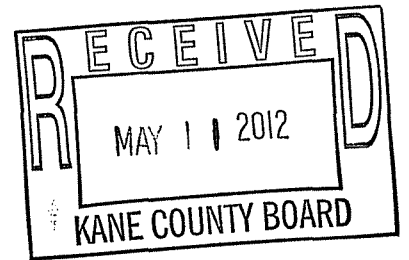


County of Kane
Office of County Board
Kane County Government Center



Karen McConnaughay
Chairman
630-232-5930



719 Batavia Avenue
Geneva, Illinois 60134
Fax 630-232-9188

DOCUMENT VET SHEET

for

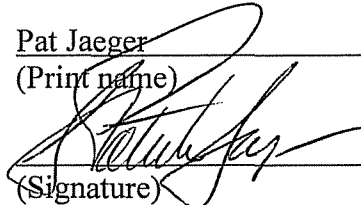
**Karen McConnaughay
Chairman, Kane County Board**

Name of Document: Approving an IGA with Elburn for Construction of Anderson Road
Extension including a Bridge over the Union Pacific Railroad
Tracks and Metra Coach Yard

Submitted by: Linda Haines

Date Submitted: May 8, 2012

Examined by: Pat Jaeger
(Print name)


(Signature)

May 10, 2012
(Date)

Post on Web: Yes No Atty. Initials SPJ

Comments:

Chairman signed: Yes No 5/11/2012
(Date)

Document returned to: _____

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE COUNTY OF KANE AND THE VILLAGE OF ELBURN FOR THE
CONSTRUCTION OF ANDERSON ROAD EXTENDED INCLUDING A BRIDGE
OVER THE UNION PACIFIC RAILROAD TRACKS AND METRA COACH YARD**

This AGREEMENT is entered into this 11TH day of May AD, 2012, by and between the County of Kane a body corporate and politic of the of the State of Illinois of 719 S. Batavia Avenue, Geneva Illinois 60134, (hereinafter called the "COUNTY "), and the Village of Elburn a municipal corporation of the State of Illinois, of 301 E. North Street, Elburn, Illinois 60119, (hereinafter called the "VILLAGE"). The VILLAGE and the COUNTY are sometimes hereafter individually referred to as a "PARTY" and collectively as the "PARTIES".

WITNESSETH:

WHEREAS, the Illinois Constitution of 1970, Article VII, Section 10 and 5 ILCS 220/1, *et seq.* authorizes the COUNTY and the VILLAGE to cooperate in the performance of their respective duties and responsibilities by contract and other agreements; and

WHEREAS, the COUNTY, by virtue of its powers as set forth in the Counties Code (55 ILCS 5/1-1001 *et seq.*) and the Illinois Highway Code (605 ILCS 5/5-504) and the VILLAGE by virtue of its powers as set forth in the Illinois Municipal Code (65 ILCS 5/1-1-1 *et seq.*) are authorized by statute to enter into this AGREEMENT; and

WHEREAS, the COUNTY, the VILLAGE and the Metropolitan Rail Authority (METRA) previously entered into an agreement to facilitate the design and construction of a grade separation over the Union Pacific Railroad tracks and the METRA Coach Yard east of Elburn, Illinois; and

WHEREAS, the COUNTY and the VILLAGE in order to facilitate the free flow of traffic and ensure safety to the motoring public, desire to improve and extend Anderson Road between Keslinger Road and Illinois State Route 38 by making the following improvements:

Design and construction of Anderson Road extended generally between Keslinger Road and Illinois State Route 38 including the design and construction of a bridge over the METRA coach yard and the Union Pacific Railroad tracks (hereinafter referred to as the "PROJECT") and the design and construction of a pedestrian/bicycle path associated therewith, and all other work necessary to complete the PROJECT in accordance with the approved plans and specifications therefor;

and

WHEREAS, the PROJECT is of regional transportation significance and is funded from various sources as follows:

Estimated Funding Sources

High Priority Projects (SAFETEA-LU)	\$ 7,600,000.00
Illinois Commerce Commission	\$ 7,944,000.00
Surface Transportation Program	\$ 2,559,575.00
Illinois Transportation Enhancement Program	\$ 505,110.00
Truck Access Route Program	\$ 119,100.00
County of Kane	\$ 2,998,600.00
<u>Village of Elburn</u>	<u>\$ 400,000.00</u>
TOTAL	\$ 22,126,385.00

and

WHEREAS, the COUNTY has extensive experience and expertise in executing significant state and/or federally funded highway projects; and

