

INTERGOVERNMENTAL AGREEMENT

COUNTY OF COOK

2023 Street Resurfacing Program

VILLAGE OF STICKNEY

Section: 23-REHAB-00-PV

This **INTERGOVERNMENTAL AGREEMENT** (the "AGREEMENT") is made and entered into this __3rd day of January, 2022, by and between the COUNTY OF COOK, a body politic and corporate of the State of Illinois (the "COUNTY"), acting by and through its DEPARTMENT OF TRANSPORTATION AND HIGHWAYS (the "DEPARTMENT"), and the VILLAGE OF STICKNEY, a municipal corporation of the State of Illinois (the "VILLAGE"). The COUNTY and VILLAGE are sometimes referred to herein individually as a "PARTY" and collectively as the "PARTIES."

RECITALS

WHEREAS, the PARTIES, in order to facilitate the free flow of traffic and ensure safety to pedestrians, residents and the motoring public, desire to enter into an intergovernmental partnership to realize improvements for the 2023 Street Resurfacing Program (the "PROJECT") and will include improvements for the street locations as shown in Exhibit A;

WHEREAS, the PROJECT, as proposed, will consist of pavement rehabilitation and/or other safety and mobility improvements, including, but not limited to, milling and resurfacing the existing asphalt pavement, removal and replacement of concrete curb and gutter and sidewalks as needed, pavement patching, drainage structure adjustments, installation of ADA compliant curb ramps, traffic control and protection, pavement markings, landscaping and other attendant highway appurtenances, with all proposed construction work to be performed meeting IDOT Motor Fuel Tax requirements, IDOT Standard Specifications for Road and Bridge Construction and other IDOT Special Provision requirements;

WHEREAS, this AGREEMENT sets forth the PARTIES' respective responsibilities for design engineering, construction and construction engineering, maintenance and funding of the PROJECT;

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;

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, this AGREEMENT is further authorized under Article VII, Section 10 of the Illinois Constitution and by the provisions of the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.

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

- **SECTION 1. DESIGN ENGINEERING**

- A. **Notice to Proceed.** Execution of this AGREEMENT by the PARTIES shall be deemed a

“Notice to Proceed” for the VILLAGE to commence work on the PROJECT.

- B. **Engineering Agreement.** The VILLAGE will enter into an agreement with a professional engineering firm/consultant to perform design engineering services for the PROJECT, including, but not limited to, preparing preliminary, pre-final and final construction plans, specifications, special provisions and cost estimates. In awarding and administering the design engineering agreement, the VILLAGE will comply with all applicable state and federal laws and regulations.
 - C. **Lead Agency.** The VILLAGE will assume overall responsibility for the PROJECT, including ensuring that all required permits and joint participation and/or force agreements are secured.
 - D. **County Review of Plans and Specifications.** The VILLAGE or its consultant will submit the final construction plans, specifications, special provisions and cost estimates to the COUNTY for review. The COUNTY will review the final construction plans, specifications, special provisions and cost estimates within 14 calendar days of receipt thereof to ensure that the PROJECT is a permissible use of Motor Fuel Tax (MFT) funds. If the VILLAGE does not receive comments from the COUNTY within this time period, or receive a request for an extension of time, which request will be reasonably considered, the lack of response will be deemed approval.
 - E. **Meetings.** The VILLAGE will provide not less than 14 calendar days’ advance written notice to the COUNTY of the PROJECT kick-off meeting, if applicable, and any public meetings or hearings concerning the PROJECT.
- **SECTION 2. CONSTRUCTION AND CONSTRUCTION ENGINEERING**
 - A. **Bid Documents.** The VILLAGE will prepare contract bid documents for the PROJECT, including, but not limited to, the minimum qualifications, plans and specifications, special provisions and cost estimates.
 - B. **Construction Contract.** The VILLAGE will award and execute a construction contract to furnish all labor and materials needed to complete the PROJECT. In awarding and administering the contract, the VILLAGE will comply with all applicable state and federal laws and regulations.
 - C. **Insurance.** The VILLAGE will require that its construction contractor name the COUNTY as an additional insured party under the contractor’s general liability insurance policy.
 - D. **Construction Engineering Agreement.** The VILLAGE will enter into an agreement with a professional engineering firm/consultant to perform construction engineering services for the PROJECT. Construction engineering services may include, but are not limited to, attendance at pre-construction and progress meetings, providing full-time or part-time inspection services and providing material testing reports. In awarding and administering the construction engineering agreement, the VILLAGE will comply with all applicable state

and federal laws and regulations.

