1,000 feet from any residential zoning district. Both setback requirements may be increased by the conditional use permit.

(b) Height. Fill material height maximum shall be established as part of the conditional use permit.

(c) Fencing. The fill area shall be equipped with a fence of no less than one hundred percent opacity and no less than eight feet in height, located to secure the operating areas of the site until fill/grade operations have ceased.

(3) *Site Plan Review.* The use shall be subject to the site capacity calculations/site plan review procedures of § 151.070. Site capacity/site plan review may be conducted concurrently with the required conditional use permit review. The site plan shall include, at a minimum:

(a) a legal description of the subject property

(b) a plat of survey of the site at a scale no greater than one-inch equals 100 feet that shows the existing topography at one-foot contour intervals.

(c) an outline of the area to be filled.

(d) ingress/egress point(s) and parking areas.

(e) locations of any buildings, structures, fixed equipment, and equipment storage areas.

(f) the extent of paved or impervious surfaces.

(g) locations of material tipping/receiving areas, material processing areas; proposed fill/grade operational areas; and material loading areas.

(h) screening features such as fencing, berms or landscaping.

(i) final grading and site stabilization plan and performance assurances as noted in Section 151.262.

COMMENTARY: If in consultation with Stormwater Management Commission (SMC), the Director concludes that regional stormwater impacts may occur or be exacerbated by the project, the Director may request concurrent review by SMC.

(4) *Application.* The application for a conditional use permit shall be accompanied by:

(a) Plans depicting any building profiles, site elevations and descriptions of such buildings and site elevations necessary to convey the appearance and scale of the proposed operation

(b) A narrative description of the activities proposed to be conducted within the site boundaries.

(c) A narrative description of any other proposed uses (such as, but not limited to truck storage, maintenance, and fueling) and a demonstration that other such uses can be conducted in a safe and unobtrusive manner without interference with activities on the site.

(d) Written approvals from both the operator and the landowner, to allow the county or its contractor to enter onto the site to remediate a discontinued operation, which shall run with the land.

(5) *Operating standards.* The operator shall provide an operating plan. The operating plan shall, at a minimum, contain the following information:

(a) Number of employees anticipated at the site.

(b) Proposed hours of operations for receipt of fill material and for processing/grading of fill material.

(c) Proposed daily average/maximum volume (in tons) of fill material to be received at the site.

(d) Identification of the maximum number of vehicles (by vehicle type) proposed to utilize the site on a daily basis.

(e) Description of any processing and/or grading equipment proposed to be utilized to prepare the fill material for stockpiling or grading and the location and design of any noise-buffering elements, sheltering and operating controls to minimize noise impacts.

(f) Description of operating methods employed to control overflow, run-off, and dust.

(g) Description of the method and equipment utilized to unload and spread fill material.

(h) Specification of typical and maximum anticipated heights of imported fill material.

(i) Identification of the buffering and/or screening measures employed to minimize the visual impact of the proposed fill on surrounding properties.

(6) Other conditions. The conditional use permit may establish, as necessary, reasonable conditions that regulate activity on the site including but not limited to:

(a) Hours and days of operation.

(b) Vehicle trips generated per day.

(c) Noise and dust emissions.

(d) Interim screening requirements to mitigate the visual impact of the proposed fill operation on surrounding properties.

(e) Erosion control measures to mitigate impact to neighboring properties associated with the additional import/export of fill beyond that of a typical site development permit, as provided in Section 151.146(J).

(f) Methods employed to prevent the tracking of dirt/mud onto the main road from which access is taken.

(g) Methods employed to clean and repair the main road from which access is taken.

Amendment #3

Amend 151.113/Accessory Use Standards to read as follows:

(W) Minor Fill/Grade Operations.

(1) Total Volume. Projects in all zoning districts shall be subject to the site capacity calculation/site plan review procedures of § 151.070. Site capacity/site plan review shall be conducted concurrently with any required conditional use permit review.

(a) Development projects necessitating the accessory importation of fill material between 500 and 2,000 cubic yards per acre, provided total fill volume is 60,000 cubic yards or less, shall require a delegated conditional use permit in all zoning districts.

1. In addition to seeking a delegated conditional use permit, minor projects that meet the criteria of subsection (1)a must follow all site specifications, site plan review requirements, application requirements, operating standards and other conditions listed in Section 151.112(JJ) Major Fill/Grade Operations, with the exception of the fill area setback requirements which shall be established by the conditional use permit.