WHEREAS, while the PROJECT is of its nature a VILLAGE improvement, the PARTIES acknowledge that the COUNTY has agreed to act as lead agency for the purpose of the design and construction of the PROJECT; and

WHEREAS, the COUNTY and the VILLAGE have determined a mutually satisfactory allocation of responsibilities and costs for said PROJECT as set forth in this AGREEMENT; and

WHEREAS, the COUNTY and the VILLAGE, by this AGREEMENT, desire to determine and establish their respective responsibilities toward jurisdiction, engineering, right of way acquisition, utility relocation, construction, funding and maintenance of the PROJECT as proposed.

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

I. JURISDICTION

- A. The VILLAGE represents and warrants that it has exclusive jurisdiction of that part of Anderson Road within the limits of the Village of Elburn (hereinafter "Anderson Road") that exists as of the date of this Agreement. Within sixty (60) days of the award for a contract to construct the PROJECT, the VILLAGE shall cause jurisdiction of Anderson Road to be temporarily transferred to the COUNTY and the COUNTY shall temporarily accept said jurisdiction. The VILLAGE and the COUNTY shall diligently prosecute to completion said jurisdictional transfer of Anderson Road from the VILLAGE to the COUNTY by intergovernmental agreement within 60 days of an award of a contract for

the construction of the PROJECT and the receipt of approval thereof by the Illinois Department of Transportation (hereinafter "IDOT").

- B. The COUNTY shall transfer jurisdiction of Anderson Road back to the VILLAGE one year (365 days) after completion of the PROJECT (hereinafter "improved Anderson Road"). Completion of the PROJECT shall occur the first day improved Anderson Road is opened to public traffic by the COUNTY. The VILLAGE acknowledges that after completion of the PROJECT, improved Anderson Road shall extend from its current intersection with Illinois State Route 38 south to its intersection with Keslinger Road as set forth in the approved plans therefor. The VILLAGE and the COUNTY shall diligently prosecute to completion said jurisdictional transfer of Anderson Road from the COUNTY back to the VILLAGE by intergovernmental agreement and shall obtain the approval thereof from IDOT. The PARTIES acknowledge and agree that the transfer of jurisdiction from the COUNTY to the VILLAGE shall include the conveyance of all right of way therefor by quit claim deed to the VILLAGE.
- C. Prior to the award of a contract for the construction of the PROJECT the VILLAGE shall have no obligation to transfer and the COUNTY shall have no obligation to accept jurisdiction of Anderson Road.
- D. The PARTIES acknowledge and agree that any breach of paragraphs A and/or B above cannot be adequately compensated by money damages and the sole remedy for any breach shall be specific performance.

II. ENGINEERING

- A. The COUNTY agrees, at its sole expense, to perform preliminary and final design engineering, obtain necessary surveys, and prepare the final plans and specifications for the PROJECT.
- B. The VILLAGE shall review the plans and specifications for the PROJECT within thirty (30) calendar days of receipt thereof. After review, the VILLAGE will send a letter to the COUNTY indicating its approval, or its disapproval thereof. Approval by the VILLAGE means the VILLAGE agrees with all specifications in the plans, including alignment and location of the PROJECT improvements which impact the VILLAGE's streets. In the event of disapproval, the VILLAGE will detail in writing its objections to the proposed plans and specifications for review and consideration by the COUNTY.
- C. Any dispute concerning the plans and specifications shall be resolved in accordance with Section IX of this AGREEMENT.
- D. The final approved plans and specifications for the PROJECT shall be promptly delivered to the VILLAGE by the COUNTY.

- E. The COUNTY agrees to assume overall PROJECT responsibility, including assuring that all permits (U.S. Army Corps of Engineers, etc.) and joint participation and/or force account agreements (County, Township, Municipal, Railroad, Utility, etc.), as may be required for the PROJECT, are secured by the PARTIES in support of general PROJECT schedules and deadlines. All PARTIES agree to cooperate, insofar as their individual jurisdictional authorities allow, with the timely acquisition and clearance of said permits and agreements and in complying with all applicable Federal, State, and local regulations and requirements pertaining to work proposed for the PROJECT.

