

RESOLUTION NO. 20587

Background

Pursuant to the provisions of the Toll Highway Act of the State of Illinois, as amended (the “*Act*”), The Illinois State Toll Highway Authority (the “*Authority*”) is authorized to provide for the construction, operation, regulation and maintenance of toll highways in the State of Illinois (the “*Tollway System*”).

Pursuant to the Act, the Amended and Restated Trust Indenture between The Illinois State Toll Highway Authority and The Bank of New York Mellon Trust Company, N.A., as successor to J.P. Morgan Trust Company, N.A., and The First National Bank of Chicago, as Trustee (the “*Trustee*”), effective March 31, 1999 and as supplemented and amended to the date of adoption of this Resolution (the “*Master Indenture*”), the Authority is authorized to issue its revenue bonds for any lawful purpose including, among others, extending and improving the Tollway System; and refunding or advance refunding any of its revenue bonds then outstanding.

To provide funds to pay a portion of the costs of the Authority’s long-range capital plan known as the Congestion-Relief Program (the “*Congestion-Relief Program*”), on November 18, 2008, pursuant to the terms of the Eleventh Supplemental Indenture dated as of November 1, 2008 between the Authority and the Trustee (the “*Eleventh Supplemental Indenture*”), the Authority issued its Toll Highway Senior Priority Revenue Bonds, 2008 Series B in the aggregate principal amount of \$350,000,000 (the “*2008B Bonds*”). The 2008B Bonds bear an interest rate of 5.50%, mature on January 1, 2033, and are subject to redemption prior to maturity at the option of the Authority, in whole or in part, on any date on or after January 1, 2018 at a redemption price of 100% of the principal amount called for redemption plus accrued interest, if any, to the redemption date of such redeemed bonds.

On December 18, 2014, the Authority issued its senior lien, fixed rate Toll Highway Senior Revenue Bonds, 2014 Series D (Refunding) (the “*2014D Bonds*”), for the purpose of advance refunding certain outstanding bonds of the Authority, issued pursuant to the terms of the Twentieth Supplemental Indenture dated as of December 1, 2014 between the Authority and the Trustee.

RESOLUTION NO. 20587

continued Background

The Authority has now determined that it is advisable and in the best interests of the Authority to authorize the borrowing of a maximum aggregate principal amount of \$375 million for the purpose of advance refunding the 2008B Bonds to the extent determined to be in the best interests of the Authority by an Authorized Officer (as hereinafter defined) in order to achieve debt service savings for the Authority (the “*Advance Refunding*”) and in evidence thereof to issue Additional Senior Bonds (as defined in the Master Indenture) pursuant to Section 204 of the Master Indenture (the “*2015 Advance Refunding Bonds*”), as herein provided, such borrowing being for a proper public purpose and in the public interest, and the Authority, by virtue of all laws applicable thereto, has the power to issue such 2015 Advance Refunding Bonds. In connection with authorizing the issuance of the 2015 Advance Refunding Bonds, it is necessary to approve and to authorize a fixed rate supplemental indenture, bond purchase agreement, refunding escrow agreement and certain other documents and agreements and the performance of acts necessary or convenient in connection with the implementation of this Resolution and the issuance of the 2015 Advance Refunding Bonds. Any 2015 Advance Refunding Bonds authorized herein shall be issued on a parity with all Senior Bonds (as defined in the Master Indenture) now or hereafter outstanding under the Master Indenture and shall be secured by the Master Indenture, as supplemented and amended as authorized herein or as may be supplemented and amended in the future.

Pursuant to Tollway procurement process RFP#12-0045 and as authorized by Resolution No. 19747 approved by the Board on August 23, 2012, as amended by Resolution No. 19763 approved by the Board on September 27, 2012, the Tollway established, for an initial contract term ending on December 31, 2015, two pools of financial firms to provide bond underwriting and remarketing services, which such pools currently consist of: (i) a “Senior Pool” of fourteen financial firms to serve as senior managing underwriter, co-senior managing underwriter, and/or remarketing agent (the “Senior Pool”); and (ii) a “Co-Manager Pool” of sixteen financial firms to serve as co-managing underwriter (the “*Co-Manager Pool*”).

