

**FIRST AMENDMENT TO THE AGREEMENT
DATED NOVEMBER 13, 2018
BETWEEN THE COUNTY OF LAKE
AND THE CITY OF WAUKEGAN
FOR THE JURISDICTIONAL TRANSFER OF
AND THE COSTS ASSOCIATED WITH
THE IMPROVEMENTS TO 14TH STREET
BETWEEN DUGDALE ROAD AND GLENN DRIVE**

THIS FIRST AMENDMENT 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 CITY OF WAUKEGAN, an Illinois Municipal Corporation, acting by and through its Mayor and City Council, hereinafter referred to as the CITY. The COUNTY and the CITY may hereinafter be referred to collectively as “parties” and individually as a “party” to THIS FIRST AMENDMENT.

WITNESSETH

WHEREAS, the COUNTY and CITY have entered into the AGREEMENT BETWEEN THE COUNTY OF LAKE AND THE CITY OF WAUKEGAN FOR THE JURISDICTIONAL TRANSFER OF AND THE COSTS ASSOCIATED WITH THE IMPROVEMENTS TO 14TH STREET BETWEEN DUGDALE ROAD AND GLENN DRIVE dated the thirteenth day of November, A.D. 2018 (hereinafter referred to as the AGREEMENT), stipulating specific improvements to and the jurisdictional transfer of 14th Street located within the CITY, and;

WHEREAS, the responsibilities for the improvements associated with 14th Street and the jurisdictional transfer of 14th Street are stipulated in the AGREEMENT, and;

WHEREAS, the AGREEMENT defines the IMPROVEMENT as certain permanent roadway and non-motorized facility improvements to 14TH Street between Illinois Route 131/Green Bay Road and Illinois Route 137/Sheridan Road including road reconstruction, construction of a multi-use path, sidewalk, street lighting, watermain and sanitary sewer modifications, signal interconnection and the construction of a modern roundabout at Dugdale Road appurtenances, and that said IMPROVEMENT shall also be referred to as COUNTY Section 99-00260-01-WR; and,

WHEREAS, the construction contract for the IMPROVEMENT has been awarded and construction work has already commenced on the IMPROVEMENT; and,

WHEREAS, as stipulated in the AGREEMENT, the CITY owns and maintains certain potable water facilities within the project limits in conflict with the proposed IMPROVEMENT, including watermain, hydrants, valves, vaults, services, manholes and other miscellaneous appurtenances (hereinafter WATERMAIN), for which modification was identified as necessary in order to accommodate the construction of the IMPROVEMENT, for which the CITY shall reimburse the COUNTY as defined in the AGREEMENT; and,

WHEREAS, the CITY is now desirous that additional work to interconnect the CITY's WATERMAIN with the City of North Chicago's watermain near the intersection of 14th Street and Dugdale Road (hereinafter INTERCONNECT) be included and constructed with the IMPROVEMENT; and,

WHEREAS, the CITY is desirous that the COUNTY directs their design engineering consultant for the IMPROVEMENT to perform the necessary engineering work to design the INTERCONNECT for inclusion within the IMPROVEMENT, for which the CITY shall reimburse the COUNTY as stipulated hereafter; and,

WHEREAS, the CITY is desirous that the COUNTY includes the construction of the INTERCONNECT as part of the IMPROVEMENT, as a municipal facility, for which the CITY shall reimburse the COUNTY as stipulated hereafter; and,

WHEREAS, during construction of the IMPROVEMENT, the location and material of the CITY's existing WATERMAIN, between Dugdale Road and Greenfield Avenue, were found to be different from what was originally believed during design of the IMPROVEMENT; and,

WHEREAS, it has been determined that the CITY's existing WATERMAIN, from Dugdale Road to Greenfield Avenue, needs to be replaced and upgraded due to these new findings (hereinafter REPLACEMENT); and,

WHEREAS, the CITY is desirous that the COUNTY directs their design engineering consultant for the IMPROVEMENT to perform the necessary engineering work to design the REPLACEMENT for inclusion within the improvement, for which the CITY shall reimburse the COUNTY as stipulated hereafter; and,

WHEREAS, the CITY is desirous that the COUNTY includes the construction of the REPLACEMENT as part of the IMPROVEMENT, as a municipal facility, for which the CITY shall reimburse the COUNTY as stipulated hereafter; and,

WHEREAS, the updated estimated division of costs to the parties hereto associated with the IMPROVEMENT and this FIRST AMENDMENT are stipulated in the estimate that is attached as UPDATED EXHIBIT D to the AGREEMENT and hereby made a part hereof; and,

WHEREAS, the COUNTY and the CITY are desirous to amend said AGREEMENT as it pertains to the CITY's WATERMAIN, INTERCONNECT and REPLACEMENT;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, made and pursuant to all applicable statutes, local ordinances, and authority, the COUNTY and the CITY 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 THIS FIRST AMENDMENT are for reference only and the actual written provisions, paragraphs and words of THIS FIRST AMENDMENT shall control.