III. RIGHT OF WAY

- A. The COUNTY shall perform all survey work and prepare all parcel plats and legal descriptions for all right of way necessary for the construction of the PROJECT pursuant to the approved plans and specifications. For purposes of this Agreement, "right of way" shall include all land and any interest therein either permanent or temporary, acquired for or devoted to highway purposes for Anderson Road and the access road to the METRA commuter station including all land devoted to storm water management and control. Parcel plats and legal descriptions for property required for COUNTY facilities shall conform to IDOT format.
- B. Right of way acquired exclusively for the proposed construction of Anderson Road, shall be acquired in the name of the COUNTY by the COUNTY. Upon transfer of jurisdiction of Anderson Road back to the VILLAGE, the COUNTY shall by quit claim deed convey and assign all right of way thereof not otherwise necessary for the COUNTY's highway system, to the VILLAGE and the Village agrees to accept the same. The COUNTY shall provide to the VILLAGE title commitments for all Anderson Road right of way to be conveyed from the COUNTY to the VILLAGE..
- C. The COUNTY shall acquire all necessary right of way (both permanent and temporary) as needed for the construction of the PROJECT, pursuant to the approved plans and specifications as deemed necessary for the PROJECT by the County Engineer of Kane County (hereinafter "County Engineer").
- D. Any VILLAGE owned right of way needed for the PROJECT shall be conveyed to the COUNTY by the VILLAGE at no cost to the COUNTY and the COUNTY shall provide applicable legal descriptions and title commitments therefor. The COUNTY shall not be required to obtain any appraisals for right of way owned by the VILLAGE that is needed for the PROJECT.
- E. Right of way costs shall include the purchase price thereof, as well as the costs of negotiations, appraisals, title evidence, relocation assistance payment, property management, and such legal fees and expenses as may be necessary to acquire said right of way.

IV. UTILITY RELOCATION

- A. The COUNTY agrees to provide the VILLAGE, as soon as they are identified, the locations (existing and proposed) of public and/or private utility facilities within existing VILLAGE rights of way which require adjustment as part of the PROJECT. As part of its PROJECT engineering responsibilities, the COUNTY shall identify adjustments to the aforementioned existing utilities.
- B. The COUNTY agrees to make all reasonable efforts to minimize the number of utility adjustments in the design of improvements to: i) VILLAGE facilities where they cross COUNTY highway rights of way; and ii) VILLAGE facilities improved as part of the PROJECT.
- C. The COUNTY agrees to make arrangements and issue all permits for the PROJECT and cooperate with necessary adjustments to existing utilities located within existing COUNTY rights of way, and on proposed COUNTY rights of way where improvements to COUNTY highways are proposed by the COUNTY to be done in conjunction with or as part of the PROJECT, at no expense to the VILLAGE.
- D. The VILLAGE agrees to make arrangements for and issue all permits for the PROJECT required adjustments to utility facilities located on existing VILLAGE rights of way, and on proposed VILLAGE rights of way which are outside areas of COUNTY jurisdiction, where improvements to VILLAGE facilities are proposed to be done as part of the PROJECT, at no expense to the COUNTY.
- E. At all locations where utilities are located on COUNTY rights of way that must be adjusted due to any additional work in conjunction with the PROJECT proposed by the VILLAGE, if deemed appropriate by the County Engineer, the COUNTY agrees to cooperate with the VILLAGE in making arrangements with the applicable utility and issue all permits for the requisite adjustment(s) at no cost to the COUNTY. The VILLAGE agrees to reimburse and/or credit the COUNTY for any and all out of pocket costs the COUNTY may incur in causing the aforementioned utility or utilities to be adjusted.
- F. At all locations where utilities are located on VILLAGE rights of way and require adjustment due to additional work proposed by the COUNTY, the VILLAGE agrees to make arrangements with the applicable utility and issue all permits for the requisite adjustment(s). At all locations where the COUNTY's utilities are located on VILLAGE rights of way and must be adjusted due to additional work proposed by the COUNTY or due to work proposed by the VILLAGE, the COUNTY agrees to obtain from the VILLAGE an approved permit for the facility.
- G. During the COUNTY's jurisdiction of Anderson Road, the COUNTY shall cooperate with the VILLAGE regarding utility permit requests by the VILLAGE or others and shall not unduly withhold or delay the issuance of any COUNTY highway permit as long as

the proposed permitted improvement is designed and constructed according to established COUNTY standards.

