

INTERGOVERNMENTAL AGREEMENT

COUNTY OF COOK

45TH STREET ROAD IMPROVEMENTS

VILLAGE OF STICKNEY

SECTION: 19-STK45-00-PV

This **INTERGOVERNMENTAL AGREEMENT** (the "AGREEMENT") is entered into this ____ day of _____, 2019, by and between the COUNTY OF COOK (the "COUNTY"), a body corporate and politic of the State of Illinois, acting by and through its DEPARTMENT OF TRANSPORTATION AND HIGHWAYS (the "DEPARTMENT"), and the VILLAGE OF STICKNEY (the "VILLAGE"), a municipal corporation of the State of Illinois. The COUNTY and VILLAGE are sometimes referred to herein individually as a "PARTY" and collectively as the "PARTIES."

RECITALS

WHEREAS, in order to protect the public investment in the highway system, provide a safe, efficient and sustainable highway and support development of the regional economy, the PARTIES desire to enter into an agreement to make improvements to 45th Street between Harlem Avenue and Oak Park Avenue (the "PROJECT"); and

WHEREAS, the scope of work for the PROJECT includes, but is not limited to, roadway resurfacing, curb and gutter replacement and installation of ADA improvements; and

WHEREAS, the PROJECT is designated as COUNTY section number 19-STK45-00-PV; and

WHEREAS, the PARTIES by this instrument shall determine and establish their respective responsibilities toward Phase II engineering, construction, Phase III engineering, funding and maintenance of the PROJECT; and

WHEREAS, the COUNTY by virtue of its powers as set forth in the Counties Code, 55 ILCS 5/1-1 *et seq.*, and the Illinois Highway Code, 605 ILCS 5/1-101 *et seq.*, is authorized to enter into this AGREEMENT; and

WHEREAS, the VILLAGE by virtue of its powers as set forth in the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, is authorized to enter into this AGREEMENT; and

WHEREAS, a cooperative intergovernmental agreement is appropriate and such an agreement is authorized under Article VII, Section 10 of the Illinois Constitution and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

NOW, THEREFORE, in consideration of the aforementioned recitals and the mutual covenants contained herein, the PARTIES hereto agree as follows:

I. PHASE II ENGINEERING

- A. The VILLAGE shall perform or cause to be performed Phase II engineering services for the PROJECT, including, but not limited to, preparing the final plans and specifications for the PROJECT.
- B. The VILLAGE shall submit the final plans and specifications for the PROJECT to the COUNTY for review and approval. The VILLAGE shall work cooperatively with the COUNTY to address and resolve any comments and/or objections made by the COUNTY as part of the COUNTY's review. Any dispute(s) concerning the plans and specifications for the PROJECT shall be resolved in accordance with Section VI (J) of this AGREEMENT.

II. CONSTRUCTION

- A. The VILLAGE shall cause the PROJECT to be constructed in accordance with the PROJECT plans and specifications. In addition, the VILLAGE shall perform, or cause to be performed, Phase III engineering inspections for the PROJECT.
- B. The COUNTY and its authorized agents shall have reasonable rights of inspection (including pre-final and final inspection) during progress of work on the PROJECT. The VILLAGE shall work cooperatively with the COUNTY to address and resolve any concerns raised by the COUNTY with respect to construction of and/or Phase III engineering inspections for the PROJECT.
- C. The VILLAGE shall provide no less than 14 calendar days' written notice to the COUNTY prior to final inspection of the PROJECT.
- D. The VILLAGE shall coordinate and control public notification of the PROJECT scope, timing and duration.

III. PERMITS

- A. The VILLAGE agrees to ensure that all required permits and joint participation and/or force account agreements are secured for the PROJECT.
- B. The COUNTY shall grant and consent to any and all permits, rights of access (ingress or egress), and temporary use of its property within the PROJECT limits to the VILLAGE and/or its agents, without charge of permit fees to the VILLAGE. Any

permits for rights of access and/or temporary use of any of the COUNTY's property shall not be unreasonably withheld by the COUNTY.

IV. MAINTENANCE

- A. As used herein, the terms "maintenance" or "maintain" mean keeping the facility being maintained in good and sufficient repair and appearance. Such maintenance includes the full responsibility for the construction, removal and replacement of the maintained facility when needed.
- B. The PARTIES shall maintain, or caused to be maintained, those portions of the PROJECT improvements under their established jurisdictional authority.