Resolution

1. *Incorporation of Background.* The Background of this Resolution is hereby incorporated into this text as if set out in full herein.

RESOLUTION NO. 20587

continued Resolution

2. *Issuance of 2015 Advance Refunding Bonds.* The Authority authorizes the issuance and delivery of the 2015 Advance Refunding Bonds in a maximum aggregate principal amount of \$375 million for the purpose of the Advance Refunding. The 2015 Advance Refunding Bonds may be issued as Additional Senior Bonds in said maximum aggregate principal amount, or a lesser principal amount, all as may be determined by the Chair of the Authority (the “Chair”).

The 2015 Advance Refunding Bonds shall be issued as bonds bearing interest at fixed rates and paying interest semiannually. The 2015 Advance Refunding Bonds shall be issued pursuant to, and have such terms and provisions as are set forth in, a fixed rate supplemental indenture (the “*2015 Advance Refunding Supplemental Indenture*”) between the Authority and the Trustee, supplementing and amending the Master Indenture.

In connection with the issuance of the 2015 Advance Refunding Bonds, the Chair is hereby authorized to execute, and the Secretary or Assistant Secretary of the Authority (either, the “*Secretary*”) is hereby authorized to attest, (i) a 2015 Advance Refunding Supplemental Indenture in substantially the form of the Twentieth Supplemental Indenture heretofore executed and delivered as described above, with such revisions, insertions, completions and modifications therein including, without limitation, such revisions as shall be necessary to incorporate provisions relating to (x) the dating, series designation, denominations, interest payment dates, redemption provisions, registration and transfer of the 2015 Advance Refunding Bonds and (y) the application of proceeds of the 2015 Advance Refunding Bonds for the Advance Refunding as shall be approved by the Chair and that are not inconsistent with the terms and provisions of this Resolution, such execution to constitute conclusive evidence of the Chair’s approval and this Authority’s approval of such revisions, insertions, completions and modifications thereof.

3. *Terms of 2015 Advance Refunding Bonds.* The 2015 Advance Refunding Bonds shall be designated “Toll Highway Senior Revenue Bonds” with such additions, modifications, or revisions as shall be determined to be necessary by the Chair at the time of sale of the 2015 Advance Refunding Bonds to reflect

RESOLUTION NO. 20587

continued Resolution

the specific series of such Bonds, the year in which such Bonds are issued and any other authorized features of the 2015 Advance Refunding Bonds determined by the Chair as desirable to be reflected in the title of the 2015 Advance Refunding Bonds being issued. The 2015 Advance Refunding Bonds shall mature no later than January 1, 2033, the maturity of the 2008B Bonds. The 2015 Advance Refunding Bonds shall bear interest at a rate or rates not to exceed 8.00 percent per annum. Interest shall be payable on the 2015 Advance Refunding Bonds at such times and on such basis and terms as shall be provided in the 2015 Advance Refunding Supplemental Indenture.

The 2015 Advance Refunding Bonds shall be executed by the manual or duly authorized facsimile signatures of the Chair and the Secretary and the corporate seal of the Authority (or facsimile thereof) impressed or otherwise reproduced on them. The 2015 Advance Refunding Bonds shall be prepared in the form attached to the 2015 Advance Refunding Supplemental Indenture.

4. *Redemption of 2015 Advance Refunding Bonds.* The 2015 Advance Refunding Bonds may be made subject to redemption prior to maturity at the option of the Authority, at such times and at redemption prices of par plus accrued interest, which redemption prices may also include a redemption premium for each 2015 Advance Refunding Bond to be redeemed expressed as a percentage, not to exceed two percent (2%) of the principal amount of the 2015 Advance Refunding Bonds being redeemed, as determined by the Chair at the time of the sale of the 2015 Advance Refunding Bonds and reflected in the 2015 Advance Refunding Supplemental Indenture. Certain of the 2015 Advance Refunding Bonds may be made subject to redemption by Sinking Fund Installments (as defined in the Master Indenture), at par and accrued interest to the date fixed for redemption, as determined by the Chair at the time of the sale thereof and reflected in the 2015 Advance Refunding Supplemental Indenture.