(b) All projects consisting of the importation of fill as a principal use at a scale less than a major fill/grade operation, shall require a delegated conditional use permit in all zoning districts.

COMMENTARY: Development projects necessitating the accessory importation of fill material up to 500 cubic yards per acre are allowed in all zoning districts, provided total fill volume is 10,000 cubic yards or less (but see Section (1)b above for standards governing Minor principal Fill/Grade Operations).

COMMENTARY: Any projects importing over 2000 cubic yards per acre of fill or a total fill volume of greater than 60,000 cubic yards are considered a major fill/grade operation and are subject to the standards set forth in Section 151.112(JJ) Major Fill/Grade Operations.

Amendment #4

Amend Table 151.114/Temporary Uses to read as follows:

<i>Table 151.114: Temporary Uses</i>																			
<i>Use Types</i>		<i>AG</i>	<i>RE</i>	<i>E</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R4A</i>	<i>R5</i>	<i>R6</i>	<i>RR</i>	<i>GO</i>	<i>LC</i>	<i>RC</i>	<i>GC</i>	<i>LI</i>	<i>II</i>	<i>OS</i>
Material staging, stockpiling, and processing <u>of dredged materials</u> (see § 151.114(L))	Material staging	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Material stockpiling and processing <u>of dredged materials</u> (on residential lots 200,000 sq. ft. or more) ¹	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Amendment #5

Amend Section 151.114(L)/Temporary Uses to read as follows:

(L) *Material stockpiling and processing of dredged materials.* Temporary material stockpiling and processing shall be subject to the following standards:

- (1) *Permitting and public outreach.* The use shall be subject to both site development and temporary use permit processes. Following application submittal, staff will determine whether public information meeting would be required. A staff administered meeting may be held to gather information and feedback, as well as offer an opportunity for the public to learn about the use.
- (2) *Director approval.* Approval of the temporary use permit is contingent on the Planning, Building, and Development Department Director's approval. If a specific proposed site requiring a temporary use permit presents an unreasonable risk to public health, safety or welfare, the Director shall have the authority to deny the request.
- (3) *Maximum length of permit.* Temporary use permits shall be limited to a maximum two-year period of time. However, the permit may be renewed in increments of up to two years in the absence of a

pattern of credible complaints. In consideration of any such permit renewal, the Director may require a public information meeting to obtain additional input, as appropriate.

(4) *Access.*

(a) For properties without an approved access location, evidence that an access permit can be obtained, for the proposed use, from the highway authority having jurisdiction. For properties with a previously approved access location, evidence from the highway authority having jurisdiction that the existing access point is sufficient to serve the proposed use; if the existing access is insufficient, evidence that a new access permit can be obtained, for the proposed use, from the highway authority having jurisdiction.

(b) For properties with an access location onto a private road, evidence that permission can be obtained, for the proposed use from: 1) homeowners' association having responsibility for maintenance of the private road, or 2) a majority of the property owners fronting the access road in the absence of an active association. Applicants must also show that they have or can obtain access permits from the highway authority which has jurisdiction over the road onto which the private road terminates, as outlined in subsection (L)(4)(a).

(5) *Permission to use property.* The application must include a signed, written permission from the owner of, or the agency having jurisdiction over, the subject property or properties.

(6) *Site restoration plan.*

(a) A site restoration plan must be submitted to and approved by the county.

(b) The exact termination date for the completion of operations and the restoration of the site shall be established in the temporary use permit review process and imposed at the time of approval based upon the estimated length of time the operation will be conducted.

(7) *Operating standards.* The applicant shall provide an operating plan. The operating plan shall, at a minimum, contain the following information:

(a) Number of employees anticipated at the facility.

(b) Proposed hours of operations for receipt of material.

(c) Proposed daily average/maximum volume (in tons) of material to be received at the facility.

(d) Identification of the maximum number of vehicles (by vehicle type) proposed to utilize the facility on a daily basis.

(e) Description of any equipment proposed to be utilized to prepare the material for stockpiling or shipment and the location and design of any noise-buffering elements, sheltering and operating controls to minimize noise impacts.

(f) Description of operating methods employed to control odor, accidental combustion of material, disease vectors, dust, and litter.

(g) Description of the method and equipment utilized to load recyclable and non-recyclable general construction or demolition for shipment from the facility.