- E. **Village Resources and Staff.** Upon written concurrence from the COUNTY, the VILLAGE may elect to perform construction engineering services for the PROJECT using its own resources and staff. Notwithstanding the foregoing, the provisions of Section 4.C.iii.d. remain in effect and the COUNTY will not reimburse the VILLAGE for any administrative costs expended by the VILLAGE, including staff salaries and wages.
 - F. **Pre-Construction Notices.** The VILLAGE will provide not less than 14 calendar days' advance written notice to the COUNTY prior to the pre-construction meeting for the PROJECT and not less than seven calendar days' advance written notice to the COUNTY prior to the start of construction.
 - G. **Public Outreach.** The VILLAGE will coordinate and control public notification of the scope, timing and duration of the PROJECT.
 - H. **Right of Inspection.** The COUNTY and its authorized agents will have reasonable rights of inspection (including pre-final and final inspection) during construction of the PROJECT. The VILLAGE will work cooperatively with the COUNTY to address and resolve any concerns raised by the COUNTY with respect to construction and/or construction engineering of the PROJECT.
 - I. **Final Inspection Notice.** The VILLAGE will provide not less than 14 calendar days' advance written notice to the COUNTY prior to final inspection of the PROJECT.
 - J. **County Permits.** The VILLAGE will apply for and the COUNTY will not unreasonably withhold any and all permits for right of access (ingress or egress) and/or temporary use of the COUNTY's property within the PROJECT limits to the VILLAGE and/or its agents, without charge of permit fees to the VILLAGE.
- **SECTION 3. MAINTENANCE**
 - A. **Definitions.** As used herein, the terms "maintain" and "maintained" mean keeping the facility being maintained in good and sufficient repair and appearance. Such maintenance includes the full responsibility for the construction, removal and/or replacement of the maintained facility when needed.
 - B. **General Duty to Maintain.** Before, during and after completion of construction of the PROJECT, the VILLAGE will maintain, or cause to be maintained, those portions of the PROJECT under its established jurisdictional authority.
 - C. **Sidewalks/Multi-Use Paths.** The VILLAGE will own, operate and maintain any sidewalks and/or multi-use paths constructed or improved as part of the PROJECT, in compliance with the Americans with Disabilities Act (ADA), Public Right-of-Way Accessibility Guidelines, and all other applicable federal and state laws and regulations. The PARTIES agree that the COUNTY will not own, operate or maintain, or cause to be maintained, any

sidewalks and/or multi-use paths constructed or improved as part of the PROJECT.

- D. **Indemnification.** The VILLAGE will indemnify, defend and hold harmless the COUNTY and its commissioners, officers, directors, employees and agents from and against any and all claims, liabilities, damages, losses and expenses, including, but not limited to, legal defense costs, attorneys' fees, settlement or judgments, arising out of or incident to the construction, use, repair and/or maintenance of any sidewalks and/or multi-use paths constructed or improved as part of the PROJECT.
- E. **Survives Termination.** The VILLAGE's maintenance obligations described in this section will survive termination of this AGREEMENT.

• **SECTION 4. FINANCIAL**

- A. **Cost Estimate.** Estimated design engineering, construction and construction engineering costs for the PROJECT are \$550,000.

B. **Cost Participation**

- i. **Village Cost Participation.** The VILLAGE will pay all actual design, construction and construction engineering costs for the PROJECT, subject to reimbursement by the COUNTY as described below.
- ii. **County Cost Participation.** The COUNTY will reimburse the VILLAGE for 100% of actual design, construction and construction engineering costs for the PROJECT, up to, but not to exceed \$550,000. Any costs exceeding this amount shall be the responsibility of the VILLAGE.