5. *Sale of 2015 Advance Refunding Bonds.* The Chair is hereby authorized on behalf of the Authority to sell all or any portion of the 2015 Advance Refunding Bonds to an underwriting group (the "*Underwriters*") represented by one or more Senior Managing Underwriters selected from the Senior Pool (individually or collectively, the "*Senior Managing Underwriter*").

RESOLUTION NO. 20587

continued Resolution

Other financial firms that comprise the Underwriters shall be designated as either Co-Senior Managing Underwriters, also selected from the Senior Pool, or Co-Managing Underwriters, selected from the Co-Manager Pool.

The 2015 Advance Refunding Bonds shall be sold and delivered to the Underwriters subject to the terms and conditions of a Bond Purchase Agreement between the Authority and the Underwriters (the "*Bond Purchase Agreement*"); provided, that the aggregate purchase price shall be not less than 98.5 percent of the principal amount thereof to be issued (less any original issue discount used in marketing thereof) plus accrued interest, if any, from their date to the date of delivery thereof. The Chair is hereby authorized to execute, and the Secretary is hereby authorized to attest, the Bond Purchase Agreement in substantially the form previously used in connection with the sale of fixed rate revenue bonds of the Authority, with such revisions, insertions, completions and modifications therein as shall be approved by the Chair and that are not inconsistent with the terms and provisions of this Resolution, such execution to constitute conclusive evidence of the Chair's approval and this Authority's approval of such revisions, insertions, completions and modifications thereof.

6. *Preliminary Official Statement for 2015 Advance Refunding Bonds.* The preparation, use and distribution of a Preliminary Official Statement relating to the 2015 Advance Refunding Bonds (the "*Preliminary Official Statement*") is hereby in all respects ratified, authorized and approved. The Preliminary Official Statement shall contain disclosure information substantially similar to that presented in such form used in connection with the sale and issuance of fixed rate obligations of the Authority, as applicable, and shall reflect the terms and provisions of the 2015 Advance Refunding Bonds proposed to be issued, including the application of the proceeds thereof and shall describe accurately the current condition of the toll highways maintained by the Authority and the financial condition of the Authority. The proposed use by the Underwriters of an Official Statement (in substantially the form of the Preliminary Official Statement but with appropriate variations, omissions and insertions to reflect the final terms of the 2015 Advance Refunding Bonds being sold) is hereby approved. The Chair is authorized and directed to execute the Official Statement on behalf of the

RESOLUTION NO. 20587

continued Resolution

Authority and the Chair's execution thereof shall constitute conclusive evidence of the Chair's approval and this Authority's approval of any changes to the form of Preliminary Official Statement authorized herein.

7. *Application of Proceeds of 2015 Advance Refunding Bonds.* The proceeds from the sale of the 2015 Advance Refunding Bonds shall be applied as determined by the Chair and the Chief of Finance of the Authority as follows:

- (i) the sum representing the accrued interest received, if any, shall be used to pay the first interest becoming due on the 2015 Advance Refunding Bonds sold;
- (ii) the sum determined by the Chief of Finance to be sufficient to advance refund the 2008B Bonds prior to their respective maturities at a price of par plus accrued interest thereon, up to and including the applicable redemption date, shall be deposited into an account to be held by the Trustee pursuant to the terms of the 2015 Advance Refunding Supplemental Indenture and an escrow agreement (a "*Refunding Escrow Agreement*"), and the Chair is hereby authorized to execute, and the Secretary is hereby authorized to attest, and deliver the Refunding Escrow Agreement in such form as the officer so executing shall deem appropriate to effect the Refunding. Such Refunding Escrow Agreement may include agreements entered into between the Authority and providers of securities under which such providers agree to purchase from or sell to the Authority specified securities on specific dates at predetermined prices, all as established at the time of execution of any such agreement;
- (iii) to make any required deposit to the Debt Reserve Account held under the Master Indenture;
- (iv) to deliver one or more Reserve Account Credit Facilities (as defined in the Master Indenture) in lieu of any required deposits into the Debt Reserve Account;