(h) Specification of typical and maximum anticipated height of stockpiled dredging material and debris. Identification of the buffering and/or screening measures employed to minimize the visual impact of the proposed stockpiles from surrounding land uses.

(8) *Other conditions.* The temporary use permit may establish, as necessary, reasonable conditions that regulate activity on the site including but not limited to:

(a) Hours and days of operation.

- (b) Vehicle trips generated per day.
- (c) Noise and dust emissions.

Amendment #6

Amend Section 151.145(C)(3)/Site Development Permits to read as follows:

- (3) A site development permit shall not be required for any of the following:
- (a) The maintenance of existing buildings and facilities such as resurfacing of roadways when the road elevation is not increased;
 - (b) Practices associated with local food gardens ~~plowing, and similar agricultural~~ that do not involve filling, or grading, ~~or construction of levees~~;
 - ~~—(c) Agricultural practices outside of the regulatory floodplain that involve filling or grading, including but not limited to the construction of levees, terraces, and surface water diversions that are a part of a Natural Resource Conservation Service designed and approved conservation project; or~~
 - (d) Fence installation, pole placement, drilling, or other minor auxiliary construction as long as the development activity is not located in a regulatory floodway, wetland, or water body.

Amendment #7

Amend Section 151.146/Performance Standards for All Development to read as follows:

(K) *Landscape features.* All permanent landscape features including, berms, planters, walls, fences and the like shall be placed or constructed in such a manner as not to interfere with the natural drainage pattern, so as not to obstruct a clear view at street intersections (see § 151.172), and so that the features do not cause a drainage nuisance. In addition, the placement and construction of all permanent landscape berms shall conform to all of the following standards:

- (1) The slope of any berm embankment shall not exceed, at its steepest point, a slope of 3:1;
- (2) The height of any berm embankment, measured from the toe to the top, shall not exceed 20 feet;

COMMENTARY: For purposes of measuring the height of a berm in instances involving grade changes on both sides of a berm, the berm height shall be measured on the side of the berm whose toe is located at a higher elevation.

- (3) The toe of any berm embankment shall be no closer than ten feet from any property line or ultimate right-of-way line;
- (4) The top of all berms shall be graded to be smoothly convex and the toe of all berms shall be graded to be smoothly concave;
- (5) All erosive surfaces on any berm shall be permanently stabilized in accordance with subsection (J) above;
- (6) In addition to meeting the erosion control standards contained in subsection (J) above, all berms not required in a perimeter landscape transition area shall comply with the berm landscaping requirements of § 151.167(E)(2)(f); and
- (7) A conceptual land use plan shall be submitted in conjunction with an application for any berm in excess of ten feet in height.

[\(8\) Berms involving imported fill material shall also comply with the standards of §151.112\(JJ\) and §151.113\(W\). The more restrictive standards shall control.](#)

Amendment #8

Amend Section 151.167/Landscaping to read as follows:

(E) *Plant unit and material standards.* Plant material used to satisfy the standards of this section shall comply with the following standards:

(1) *Plant units.* A plant unit is a measurement used to determine the quantity of plant material required.

(a) One plant unit is comprised of all of the following elements:

1. One canopy tree;
2. Two understory trees;
3. Two evergreen trees; and
4. Seven shrubs.

(2) *Plant material.* Plant material used to satisfy the standards of this section shall comply with the following standards:

(a) *Size.* Unless otherwise expressly provided, all plant materials used to satisfy the requirements of this section shall meet the following minimum size standards:

<i>Plant Type</i>	<i>Minimum Size</i>
Canopy tree	3-inch caliper
Understory/ornamental tree	2-inch caliper or 8 feet height
Evergreen/conifer tree	8 feet height
Shrubs	
Broadleaf/deciduous	3 feet height
Needleleaf/evergreen	2 feet height
Columnar evergreen	3 feet height

(b) *Examples of species.* Species of plant material that satisfy the requirements of this section are contained in Appendix A. That Appendix categorizes plant species as either “canopy trees,” “evergreen trees,” “understory trees,” or “shrubs”. Varieties and cultivars of the plant species listed in Appendix A may be used to satisfy the requirements of this section, provided that the variety or cultivar used complies with all applicable size and form standards.