SECTION II.
FIRST AMENDMENT regarding the Design and Construction of the IMPROVEMENT, CITY Reimbursement to the COUNTY and Maintenance of the CITY FACILITIES

1. It is mutually agreed by and between the parties hereto that Section II, Paragraph 8 of the AGREEMENT is hereby amended to read as follows:
 8. If federal funding is available for the WATERMAIN related work (as administered by IDOT), the CITY shall be responsible for one hundred percent (100%) of the costs of the Local Share for the WATERMAIN [the Local Share is commonly equal to twenty percent (20%) of the total cost of Construction, one hundred percent (100%) of Design Engineering costs, and twenty percent (20%) Construction Engineering Supervision costs related to the WATERMAIN].

If federal funding is not available, the CITY shall then be responsible for one hundred percent (100%) of the costs for the WATERMAIN [one hundred percent (100%) of the cost of Construction, and one hundred percent (100%) of the Construction Engineering Supervision costs].

It is further mutually agreed that the COUNTY shall direct their design engineering consultant for the IMPROVEMENT to perform the necessary engineering work to design the INTERCONNECT and REPLACEMENT for inclusion within the IMPROVEMENT. The CITY agrees to be responsible for one hundred percent (100%) of the CITY's share of the design engineering necessary for said INTERCONNECT and REPLACEMENT and shall reimburse the COUNTY for said engineering as hereinafter stipulated in Exhibit D. The COUNTY agrees to cause the INTERCONNECT and REPLACEMENT to be designed to be eligible for federal funding, subject to eligibility as determined by IDOT, however the maximum amount of federal funding available for the IMPROVEMENT is capped. The CITY further agrees to be responsible for the CITY's share of construction and construction engineering associated with construction of the INTERCONNECT and REPLACEMENT within the IMPROVEMENT and to reimburse the COUNTY for said costs as hereinafter stipulated in Exhibit D.
2. It is mutually agreed by and between the parties hereto that Section II, Paragraph 15 of the AGREEMENT is hereby amended to read as follows:

15. The CITY agrees that its estimated total obligation under THIS AGREEMENT for the CITY FACILITIES, INTERCONNECT and REPLACEMENT constructed as a part of the IMPROVEMENT is \$2,204,205 assuming federal funding is capped.

The CITY further agrees to pay its obligation for the CITY FACILITIES, INTERCONNECT, and REPLACEMENT, estimated to be \$2,204,205 over a five (5) year period, without interest. At this time, it is estimated that the CITY shall owe to the COUNTY an annual amount equal to \$440,841, which will be due after May 1st of each year, beginning with May 1, 2020, and within thirty (30) days of the receipt of an invoice from the COUNTY. Upon completion of the IMPROVEMENT, the CITY's remaining balance and remaining annual payments shall be based on the final costs and final contract quantities at contract unit prices for actual work performed for the CITY FACILITIES, INTERCONNECT, and REPLACEMENT.

3. It is mutually agreed by and between the parties hereto that the AGREEMENT is hereby amended by deleting Exhibit D in its entirety and replacing it with the Updated Exhibit D attached to this FIRST AMENDMENT.
4. The REPLACEMENT will need to be approved by the Illinois Department of Transportation (IDOT) in order to be included as part of the IMPROVEMENT. In the event that IDOT does not allow the REPLACEMENT to become part of the IMPROVEMENT the COUNTY and the CITY will need to continue discussions and may need to further amend the AGREEMENT to complete the REPLACEMENT work.

SECTION III. General Provisions

1. It is mutually agreed by and between the parties hereto that all terms and conditions stated in this FIRST AMENDMENT be made a part of the AGREEMENT, and that all other terms and conditions not in conflict with this FIRST AMENDMENT as set forth in the AGREEMENT shall remain in full force and effect.
2. It is mutually agreed by and between the parties hereto that this FIRST AMENDMENT 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 FIRST AMENDMENT without first obtaining the expressed written consent of the other party to this FIRST AMENDMENT.
3. Except as herein modified or amended, the provisions, conditions, and terms of the AGREEMENT shall remain unchanged and in full force and effect and are hereby ratified and confirmed by the parties hereto. Capitalized terms used in this FIRST AMENDMENT shall have the same definitions as set forth in the AGREEMENT to the extent such capitalized terms are defined therein and are not defined differently in this FIRST AMENDMENT.