RESOLUTION NO. 20587

continued Resolution

- (v) to pay expenses related to the issuance of such 2015 Advance Refunding Bonds; and
- (vi) to such other purposes that are not inconsistent with the terms and provisions of this Resolution as shall be set forth in the 2015 Advance Refunding Supplemental Indenture authorizing such 2015 Advance Refunding Bonds.

8. *Tax-Exemption and Non-Arbitrage.* The Chair, Secretary, Assistant Secretary, Chief of Finance and General Counsel of the Authority (each an “Authorized Officer”) are hereby authorized to take any other actions and to execute any other documents and certificates necessary (i) to assure that 2015 Advance Refunding Bonds issued on a tax-exempt basis do not constitute “arbitrage bonds” under the Internal Revenue Code of 1986, as amended, and to effectuate the issuance and delivery of such 2015 Advance Refunding Bonds, including but not limited to the execution and delivery by one or more of the Authorized Officers of a Tax Exemption Certificate and Agreement in a form to be approved by bond counsel and by counsel to the Authority.

9. *2015 Advance Refunding Bonds Continuing Disclosure.* The Chair is authorized to execute and deliver a Continuing Disclosure Agreement evidencing the Authority’s agreement to comply with the requirements of Section (b)(5) of Rule 15c2-12 (the “Rule”), adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as applicable to the 2015 Advance Refunding Bonds, in substantially the form previously used in connection with the issuance of the 2014D Bonds, with such insertions, completions and modifications therein as are necessary to comply with the Rule as currently effective and shall be approved by the Chair and that are not inconsistent with the terms and provisions of this Resolution, such execution to constitute conclusive evidence of the Chair’s approval and this Authority’s approval of such insertions, completions and modifications thereof.

10. *Authorized Acts regarding 2015 Advance Refunding Bonds.* The Chair, the Executive Director, the Secretary, the Assistant Secretary, the Chief of Finance, the General Counsel, and the Chief Engineer of the Authority are hereby each authorized and directed to do all such acts and things and to execute and

RESOLUTION NO. 20587

continued Resolution

deliver all such other documents, agreements and certificates and perform such other acts as may be necessary or desirable in connection with the issuance of the 2015 Advance Refunding Bonds and the execution and delivery of the 2015 Advance Refunding Supplemental Indenture, the Bond Purchase Agreement, the Refunding Escrow Agreement, the Official Statement, the Tax Exemption Certificate and Agreement and the Continuing Disclosure Agreement, including the giving of all notices of redemption required in connection with the Refunding.

11. Ratification regarding 2015 Advance Refunding Bonds. All acts and undertakings of the officials or officers of the Authority that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the 2015 Advance Refunding Bonds and the accomplishment of the Advance Refunding are in all respects approved and confirmed.

12. Costs of Issuance for 2015 Advance Refunding Bonds. The Chief of Finance of the Authority is authorized to pay the costs of issuance of the 2015 Advance Refunding Bonds including, without limitation, printing costs, transcript costs, consultants' and attorneys' fees, rating agency fees, trustee fees, fees of an escrow verification agent and all other reasonable and necessary fees and costs of the Authority incurred in connection with the issuance of the 2015 Advance Refunding Bonds and the accomplishment of the Advance Refunding.

13. Approval of Attorney General of 2015 Advance Refunding Bonds. Notwithstanding anything herein to the contrary, this Authority's approval of the 2015 Advance Refunding Supplemental Indenture, the Bond Purchase Agreement, the Refunding Escrow Agreement, the Official Statement, the Tax Exemption Certificate and Agreement, and the Continuing Disclosure Agreement is subject to the further approval as to the form and constitutionality by the Attorney General of the State of those agreements, as well as any other agreements authorized herein.