V. FINANCES

- A. The VILLAGE agrees to pay all actual PROJECT-related costs, including, but not limited to, all Phase II engineering, construction and Phase III engineering costs, subject to reimbursement by the COUNTY as hereinafter stipulated.
- B. The COUNTY agrees to reimburse the VILLAGE up to \$250,000.00 toward Phase II engineering, construction and Phase III engineering costs for the PROJECT, in accordance with the funding breakdown that is incorporated into this AGREEMENT and attached hereto as EXHIBIT A. Notwithstanding the estimated or actual costs of the PROJECT, the COUNTY's financial responsibility pursuant to this AGREEMENT shall not exceed \$250,000.00.
- C. It is understood and agreed to by the PARTIES that the COUNTY will not reimburse the VILLAGE for any expenditures that are:
 - i. contrary to the provisions of this AGREEMENT;
 - ii. not directly for carrying out Phase II engineering, construction or Phase III engineering for the PROJECT;
 - iii. of a regular and continuing nature, including, but not limited to, administrative costs, staff and overhead costs, rent, utilities and maintenance costs;
 - iv. incurred without the consent of the COUNTY after written notice of the suspension or termination of any or all of the COUNTY's obligations under this AGREEMENT; or

- v. in excess of the amount set forth in Section V (B) of this AGREEMENT.
- D. The COUNTY agrees that upon execution of this AGREEMENT and receipt of an invoice from the VILLAGE, the COUNTY will make an advance payment to the VILLAGE in the amount of \$87,500.00. This amount represents 35% of the COUNTY's total obligation incurred under this AGREEMENT. After these initial funds have been expended by the VILLAGE, the VILLAGE shall provide the COUNTY with the following documents related to the advance payment in order to be eligible to receive additional funding from the COUNTY:
- i. a cover letter addressed to the Superintendent of the DEPARTMENT, which includes the COUNTY section number for the PROJECT;
 - ii. a copy of the cancelled check(s) paid to the consultant(s) and/or contractor(s) (or a copy of the associated bank ledger reflecting the payment(s)), or a letter from the consultant(s) and/or contractor(s) confirming payment was received for the service(s) rendered; and
 - iii. a copy of the associated invoice(s) submitted by the consultant(s) and/or contractor(s) for the service(s) rendered.
- E. The COUNTY will pay the VILLAGE the balance of its obligation incurred under this AGREEMENT as additional funds are expended by the VILLAGE. The VILLAGE may seek reimbursement from the COUNTY no more frequently than on a monthly basis. In order to receive reimbursement from the COUNTY, the VILLAGE must provide the COUNTY with the following:
- i. a cover letter addressed to the Superintendent of the DEPARTMENT;
 - ii. an invoice requesting payment, which includes the COUNTY section number for the PROJECT;
 - iii. a copy of the cancelled check(s) paid to the consultant(s) and/or contractor(s) (or a copy of the associated bank ledger reflecting the payment(s)), or a letter from the consultant(s) and/or contractor(s) confirming payment was received for the service(s) rendered; and
 - iv. a copy of the associated invoice(s) submitted by the consultant(s) and/or contractor(s) for the service(s) rendered.
- F. If the documentation submitted by the VILLAGE for reimbursement is deemed by the COUNTY as not sufficiently documenting the work completed, the COUNTY

may require further records and supporting documents to verify the amounts, recipients and uses of all funds invoiced pursuant to this AGREEMENT.

VI. GENERAL PROVISIONS

- A. Entire Agreement. This AGREEMENT constitutes the complete and exclusive statement of the agreement of the PARTIES relative to the subject matter hereof and supersedes all previous oral and written proposals, negotiations, representations or understandings concerning such subject matter.
- B. Recitals. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.
- C. Termination of Agreement. This AGREEMENT terminates upon completion and final acceptance of the PROJECT by the PARTIES and payment by the COUNTY of the final invoice submitted by the VILLAGE, or April 30, 2022, whichever date is earlier. The PARTIES may agree to extend the termination date of the AGREEMENT in a letter signed by the Superintendent of the DEPARTMENT and an authorized representative of the VILLAGE.
- D. County Identifier. The VILLAGE shall include COUNTY section number 19-STK45-00-PV on all PROJECT-related correspondence, plans, invoices and documents.
- E. Suspension of Early Termination of Agreement. The VILLAGE agrees that, if the COUNTY determines that the VILLAGE has not complied with or is not complying with, has failed to perform or is failing to perform, or is in default under any of the provisions of this AGREEMENT, whether due to failure or inability to perform or any other cause whatsoever, the COUNTY, after written notification to the VILLAGE of said non-compliance or default and failure by the VILLAGE to correct said violations within 30 calendar days, may:
 - i. suspend or terminate this AGREEMENT in whole or in part by written notice, and/or;
 - ii. demand refund of any funds disbursed to the VILLAGE;
 - iii. deduct any refunds or repayments from any funds obligated to, but not expended by the VILLAGE, whether from this or any other project;
 - iv. temporarily withhold cash payments pending correction of deficiencies by the VILLAGE or more severe enforcement action by the COUNTY;