IV. CONSTRUCTION

- A. The COUNTY shall cause the Illinois Department of Transportation (IDOT) to advertise and receive bids, obtain VILLAGE concurrence as to the amount of bids for work to be funded wholly or partially by the VILLAGE before award (if any), award the contract(s), provide construction engineering inspections and cause the PROJECT to be constructed in accordance with the PROJECT plans and specifications, subject to reimbursement by the VILLAGE as hereinafter stipulated. The PARTIES acknowledge and agree that the COUNTY may at its sole option accept or reject any bid for any reason.
- B. After award of the construction contract(s), the COUNTY shall cause notice to be sent to the VILLAGE prior to commencement of work on the PROJECT.
- C. The COUNTY shall request that IDOT require its contractor(s) working within the VILLAGE's rights of way to comply with the indemnification provision contained at Section 107.27 in IDOT's Standard Specifications for Road and Bridge Construction and its Supplemental Specifications for construction, as amended.
- D. The COUNTY shall request that IDOT require that the VILLAGE, and its agents, officers, directors and employees be included as additional insured parties in the General Liability Insurance the COUNTY requires of its contractor(s) and that the VILLAGE will be added as an additional protected party on all performance bonds required of the contractor(s). These requirements shall be included in the Special Provisions of the construction contract(s). The COUNTY will also require that the COUNTY's contractor(s) maintain the VILLAGE's insurance documentation of the said insurance throughout the construction of the PROJECT. Said insurance documentation will include copies of policies or insurance certificates including copies of the applicable Additional Insured endorsements as required by this AGREEMENT.
- E. The VILLAGE and its authorized agents shall have all reasonable rights of inspection (including pre-final and final inspection) during the progress of work included in the PROJECT. The VILLAGE, at its option, may assign personnel to perform inspections on behalf of the VILLAGE of all work included in the PROJECT that affects the VILLAGE's systems, and will deliver written notices to the County Engineer of the COUNTY advising the COUNTY as to who has been assigned to perform said inspections. The VILLAGE, on its own behalf and on the behalf of any entity working on behalf of the VILLAGE pursuant to this AGREEMENT, to the extent allowable by law, agrees to indemnify and hold harmless the COUNTY, its officers, directors, employees and agents from and against, and shall pay all damages, costs and expenses, including attorneys' fees (including the internal costs related to the State's Attorney of Kane County) incurred by the COUNTY with respect to any claim arising out of or relating to bodily injury, including death, or property damage caused by the VILLAGE or its

employees', agents' or representatives' acts or omissions in the performance of the VILLAGE's obligations pursuant to this AGREEMENT.

- F. The COUNTY, on its own behalf and on the behalf of any entity working on behalf of the COUNTY pursuant to this AGREEMENT, to the extent allowable by law, agrees to indemnify and hold harmless the VILLAGE, its officers, directors, employees and agents from and against, and shall pay all damages, costs and expenses, including attorneys' fees incurred by the VILLAGE with respect to any claim arising out of or relating to bodily injury, including death, or property damage caused by the COUNTY or its employees', agents' or representatives' acts or omissions in the performance of the COUNTY's obligations pursuant to this AGREEMENT.
- G. No inspections of the work by the VILLAGE shall relieve IDOT's contractor(s) of responsibility and liability for the proper performance of the work as determined by IDOT. Any COUNTY inspections and approvals shall not be considered a waiver of any right the VILLAGE may have pursuant to this AGREEMENT. All VILLAGE communications and correspondence with IDOT's contractor(s) or relating to the PROJECT contract shall be through the COUNTY, unless otherwise specifically approved by the County Engineer. In the event a VILLAGE representative discovers any additional VILLAGE related work that is not being performed or has not been performed in accordance with the approved plans and specifications, the representative shall promptly notify in writing the County Engineer. The County Engineer's decision regarding whether additional VILLAGE related work is being performed in accordance with the approved plans and specifications shall be final.

V. FINANCIAL

- A. Except as otherwise identified herein, the COUNTY agrees to pay or cause to be paid the COUNTY'S share of all PROJECT related engineering, right of way, construction engineering and construction costs subject to reimbursement by the VILLAGE as hereinafter stipulated.
- B. It is mutually agreed by the PARTIES that their respective shares of the construction cost of the PROJECT shall be:

VILLAGE	\$ 400,000.00
COUNTY	\$ 2,998,600.00

- C. The VILLAGE agrees that upon award of the contract for the PROJECT and receipt of an invoice from the COUNTY, the VILLAGE will pay to the COUNTY, an amount equal to 80% of its obligation incurred under this AGREEMENT, based upon actual bid prices, and will pay to said COUNTY the remainder of its obligation in a lump sum, upon completion of the PROJECT, based on final costs within 45 days of receipt of an invoice therefor from the COUNTY.