14. Severability. The provisions of this Resolution are hereby declared to be severable, and if any section, phrase, or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases, or provisions.

RESOLUTION NO. 20587

continued Resolution

15. *Repealer and Effective Date.* All resolutions or parts of resolutions in conflict herewith are, to the extent of such conflict, hereby repealed. This Resolution is effective immediately upon its adoption.



Approved by: _____

Chair

RESOLUTION NO. 20588

Background

Pursuant to Tollway procurement process RFP#12-0045 and Resolution No. 19747 approved by the Board of Directors of the Authority (the “*Board*”) on August 23, 2012, as amended by Resolution No. 19763 approved by the Board on September 27, 2012, the Authority established, for an initial contract term ending on December 31, 2015, two pools of financial firms to provide bond underwriting and remarketing services, which such pools currently consist of: (i) a “Senior Pool” of fourteen financial firms to serve as senior managing underwriter, co-senior managing underwriter, and/or remarketing agent (the “*Senior Pool*”); and (ii) a “Co-Manager Pool” of sixteen financial firms to serve as co-managing underwriter (the “*Co-Manager Pool*”).

Resolution No. 20376 approved by the Board on June 26, 2014 authorizes, among other things, the issuance of an additional \$600 million of fixed rate senior lien revenue bonds to fund a portion of the costs of the Authority’s long-range capital plan known as “Move Illinois: The Illinois Tollway Driving the Future.”

Resolution No. 18976 approved by the Board on January 28, 2010 as amended and extended (“*Resolution No. 18976*”) authorizes, among other things, the issuance of an additional \$570.7 million of senior lien and/or junior lien revenue bonds to refund a portion of the Authority’s outstanding variable rate bonds and terminate related interest rate swap agreements. On February 26, 2015 the Board is scheduled to vote on a Resolution that, if approved, would authorize, among other things, the issuance of up to \$375 million of fixed rate senior lien revenue bonds to advance refund the Authority’s Toll Highway Senior Priority Revenue Bonds, 2008 Series B for the purpose of reducing debt service (collectively with the bonds authorized by Resolution No. 18976, the “*2015 Refunding Bonds*”).

Resolution

The following underwriting group is authorized to underwrite the next series of bonds issued pursuant to Resolution No. 20376: Merrill Lynch Pierce Fenner & Smith Incorporated and William Blair & Company, L.L.C., as senior

RESOLUTION NO. 20588

continued Resolution

managing underwriters representing an underwriting group consisting of themselves and: co-senior managing underwriters Citigroup Global Markets Inc. and Morgan Stanley & Co. LLC; and co-managing underwriters Cabrera Capital Markets, LLC; Raymond James & Associates, Inc.; Rice Securities, LLC; U.S. Bank National Association; and The Williams Capital Group, L.P.

The following underwriting group is authorized to underwrite the next series of 2015 Refunding Bonds: BMO Capital Markets GKST Inc. and Samuel A. Ramirez & Co., Inc., as senior managing underwriters representing an underwriting group consisting of themselves and: co-senior managing underwriters Barclays Capital Inc. and Goldman, Sachs & Co.; and co-managing underwriters Fifth Third Securities, Inc.; Oppenheimer & Co. Inc.; Piper Jaffray & Co.; PNC Capital Markets LLC; and Stifel Nicolaus & Company, Inc.

Each firm's inclusion is subject to its continued good standing in the *Senior Pool* or *Co-Manager Pool*, as applicable. Underwriting fees shall not exceed \$2.50 per \$1,000 par amount of bonds, as per procurement process RFP#12-0045.



Approved by:

Chair

RESOLUTION NO. 20589

Background

The Illinois State Toll Highway Authority (the “Tollway”) is interested in procuring Bulk Electricity, Systemwide, through the Central Management Services (“CMS”) master contract with Integrys Energy Services, Inc. (Tollway Contract No. 15-0025) for an upper limit of compensation not to exceed \$10,500,000.00 for an initial five-year term. These goods and/or services are being obtained pursuant to JCAR Section 1.1040 of the Central Procurement Authority of the Chief Procurement Officer for General Services.