C. **Reimbursement Procedures**

- i. **Progressive Reimbursement.** The COUNTY will reimburse the VILLAGE for design engineering, construction and construction engineering costs for the PROJECT on a progressive basis upon invoice by the VILLAGE. The COUNTY agrees to pay invoices from the VILLAGE within 90 calendar days of receipt thereof.
- ii. **Required Documentation.** In order to receive reimbursement from the COUNTY, the VILLAGE must submit the following documentation with each reimbursement request:
- a. A cover letter addressed to the DEPARTMENT's Bureau Chief of Construction, with a copy to the Bureau Chief of Design;
- b. An invoice requesting payment, which includes the name of the PROJECT and its associated section number;

- c. Copies of all cancelled checks paid to the consultant(s) and/or contractor(s) (or copies of the associated bank ledgers reflecting the payments); and
- d. Copies of all associated invoices submitted to the VILLAGE by the consultant(s) and/or contractor(s) for the services rendered and/or pay estimates for the construction work completed.

If the documentation submitted by the VILLAGE for reimbursement is reasonably 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 under this AGREEMENT.

- iii. **Ineligible Costs.** The COUNTY will not reimburse the VILLAGE for any costs that are:
 - a. Contrary to the provisions of this AGREEMENT;
 - b. Not directly related to carrying out design engineering, construction or construction engineering services for improvements to the locations listed in Exhibit A;
 - c. Not paid by the VILLAGE or its consultant(s) and/or contractor(s);
 - d. Of a regular and continuing nature, including, but not limited to, administrative costs, staff and overhead costs, rent, utilities and maintenance costs;
 - e. Incurred without the consent of the COUNTY after the COUNTY has given the VILLAGE written notice of suspension or termination of any or all of the COUNTY's obligations under this AGREEMENT; and/or
 - f. In excess of the COUNTY's maximum financial contribution under this AGREEMENT.
- iv. **Submittals.** All submittals required of the VILLAGE under this section of the AGREEMENT must be directed to:

Bureau Chief of Construction
Cook County Department of Transportation and Highways
69 W. Washington Street, 24th Floor
Chicago, IL 60602
E-mail: Construction.Bureau@cookcountyil.gov

With a copy to:

Bureau Chief of Design

Cook County Department of Transportation and Highways
69 W. Washington Street, 23rd Floor
Chicago, IL 60602
E-mail: Noel.Basquin@cookcountyil.gov

- D. **Substitutions/Substitute Work.** Either PARTY may request in writing that work or materials be substituted with different work or materials. Provided that the substitute work and/or materials do not unreasonably delay the PROJECT schedule, the VILLAGE will cause said substitute work and/or materials to be included in the PROJECT. Each PARTY will pay the costs of substitutions for their associated work items.
- E. **Additional Work.** Either PARTY may request in writing that additional work be added to the PROJECT. Provided that the additional work does not unreasonably delay the PROJECT schedule, the VILLAGE will cause said additional work to be included in the PROJECT. Additional work will be paid for by force account or agreed unit price. Each PARTY will pay the costs of additional work for their associated work items.
- F. **Funding Breakdown.** A funding breakdown is incorporated into and made a part of this AGREEMENT and attached as EXHIBIT B.

- **SECTION 5. GENERAL CONDITIONS**

- A. **Authority to Execute.** The PARTIES have read and reviewed the terms of this AGREEMENT and by their signatures as affixed 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.
- B. **Binding Successors.** This AGREEMENT is binding upon and inures to the benefit of the PARTIES and their respective successors and approved assigns.
- C. **Compliance with Laws, Rules and Regulations.** The PARTIES will at all times observe and comply with all federal, state and local laws and regulations, as amended from time to time, in carrying out the terms and conditions of this AGREEMENT.
- D. **Conflicts 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 agreement or the performance of any work pertaining to this AGREEMENT; represent, either as an agent or otherwise, any person, trust or corporation, with respect to any application or bid for any contract or agreement or work pertaining to this AGREEMENT; or take, accept or solicit, either directly or indirectly, any money or thing of value as a gift or bribe or means of influencing their vote or actions. Any contract or agreement 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 or agreement.
- E. **Conflict with Exhibits.** In the event of a conflict between any exhibit attached hereto and the text of this AGREEMENT, the text of this AGREEMENT will control.