(c) *Quality.* Plants installed to satisfy the requirements of this section shall meet or exceed the plant quality standards of the most recent edition of *American Standard for Nursery Stock*, published by the American Horticulture Industry Association. Plants shall be nursery-grown and balled with burlapping or other suitable material that is biodegradable.

(d) *Additional landscape treatment.* All required landscape areas not dedicated to trees, shrubs or preservation of existing vegetation shall be landscaped with grass, groundcover, or other landscape treatment, not including sand, rock, or pavement.

(e) *Species mix.* For projects requiring more than five canopy trees, each plant type (i.e., canopy tree, understory tree, etc.) associated with the landscape requirements of this section, no single plant species shall represent more than 40% of the total plantings of each plant type.

(f) *Berms not required in perimeter landscape transition areas.* Any berm not required by this section but otherwise required by a county condition of development approval, containing at least five feet in height whose toe is within 25 feet of any right-of-way or other property line shall be improved with a minimum of one plant unit per 100 linear feet for every five feet of height up to a maximum height of 20 feet. The Planning, Building and Development Director may modify the planting requirements for berms proposed in locations that will be buffered by existing natural features or are proposed in locations that will not impact drainage patterns or neighboring landowners.

Amendment #9

Add Section 151.262/Violations Penalties and Enforcement to read as follows:

§ 151.262 MAJOR FILL/GRADE OPERATIONS.

(A) General. The provisions in this section are in addition to the general violation, penalties, and enforcement provisions of this subchapter. Lake County shall retain authority to enforce the height and setbacks and operating requirements for major fill/grade operations in §151.112(JJ).

(B) Final stabilization plan and assurances.

(1) Final stabilization shall consist of stabilization or re-vegetation of the site as necessary to minimize erosion. A layer of soil capable of supporting vegetation (to a depth sufficient to provide permanent stabilization, as determined by staff) shall be spread over the premises and shall be seeded with grass or other groundcover or by using an appropriate measure as approved by the Planning, Building and Development Director. Final stabilization shall also include the removal of all access equipment, roads, fencing and other onsite equipment and related temporary materials.

(2) Prior to site development permit issuance, a final stabilization plan shall be submitted which shows the final site conditions after fill/grade operation has been completed.

(3) Prior to site development permit issuance, an engineer's opinion of probable construction cost (EOPCC) shall be submitted for final stabilization of the fill/grade operation and finalizing the site in accordance with the approved final stabilization plan. The exact amount of the EOPCC and a termination date for the completion of operations and the finalization of the site shall be established as part of the permit review process and imposed at the time of permit approval, based upon the estimated costs of finalizing the site and the estimated length of time the operation will be conducted. Upon review and approval of the EOPCC by the Planning, Building, and Development Director, the operator shall obtain a bond, letter of credit, or other form of surety that meets the requirements of § 151.203(A) in the amount of 130% of the EOPCC.

COMMENTARY: A separate performance assurance may be required by the highway authority for maintenance and repair of the main road from which access is taken, including asphalt patching and shoulder maintenance, as needed either during operation or finalization of the site.

(C) Final stabilization requirements.

(1) Any fill/grade operation which has reached the limits of fill or has otherwise discontinued operations shall be stabilized as provided for in the final stabilization plan. The owner or operator shall

physically stabilize the site no more than 150 days after the date of discontinued operations. The owner or operator shall notify the county by certified mail of the proposed date of discontinued operations and plans for stabilization.

(2) A fill/grade operation shall be considered discontinued when it fails to operate for more than 150 days. This timeframe can be extended with written consent of the county upon notice of a proposed date of final stabilization or written notice of extenuating circumstances.

(3) If the owner or operator of the fill/grade operation fails to execute the stabilization plan in accordance with the requirements of this section within 150 days of discontinued operations or the proposed date of final stabilization, the county may seek a court order to require the property owner to stabilize the site and/or remove all remaining equipment and structures associated with the active operation. The county also retains the right, after the receipt of an appropriate court order, to enter and stabilize the site. The county will draw on the performance assurance and/or lien the property for all stabilization costs it incurs.

(D) *Violations, cessation, and remedy.*

(1) Upon receipt of a complaint, the Director of Planning, Building and Development shall make a determination as to whether there is a violation of the permit or Operating Requirements requiring immediate cessation of operation.

(2) Once violations have been remedied, as determined by the Director of Planning, Building and Development, the facility may resume operations.