CITY OF WAUKEGAN

ATTEST:

City Clerk
City of Waukegan

By:_____

Mayor Sam Cunningham
City of Waukegan

Date:_____

RECOMMENDED FOR EXECUTION

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

ATTEST:

Clerk
Lake County

COUNTY OF LAKE

By:_____

Chair
Lake County Board

Date:_____

**ESTIMATED DIVISION OF COST – CITY OF WAUKEGAN
14TH STREET - DUGDALE ROAD TO GLENN DRIVE (99-00260-01-WR)**

Original Cost Items

Street Lighting	Total Cost	Federal Share	Lake County Share	Waukegan Share
CONSTRUCTION TOTAL ¹	\$ 574,864.40	\$ 459,891.52	\$ -	\$ 114,972.88
Phase III Engineering (est. as 10% of Construction Total)	\$ 57,486.44	\$ 45,989.15	\$ -	\$ 11,497.29
Phase II Engineering (est. as 7% of Construction Total)	\$ 8,048.10		\$ -	\$ 8,048.10
TOTAL	\$ 640,398.94	\$ 505,880.67	\$ -	\$ 134,518.27

Non-Motorized Travel	Total Cost	Federal Share	Lake County Share	Waukegan Share
CONSTRUCTION TOTAL ¹	\$ 217,862.70	\$ 174,290.16	\$ 34,858.03	\$ 8,714.51
Phase III Engineering (est. as 10% of Construction Total)	\$ 21,786.27	\$ 17,429.02	\$ 3,485.03	\$ 871.45
Phase II Engineering (est. as 7% of Construction Total)	\$ 15,250.39		\$ 14,640.37	\$ 610.02
TOTAL	\$ 254,899.36	\$ 191,719.18	\$ 52,983.43	\$ 10,195.98

Water Main & Sanitary Sewer	Total Cost	Federal Share	Lake County Share	Waukegan Share
CONSTRUCTION TOTAL ¹	\$ 35,255.00	\$ 28,204.00	\$ -	\$ 7,051.00
Phase III Engineering (est. as 10% of Construction Total)	\$ 3,525.50	\$ 2,820.40	\$ -	\$ 705.10
Phase II Engineering (est. as 7% of Construction Total)	\$ 493.57		\$ -	\$ 493.57
TOTAL	\$ 39,278.07	\$ 31,024.40	\$ -	\$ 8,249.67

Non Participating (Storm Sewer Cleaning)	Total Cost	Federal Share	Lake County Share	Waukegan Share
CONSTRUCTION TOTAL ¹	\$ 2,310.00	\$ -	\$ -	\$ 2,310.00
Phase III Engineering (est. as 10% of Construction Total)	\$ 231.00	\$ -	\$ -	\$ 231.00
Phase II Engineering (est. as 7% of Construction Total)	\$ 161.70		\$ -	\$ 161.70
TOTAL	\$ 2,702.70	\$ -	\$ -	\$ 2,702.70

Sanitary Sewer Contingency ²	\$ 52,000.00			\$ 52,000.00
Bid Overage Additional Costs ³	\$ 199,230.33	\$ 140,705.85	\$ 509.84	\$ 58,019.41

Sub Total (Original Cost Items)	\$ 1,188,509.40	\$ 869,330.10	\$ 53,493.27	\$ 265,686.03
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Additional Cost Items (First Amendment)

Interconnect (water main Interconnect at Dugdale)	Total Cost	Federal Share	Lake County Share	Waukegan Share
CONSTRUCTION TOTAL ⁴	\$ 102,267.50	⁵	\$ -	\$ 102,267.50
Phase III Engineering (est. as 10% of Construction Total)	\$ 10,226.75	⁵	\$ -	\$ 10,226.75
Phase II Engineering (est. as 7% of Construction Total)	\$ 7,158.73	⁵	\$ -	\$ 7,158.73
TOTAL	\$ 119,652.98	⁵	\$ -	\$ 119,652.98

Replacement (water main replacement from Dugdale Rd. to Greenfield Ave.)	Total Cost	Federal Share	Lake County Share	Waukegan Share
CONSTRUCTION TOTAL ⁴	\$ 1,610,223.96	⁵	\$ -	\$ 1,610,223.96
Phase III Engineering (est. as 10% of Construction Total)	\$ 161,022.40	⁵	\$ -	\$ 161,022.40
Phase II Engineering	\$ 47,619.75	⁵	\$ -	\$ 47,619.75
TOTAL	\$ 1,818,866.11	⁵	\$ -	\$ 1,818,866.11

Sub Total (First Amendment)	\$ 1,938,519.09	⁵	\$ -	\$ 1,938,519.09
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Total Cost (Original Agreement + First Amendment Items)	\$ 3,127,028.49	\$ 869,330.10	\$ 53,493.27	\$ 2,204,205.12
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¹ Construction costs for Original Cost Items are based on the engineer's estimate at the time of the original agreement (pre-bid).

² Sanitary sewer contingency items (televising, repairs) were added after the approval of the original agreement but prior to the project letting (via email from City on 11/13/2018)

³ Cost adjustment based on actual contractor bid prices

⁴ Construction costs for First Amendment items are based on actual contractor bid prices.

⁵ The COUNTY will cause this work to be eligible for federal funding, subject to eligibility as determined by IDOT; however, the maximum amount of federal funding available for the IMPROVEMENT is capped.