- D. IDOT shall maintain, for a minimum of three (3) years after the completion of the PROJECT, adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with this AGREEMENT. All books, records, and supporting documents related to the PROJECT shall be available for review and audit by the Auditor General and the Auditor of the COUNTY, and/or State Auditors. The VILLAGE and the COUNTY agree to cooperate fully with any audit conducted by the Auditor General, the Auditor of the COUNTY, and/or State Auditors and to provide full access to all relevant materials.
- E. Either the COUNTY or the VILLAGE may request, after the construction contract(s) are let by IDOT, that supplemental work that increases the total costs of the PROJECT or more costly substitute work be added to the construction contract(s). The COUNTY will cause said supplemental work or such substitute work to be added to the construction contract(s), provided that said work will not delay construction of the PROJECT. The PARTY requesting or causing said supplemental work or more costly substitute work shall pay for the cost increases of said work in full.
- F. Various elements incorporated into the design of the PROJECT have been included at the request of an adjacent property owners/developer. The COUNTY and the VILLAGE acknowledge and agree that the design and construction of any of those requested elements (utility sleeves, etc.) as part of the PROJECT shall be done at the expense of the property owners/developer requesting the elements be incorporated into the construction of the PROJECT and may be added or removed from the PROJECT by the COUNTY.
- G. In the event that the cost of the PROJECT exceeds the available funding, the VILLAGE shall have no responsibility to contribute to or otherwise make up any funding short fall for the PROJECT.

VI. MAINTENANCE - DEFINITIONS

- A. The term "street" refers to any highway, road or street under the jurisdiction of the VILLAGE.
- B. 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, replacement of the maintained facility when needed, and unless specifically excluded in Section VII, MAINTENANCE - RESPONSIBILITIES, other activities as more specifically set forth in the following subparts of this Section VI. Maintenance includes but is not limited to:
 - i. "Routine maintenance" refers to the day to day pavement maintenance, pothole repair, anti-icing and de-icing, snow removal, sweeping, pavement marking, mowing, litter and debris removal, and grate and scupper cleaning and repair, including compliance with state laws and local ordinances.

- ii. "Structural maintenance" refers to the integrity of the grade separation structure, including abutments, bridge deck beams, bridge deck (except wearing surface), expansion joints, parapet walls and drainage structures.
- iii. "Signal maintenance" refers to all aspects of installation, repair, replacement, timing, and operation of traffic signals, including signal loops, signal supports or bases, interconnects to Ramp Queue Detection Warning Systems and power, but shall not include permanently installed variable message signs or temporary signals or signs relating to construction or repair projects.
- iv. "Lighting maintenance" refers to all aspects of installation, repair, replacement and operation of roadway lighting including power, but shall not include temporary lighting relating to construction or repair projects.
- v. "Emergency maintenance" refers to any maintenance activity which must be performed immediately in order to avoid or to repair a condition on the roadway or right of way which causes or threatens imminent danger or destruction to roadway facilities or rights of way of the parties hereto, to the motoring public, or to public health, safety or welfare, including but not limited to accident restoration, chemical or biological removal or remediation, or response to acts of God or terrorism.
- vi. The term "drainage facilities" refers to both open and enclosed systems. The term "drainage structures" refers to enclosed systems only, and includes those elements of the drainage facility affixed to the bridge superstructures downstream from the scupper.
- vii. The terms "notify", "give notice" and "notification" refer to written, verbal or digital communication from one party to another concerning a matter covered by this AGREEMENT, for which the party transmitting the communication produces and retains a record which substantiates the content, date, time, manner of communication, identification of sender and recipient, and manner in which the recipient may respond to the sender, as to the communication.
- viii. The terms "be responsible for" or "responsibility" refer to the obligation to ensure performance of a duty or provision of a service under this AGREEMENT, provided, that a party may arrange for actual performance of the duty or provision of the service by another competent entity if the other party to this AGREEMENT is notified of such arrangement, but in no case shall the entity with the duty be relieved of ultimate responsibility for performance of the duty or provision of the service.
- ix. The terms "consultation" or "consult with" refer to the duty of a party to give notice to the other party of a proposed action, with reasonable time for that party to respond, but the party with the duty to consult may proceed with the proposed action if the other party does not respond within the time frame set forth in the

notice provided, or in the case of the COUNTY, it may proceed with the proposed action if deemed necessary by the County Engineer.