Amendment #10

Amend Section 151.271/Terms Defined to read as follows:

FILL/GRADE OPERATION. The acceptance, collection, accumulation, or aggregation of fill from off-site sources. It includes any property used for the permanent storage or stockpiling of such material on-site, or temporary storage or stockpiling of such material for use at any other location.

~~**AGRICULTURAL PRACTICES.** These practices include: normal farming; silviculture and ranching activities such as gardening, plowing, seeding, cultivating, harvesting for the production of food, fiber, forest products, nursery stock, and livestock; maintenance of agricultural drain tiles, irrigation and drainage ditches; and maintenance of farm roads and other access areas for farm vehicles and equipment use.~~

Amendment #11

Add Appendix U: Fill/Grade Operations to read as follows:

§ 1.0 APPLICATION REQUIREMENTS FOR FILL/GRADE OPERATIONS

See § 151.112(JJ) Major Fill/Grade Operations and § 151.113(W) Minor Fill/Grade Operations for information on height, setbacks, and lot coverage requirements. See §§ 151.250 through 151.262 for violations, penalties, and enforcement. Other local and state regulations shall apply.

A. Roads and Access.

1) A transportation plan shall be submitted which:

(a) Identifies proposed haul route(s) with a map and clearly specifies type of signage, signposts, and locations along roadway identifying the haul route to the satisfaction of the county;

(b) Ensures that the temporary access drive within the site shall be paved with a surface of asphalt or concrete for a distance of at least 50 feet from the right-of-way of the public road from which access is taken. Beyond the 50-foot entrance, temporary access drives within the site shall be comprised of a stone base and crushed asphalt top layer.

(c) Includes provisions to maintain this haul road and replace the stone base and asphalt as needed.

(d) Includes provisions to remove dust, dirt, mud, and other debris from vehicles exiting the site and to keep the main road from which access is taken free of dust, dirt, mud, and other debris at all times.

(e) Includes provisions to clean and repair the main road from which access is taken as needed.

(d) Includes measures to ensure minimal disruption of normal traffic due to the fill/grade operation.

2) Operation will not be allowed to begin until all required improvements have been constructed, in accordance with the approved transportation plan.

3) The operator and contractors shall abide by all posted weight limits unless a permit is obtained, or permission is granted to do otherwise.

4) The operator shall be responsible for the maintenance of roads, including asphalt patching and shoulder maintenance during operation. The operator shall work in conjunction with the highway authorities and obtain any necessary permits.

5) Access Routes

(a) For properties without an approved access location, evidence that an access permit can be obtained for the proposed use from the highway authority having jurisdiction is required. For properties with a previously approved access location, evidence from the highway authority having jurisdiction that the existing access point is sufficient to serve the proposed use is required. If the existing access is insufficient to manage weight or traffic volumes generated by the proposed use, evidence that a new access permit can be obtained, for the proposed use, from the highway authority having jurisdiction is required.

(b) For properties with an access location onto a private road, evidence that permission can be obtained, for the proposed use from: 1) homeowners' association having responsibility for maintenance of the private road, or 2) a majority of the property owners fronting the access road in the absence of an active association is required. Operators must also show that they have or can obtain access permits from the highway authority which has jurisdiction over the road onto which the private road terminates, as outlined in the preceding paragraph.

(c) If the operator does not repair hauler damage to the designated access route in a reasonable period of time (based on the degree to which it poses a hazard to the motoring public) the appropriate highway authority may make the necessary repairs and the operator is expected to reimburse a highway authority for any costs it incurs for repairing damage to any road in its jurisdiction arising from the construction, operation, or maintenance of the project. Should the operator not make such reimbursement upon request of the highway authority, a stop work order may be issued by Lake County until such reimbursement is received by the highway authority.

COMMENTARY: General Transportation Guidelines: For the purpose of transporting fill, the operator shall comply with all applicable requirements of the appropriate highway authority(ies), be it the Illinois Department of Transportation, Lake County Division of Transportation, township, or municipality.

The operator must improve the designated access route to satisfy the design requirements of the appropriate highway authority(ies)

Local highway authorities may require a performance assurance to ensure the required improvements or interim repairs to the damaged portions of the roads will be completed and to ensure that post-project road improvements are made to the satisfaction of the appropriate highway authority. The amount and form of the performance assurance for this project shall be determined by the appropriate highway authorities.