Resolution

The utilization of the CMS master contract, from the inception of such contract, for the purchase of Bulk Electricity, Systemwide, from Integrys Energy Services, Inc. (Tollway Contract No. 15-0025) is approved in an amount not to exceed \$10,500,000.00 for an initial five-year term. As may be necessary or appropriate, the Chair or the Executive Director is authorized to execute all appropriate documents in connection therewith and consistent with specific ordering requirements and related processes as may be established for Tollway electricity accounts. All such documents are subject to the approval of the General Counsel, the Chief of Procurement is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20590

Background

The Illinois State Toll Highway Authority (the “Tollway”) has previously purchased Project Management and Technology Planning Services (Contract No. 11-0114) from System Development Integration, LLC. It is in the best interest of the Tollway, pursuant to the terms and conditions of the contract, to amend the contract and increase the upper limit of compensation of said contract by an amount not to exceed \$1,993,000.00 for the purchase of additional Project Management and Technology Planning Services.

Resolution

The amendment and associated increase to the upper limit of compensation of Contract No. 11-0114 for the purchase of additional Project Management and Technology Planning Services is approved in an amount not to exceed \$1,993,000.00 (increase from \$9,965,088.00 to \$11,958,088.00). As may be necessary, the Chair or the Executive Director is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel, the Chief of Procurement is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20591

Background

The Illinois State Toll Highway Authority (the "Tollway") is interested in procuring Various Work Uniforms. Pursuant to the Tollway's Invitation for Bids No. 13-0168, the Tollway has determined that DVL Enterprises, Inc. (d.b.a. MPGTandem or Tandem Promotions) and Silk Screen Express, Inc. are the lowest responsible bidders for Various Work Uniforms for an aggregate upper limit of compensation not to exceed \$800,192.00.

Resolution

The bids from DVL Enterprises, Inc. (d.b.a. MPGTandem or Tandem Promotions) and Silk Screen Express, Inc. for the purchase of Various Work Uniforms are accepted. Contract No. 13-0168 is approved in an aggregate amount not to exceed \$800,192.00. As may be necessary, the Chair or the Executive Director is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel, the Chief of Procurement is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20592

Background

The Illinois State Toll Highway Authority (the "Tollway") is interested in procuring Bituminous Hot-Mix Asphalt. Pursuant to the Tollway's Invitation for Bids No. 14-0121, the Tollway has determined that Arrow Road Construction Company; Peter Baker & Son Co., Inc.; Central Blacktop Co., Inc.; Curran Contracting Company, Inc.; and Gallagher Materials Corporation are the lowest responsible bidders for Bituminous Hot-Mix Asphalt for an aggregate upper limit of compensation not to exceed \$113,400.00.

Resolution

The bids from Arrow Road Construction Company; Peter Baker & Son Co., Inc.; Central Blacktop Co., Inc.; Curran Contracting Company, Inc.; and Gallagher Materials Corporation for the purchase of Bituminous Hot-Mix Asphalt are accepted. Contract No. 14-0121 is approved in an aggregate amount not to exceed \$113,400.00. As may be necessary, the Chair or the Executive Director is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel, the Chief of Procurement is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20593

Background

The Illinois State Toll Highway Authority (the “Tollway”) is interested in procuring Chiller Preventive Maintenance and Repair Services. Pursuant to the Tollway’s Invitation for Bids No. 12-0124R, the Tollway has determined that Johnson Controls, Inc. is the lowest responsible bidder for Chiller Preventive Maintenance and Repair Services for an upper limit of compensation not to exceed \$94,065.00.