- x. The term "approve" refers to the duty of a party not only to consult with the other party but also to provide consent for the proposed action and to retain a record which documents such consent.
- xi. The term "grade separation structure" refers to all structural elements between the abutments and below the wearing surface of a bridge carrying one roadway over another, unless otherwise specified.

C. The PARTIES acknowledge and agree that the type of bridge structure that is the subject of this Agreement is a grade separation structure being constructed to carry the highway (improved Anderson Road) over railroad tracks of the Union Pacific Railroad and the Metra Coach Yard.

VII. MAINTENANCE - RESPONSIBILITIES

- A. The COUNTY agrees to maintain or cause to be maintained Anderson Road and its associated right of way during the PROJECT and improved Anderson Road and its associated right of way in its entirety for a period of one 1 year (365 days) after completion of the PROJECT. Completion of the PROJECT will occur upon the opening of Anderson Road to public travel. The County shall advise the VILLAGE of the date when the improved Anderson Road is open to public travel. Notwithstanding anything herein to the contrary the COUNTY shall have no obligation to maintain any feature built in conjunction with the PROJECT that does not have a regional public benefit such as: pedestrian/bike paths, any pedestrian/bike path underpass, any side streets intersecting with improved Anderson Road, any returns for side streets, any turn lanes and any detention areas that benefit any individual or entity other than the public generally.
- B. The PARTIES acknowledge and agree that the VILLAGE will be solely responsible, to maintain, or cause to be maintained, improved Anderson Road and its associated right of way in its entirety commencing on the one (1) year anniversary of the completion of the PROJECT as defined herein. The Village shall also assume on the one (1) year anniversary of the completion of the PROJECT all liability for improved Anderson Road and its associated right of way.
- C. The PARTIES acknowledge and agree that during their respective jurisdictions of improved Anderson Road, their respective maintenance responsibilities include but is not necessarily limited to: all right of way, drainage facilities, drainage structures, traffic control devices, the grade separation structure, pavement, curb and gutter, shoulders, sidewalks, guardrail, approach slabs, and approach embankments outside access control fences that are a part of the PROJECT.

D. The PARTIES acknowledge and agree that for a period of twenty (20) years after jurisdiction of improved Anderson Road is returned to the VILLAGE by the COUNTY as provided for herein, the COUNTY shall equally share with the VILLAGE the cost of required maintenance of the grade separation structure over the Union Pacific Railroad tracks and the METRA coach yard which shared maintenance responsibility includes the following grade separation structure features:

- i. the wearing surface;
- ii. the deck, below the wearing surface,

in the amount of fifty percent (50%) of the cost thereof. The COUNTY's responsibility for providing fifty percent (50%) of the cost of required maintenance as set forth in this paragraph shall terminate on January 1, 2031. Nothing provided for in this paragraph is intended to grant or transfer to the COUNTY jurisdiction of any part of improved Anderson Road.

E. The VILLAGE acknowledges that the COUNTY shall have the exclusive right to approve or disapprove the following, during the COUNTY's temporary jurisdiction of Anderson Road:

- i. any and all access requests to Anderson Road or improved Anderson Road;
- ii. any and all signage affixed to the grade separation structure or placed on Anderson Road right of way or improved Anderson Road right of way;
- iii. the permitting of any and all loads traversing the grade separation structure on improved Anderson Road;
- iv. pavement markings, including embedded reflectors;
- v. and standards governing right of way maintenance,
among other jurisdictional responsibilities as provided for by law.

During its jurisdiction of Anderson Road, the COUNTY will cooperate with the VILLAGE to accommodate any VILLAGE utility crossings of Anderson Road that are designed and constructed in accordance with established COUNTY standards and requirements.

F. The Parties agree that each Party has the duty to perform such regular inspections, surveys and reviews as are reasonably necessary to fulfill their respective obligations under this AGREEMENT.