- v. disallow all or part of the cost of the activity or action not in compliance;
 - vi. take other remedies legally available; or
 - vii. take appropriate legal action.
- F. Timely Review and Approval. Wherever in this AGREEMENT approval or review by either the COUNTY or the VILLAGE is provided for, said approval or review shall not be unreasonably delayed or withheld.
- G. Indemnification. The VILLAGE shall indemnify, defend and hold harmless the COUNTY and its commissioners, officers, directors, employees and agents, and their respective heirs, successors and assigns, from and against any and all claims, liabilities, damages, losses, and expenses, including, but not limited to, legal defense costs, attorney fees, settlements or judgements, caused by the negligent acts, omissions or willful misconduct of the VILLAGE, its officers, directors, employees, agents, consultants, contractors, subcontractors or suppliers in connection with or arising out of the performance of this AGREEMENT.
- H. Conflict of Interest. The VILLAGE understands and agrees that no director, officer, agent or employee of the VILLAGE may have an interest, whether directly or indirectly, in any contract or the performance of any work pertaining to this AGREEMENT; represent, either as agent or otherwise, any person, trust or corporation, with respect to any application or bid for any contract or work pertaining to this AGREEMENT; and take, accept or solicit, either directly or indirectly, any money or thing of value as a gift or bribe or means of influencing his or her vote or actions. Any contract made and procured in violation of this provision is void and no funds under this AGREEMENT may be used to pay any cost under such a contract.
- I. Compliance with Laws, Rules and Regulations. The PARTIES shall at all times observe and comply with all laws, ordinances, rules or regulations of the Federal, State, County and local governments, as amended from time to time, which may in any manner affect the performance of this AGREEMENT.
- J. Disputes. In the event of a dispute between the COUNTY and the VILLAGE in the carrying out of the terms of this AGREEMENT, representatives of the PARTIES shall meet and resolve the issue. In the event they cannot mutually agree on the resolution of the dispute, the decision of the Superintendent of the DEPARTMENT shall be final.

- K. Default. The failure by the COUNTY or the VILLAGE to seek redress for violation of or to insist upon the strict performance of any condition or covenant of this AGREEMENT shall not constitute a waiver of any such breach or subsequent breach of such covenants, terms, conditions, rights and remedies. No provision of this AGREEMENT shall be deemed waived by the COUNTY or VILLAGE unless such provision is waived in writing.
- L. Governing Law and Venue. It is agreed that the laws of the State of Illinois shall apply to this AGREEMENT and that, in the event of litigation, venue shall lie in Cook County, Illinois.
- M. Notices. Unless otherwise specified, all written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered or mailed via first class, certified or registered U.S. Mail or electronic mail delivery to the following persons at the following addresses:
- To the COUNTY: Cook County Department of Transportation and Highways
69 W. Washington Street, 24th Floor
Chicago, IL 60602
Attn: John Yonan, P.E., Superintendent
E-mail: john.yonan@cookcountyil.gov
- To the VILLAGE: Village of Stickney
6533 Pershing Road
Stickney, IL 60402
Attn: Paul Nosek, Treasurer
E-mail: pnosek@villageofstickney.com
- N. Records Maintenance. The VILLAGE shall maintain during the term of this AGREEMENT and for a period of three years thereafter complete and adequate financial records, accounts and other records to support all PROJECT expenditures. These records and accounts shall include, but not be limited to, records providing a full description of each activity being assisted with COUNTY funds; a general ledger that supports the costs being charged to the COUNTY; records documenting procurement of goods and services; contracts for goods and services; invoices; billing statements; cancelled checks; bank statements; schedules containing comparisons of budgeted amounts and actual expenditures; and construction progress schedules, if applicable.
- O. Reviews and Audits. The VILLAGE will give the COUNTY access to all books, accounts, records, reports, files, and other papers pertaining to the

administration, receipt and use of COUNTY funds to necessitate any reviews or audits.

- P. Modification. This AGREEMENT may only be modified by a written instrument executed by the Superintendent of the DEPARTMENT and an authorized representative of the VILLAGE.
- Q. Severability. If any term of this AGREEMENT is to any extent illegal, otherwise invalid, or incapable of being enforce, such term shall be excluded to the extent of such invalidity, or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.
- R. Binding Successors. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- S. Force Majeure. Neither PARTY shall be liable for any delay or non-performance of its obligations caused by any contingency beyond its control, including but not limited to, acts of Gods, war, civil unrest, labor strikes or walkouts, fires and natural disasters.
- T. Conflict with Exhibits. In the event there is a conflict between the terms contained in this document and any attached exhibits, the terms included in this document shall control.
- U. Authority to Execute. The PARTIES hereto have read and reviewed the terms of this AGREEMENT and by their signature as fixed below represent that the signing party has the authority to execute this AGREEMENT and that the PARTIES intend to be bound by the terms and conditions contained herein.
- V. Counterparts. This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same instrument.
- W. Section Headings. The descriptive headings used in this section are for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT on the dates indicated.

EXECUTED BY COUNTY OF COOK:

EXECUTED BY VILLAGE OF STICKNEY:

Toni Preckwinkle
President
Cook County Board of Commissioners

Jeff Walik
Mayor

This ____ day of _____, 2019

This ____ day of _____, 2019

ATTEST: _____
County Clerk
(SEAL)

ATTEST: _____
Village Clerk
(SEAL)

RECOMMENDED BY:

APPROVED AS TO FORM:
Kimberly M. Foxx, State's Attorney

John Yonan, P.E.
Superintendent
County of Cook
Department of Transportation and Highways

By: _____
Assistant State's Attorney

EXHIBIT A

Funding Breakdown

ITEM	VILLAGE SHARE	COUNTY SHARE
Phase II Engineering, Construction and Phase III Engineering	Balance in excess of \$250,000	Up to \$250,000