- F. **Counterparts.** This AGREEMENT may be executed in two or more counterparts, each of which will be deemed an original and all of which will be deemed one and the same instrument.
- G. **County Section Number.** The PROJECT is hereby designated as COUNTY section number 23-REHAB-00-PV. The PARTIES will include COUNTY section number 23-REHAB-00-PV on all PROJECT-related submittals, including, but not limited to, written correspondence and invoices.
- H. **Dispute Resolution.** In the event of any dispute, claim, question or disagreement arising out of the performance of this AGREEMENT, the PARTIES will consult and negotiate with each other in good faith to settle the dispute, claim, question or disagreement.
- I. **Duration.** Unless extended by the DEPARTMENT's Superintendent or their designee in writing, this AGREEMENT expires upon final acceptance of the PROJECT by the PARTIES and payment by the COUNTY of the final invoice submitted by the VILLAGE, or November 30, 2028, whichever date is earlier.
- J. **Effective Date.** The Effective Date of this AGREEMENT will be the date that the last authorized signatory signs and dates the AGREEMENT, which date will be inserted on the first page of this AGREEMENT. This AGREEMENT will become effective only in the event the corporate authorities of each PARTY approve this AGREEMENT.
- K. **Electronic Signatures.** A signed copy of this AGREEMENT transmitted by facsimile, electronic mail or other means of electronic submission will be deemed to have the same legal effect as delivery of an original executed copy of this AGREEMENT.
- L. **Entire Agreement.** This AGREEMENT constitutes the entire AGREEMENT of the PARTIES concerning all matters specifically covered by this AGREEMENT and supersedes all prior written and oral agreements, commitments and understandings among the PARTIES. There are no representations, covenants, promises or obligations not contained in this AGREEMENT that form any part of this AGREEMENT or upon which any of the PARTIES is relying upon in entering into this AGREEMENT.
- M. **Force Majeure.** Neither PARTY will be liable for any delay or non-performance of its obligations hereunder by any contingency reasonably beyond its control, including, but not limited to, acts of God, war, civil unrest, labor strikes or walkouts, fires, pandemics and/or natural disasters.
- N. **Inactivity.** The COUNTY may terminate this AGREEMENT if the construction contract for the PROJECT is not executed by the VILLAGE within three years after the Effective Date of this AGREEMENT, as defined in Section 5.J. above.
- O. **Indemnification.** The VILLAGE will indemnify, defend and hold harmless the COUNTY and its commissioners, officers, directors, employees and agents from and against any and all claims, liabilities, damages, losses and expenses, including, but not limited to, legal

defense costs, attorneys' fees, settlement or judgments, caused by the negligent acts, omissions or willful misconduct of the VILLAGE, its officers, directors, employees, agents, consultants, contractors, subcontractors and/or suppliers, in connection with or arising out of the performance of this AGREEMENT.