VIII. ADDITIONAL MAINTENANCE PROVISIONS

- A. It is understood and agreed by the Parties that this AGREEMENT shall supersede any and all earlier Agreements entered into by the PARTIES regarding maintenance of COUNTY highways and VILLAGE facilities within the limits of the PROJECT.
- B. All items of construction for the PROJECT which are stipulated in this AGREEMENT to be maintained by the COUNTY shall, upon completion of construction and final inspection, be the sole maintenance responsibility of the COUNTY for the period of time stipulated herein, and all items of the PROJECT which are stipulated in this AGREEMENT to be maintained by the VILLAGE shall, upon completion of the PROJECT, be the sole maintenance responsibility of the VILLAGE commencing at the time as stipulated herein.
- C. The COUNTY and the VILLAGE agree that any and all snow removal shall be accomplished in such a manner as not to block or obstruct any street or highway of the other PARTY.
- D. Nothing herein is intended to prevent or preclude the COUNTY and the VILLAGE from entering into reciprocal agreements in the future for any particular interchange for the efficient removal of snow, ice, and debris or for incident management.

IX. GENERAL PROVISIONS

- A. It is understood and agreed by the PARTIES hereto, that the COUNTY shall have jurisdiction of Anderson Road only on a temporary basis. The PARTIES further acknowledge that the VILLAGE shall regain jurisdiction of Anderson Road on the one (1) year anniversary of the completion of the PROJECT . For the purpose of this AGREEMENT, "jurisdiction" shall mean ownership thereof and the authority and obligation to administer, control, construct, maintain, and operate said road.
- B. It is acknowledged and agreed that the COUNTY'S exclusive jurisdiction of Keslinger Road is in no manner changed or otherwise effected by this Agreement.
- C. 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.
- D. Not later than fourteen (14) calendar days after execution of this AGREEMENT each PARTY shall designate in writing a representative who shall serve as the full time representative of the said PARTY during the carrying out of the construction of the PROJECT. Each representative shall have authority, on behalf of such PARTY, to make decisions relating to the work covered by this AGREEMENT. Representatives may be changed, from time to time, by subsequent written notice. Each representative shall be readily available to the other PARTY.

- E. In the event of a dispute between the COUNTY and the VILLAGE in the design and construction of the PROJECT, the Village Administrator of the VILLAGE and the Director of Transportation/ County Engineer of the COUNTY shall meet and resolve the issue. Any decision of the County Engineer shall be final.
- F. This AGREEMENT may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same instrument.
- G. The COUNTY certifies that its correct Federal Tax Identification number is #36 6006585 and it is doing business as a governmental entity, whose mailing address is Kane County Division of Transportation, 41 W 011 Burlington Road, St. Charles, Illinois 60175.
- H. The VILLAGE certifies that its correct Federal Tax Identification number is #36 6008955 and it is doing business as a governmental entity, whose mailing address is Elburn, Illinois 60119.
- I. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.
- J. This AGREEMENT and the covenants contained herein shall become null and void in the event the contract covering the construction work contemplated herein is not awarded by IDOT within five (5) years subsequent to the date of execution of this AGREEMENT.
- K. This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their respective successors and approved assigns.
- L. 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 Kane County, Illinois.
- M. All notices shall be in writing and shall be personally delivered or mailed to the following persons at the following addresses:

To the VILLAGE:

The Village of Elburn
301 North St.
Elburn, IL 60119
Attn: Village Manager

To the COUNTY:

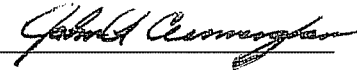
The Kane County Division of Transportation
41 W 011 Burlington Road
St. Charles, Illinois 60175.
Attn: Director of Transportation/County
Engineer

N. The preambles included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT as part hereof.

IN WITNESS THEREOF, the parties have executed this AGREEMENT on the dates indicated.

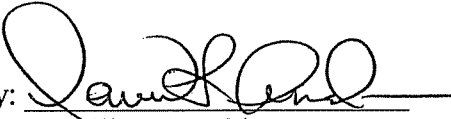
THE COUNTY OF KANE

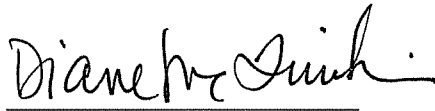
By: 
County Board Chairman

Attest: 

Date: May 11, 2012

THE VILLAGE OF ELBURN

By: 
Village President

Attest: 

Date: 5-7-12