- P. **Modification.** This AGREEMENT may only be modified by a written instrument executed by the DEPARTMENT's Superintendent and an authorized representative of the VILLAGE.
- Q. **No Individual or Personal Liability.** The PARTIES agree that the actions taken and the representations made by each respective PARTY and by their respective corporate authorities have not been taken or made in anyone's individual capacity and no mayor/president, board member, council member, official, officer, employee, volunteer or representative of any PARTY will incur personal liability in conjunction with this AGREEMENT.
- R. **No Third-Party Beneficiaries.** This AGREEMENT is not intended to benefit any person, entity or municipality not a party to this AGREEMENT, and no other person, entity or municipality will be entitled to be treated as beneficiary of this AGREEMENT. This AGREEMENT is not intended to and does not create any third-party beneficiary or other rights in any third person or party, including, but not limited to, any agent, contractor, subcontractor, consultant, volunteer or other representative of either PARTY. No agent, employee, contractor, subcontractor, consultant, volunteer or other representative of either PARTY will be deemed an agent, employee, contractor, subcontractor, consultant, volunteer or other representative of the other.
- S. **Notices.** Unless otherwise specified, all reports, notices and other communications related to this AGREEMENT will be in writing and will 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: Superintendent
Attn: Jennifer "Sis" Killen, P.E., PTOE
Cook County Department of Transportation and Highways
69 W. Washington Street, 24th Floor
Chicago, IL 60602
E-mail: Jennifer.Killen@cookcountyil.gov
- To the VILLAGE: Mayor's Office
Attn: Beth Lukas
Village of Stickney
6533 Pershing Road
Stickney, IL 60402
E-mail: blukas@villageofstickney.com
- T. **Recitals.** The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into and made a part of this AGREEMENT.

- U. **Records Maintenance.** The VILLAGE will 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 will 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.
- V. **Reviews and Audits.** The VILLAGE will give the COUNTY access to all books, accounts, records, reports and files pertaining to the administration, receipt and use of COUNTY funds under this AGREEMENT to necessitate any reviews or audits.
- W. **Section Headings.** The descriptive section and subsection headings used in this AGREEMENT are for convenience only and do not control or affect the meaning or construction of any of the provisions thereof.
- X. **Severability.** If any term of this AGREEMENT is to any extent illegal, otherwise invalid, or incapable of being enforced, such term will be excluded to the extent of such invalidity or unenforceability; all other terms hereof will remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term will 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.
- Y. **Suspension; Early Termination.** Subject to Section 5.M. above, 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, has not met or is not meeting significant PROJECT milestones or objectives, 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 notice to the VILLAGE of said non-compliance or default and failure by the VILLAGE to correct said violations within 60 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 paid to the VILLAGE;
 - iii. Temporarily withhold payments pending correction of deficiencies by the VILLAGE;
 - iv. Disallow all or part of the cost of the activity or action not in compliance; or
 - v. Take other remedies legally available.
- Z. **Venue and Applicable Law.** All questions of interpretation, construction and enforcement, and all controversies with respect to this AGREEMENT, will be governed by

the applicable constitutional, statutory and common law of the State of Illinois. The PARTIES agree that, for the purposes of any litigation relative to this AGREEMENT and its enforcement, venue will be in the Circuit Court of Cook County, Illinois or the Northern District, Eastern Division of the United States District Court, Chicago, Illinois, and the PARTIES consent to the *in personam* jurisdiction of said Courts for any such action.

AA. **Waiver of Default.** The failure by the COUNTY or VILLAGE to seek redress for violation of or to insist upon strict performance of any condition or covenant of this AGREEMENT will not constitute a waiver of any such breach or subsequent breach of such covenants, terms, conditions, rights and remedies. No provision of this AGREEMENT will be deemed waived by the COUNTY or VILLAGE unless such provision is waived in writing.

(signature page to follow)

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 _____, 2022

This _3rd__ day of _January_____, 2022

ATTEST: _____
County Clerk

ATTEST: _____
Village Clerk

RECOMMENDED BY:

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

Jennifer "Sis" Killen, P.E., PTOE
Superintendent
County of Cook
Department of Transportation and Highways

By: _____
Assistant State's Attorney

EXHIBIT A

No.	LOCATION	LENGTH (FT)
1	40TH STREET – OAK PARK AVENUE TO RIDGELAND AVENUE	2595
2	41ST STREET – OAK PARK AVENUE TO RIDGELAND AVENUE	2595
3	EAST AVENUE – 43RD STREET TO 41ST STREET	1275
4	43RD STREET – EAST AVENUE TO SCOVILLE AVENUE	285
	TOTAL =	6750

EXHIBIT B

Funding Breakdown

ITEM	VILLAGE SHARE	COUNTY SHARE
Design Engineering, Construction and Construction Engineering	Balance	100%, up to \$550,000