Resolution

The bid from Johnson Controls, Inc. for the purchase of Chiller Preventive Maintenance and Repair Services is accepted. Contract No. 12-0124R is approved in an amount not to exceed \$94,065.00. As may be necessary, the Chair or the Executive Director is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel, the Chief of Procurement is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20594

Background

The Illinois State Toll Highway Authority (“Tollway”) advertised for sealed bids on Contract RR-14-4213 for Building Demolition and Abatement at Maintenance Facility M-1 (Alsip) on the Tri-State Tollway (I-294) at Milepost 12.0 (Cicero Avenue). The lowest responsible bidder on Contract No. RR-14-4213 is Alpine Demolition Services, LLC in the amount of \$486,000.00.

Resolution

Contract No. RR-14-4213 is awarded to Alpine Demolition Services, LLC in the amount of \$486,000.00, subject to all required approvals, the contractor satisfying applicable DBE, financial, and all other contract award requirements, and execution of all contract documents by the bidder and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel and the Chief of Finance is authorized to issue warrants in payment thereof.

If the bidder fails to satisfy the contract award requirements, the Executive Director is authorized to approve an award to the next lowest responsible bidder, in accordance with the applicable contract award requirements.

Approved by: 
Chair

RESOLUTION NO. 20595

Background

The Illinois State Toll Highway Authority (“Tollway”) is interested in procuring on behalf of, and per the request of the North Suburban Municipal Joint Action Water Agency (“JAWA”), a construction service whereby JAWA’s 90” High Pressure Watermain running along the Jane Addams Memorial Tollway (I-90) from Milepost 73.5 (Elmhurst Road) to Milepost 74.3 (Higgins Creek) will be “hot-tapped” to allow necessary redirection of the water to an alternate main due to Tollway reconstruction of I-90. Following a Sole Source Hearing on July 2, 2014, and necessary State procurement authorization on August 7, 2014, Contract No. I-14-4641 was approved for award to TDW Services, Inc. (“TDW”). Subsequent negotiations with TDW have resulted in agreement to perform this necessary work for the amount of \$8,159,000.00, which will be reimbursed to the Tollway by JAWA.

Resolution

Contract No. I-14-4641 is awarded to TDW Services, Inc. in the amount of \$8,159,000.00 subject to all required approvals, the contractor satisfying applicable DBE, financial, and all other contract award requirements, and execution of all contract documents by the bidder and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel, and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____
Chair

RESOLUTION NO. 20596

Background

The Illinois State Toll Highway Authority (“Tollway”) advertised for sealed bids on Contract RR-13-5661 for Roadway and Bridge Rehabilitation on the Reagan Memorial Tollway (I-88) from Milepost 55.1 (US Route 52) to Milepost 67.3 (Midway Road). The lowest responsible bidder on Contract No. RR-13-5661 is Curran Contracting Company in the amount of \$58,438,916.89.

Resolution

Contract No. RR-13-5661 is awarded to Curran Contracting Company in the amount of \$58,438,916.89, subject to all required approvals, the contractor satisfying applicable DBE, financial, and all other contract award requirements, and execution of all contract documents by the bidder and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel and the Chief of Finance is authorized to issue warrants in payment thereof.

If the bidder fails to satisfy the contract award requirements, the Executive Director is authorized to approve an award to the next lowest responsible bidder, in accordance with the applicable contract award requirements.



Approved by: _____

Chair

RESOLUTION NO. 20597

Background

The Illinois State Toll Highway Authority (“Tollway”) advertised for sealed bids on Contract RR-13-5662 for Roadway and Bridge Rehabilitation on the Reagan Memorial Tollway (I-88) from Milepost 67.3 (Midway Road) to Milepost 76.8 (IL Route 251). The lowest responsible bidder on Contract No. RR-13-5662 is TBD in the amount of \$50,444,188.26.

Resolution

Contract No. RR-13-5662 is awarded to William Charles Construction Company, LLC / Civil Constructors Inc. Of Illinois / Rock Road Companies (Tri-Venture) in the amount of \$50,444,188.26, subject to all required approvals, the contractor satisfying applicable DBE, financial, and all other contract award requirements, and execution of all contract documents by the bidder and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel and the Chief of Finance is authorized to issue warrants in payment thereof.

If the bidder fails to satisfy the contract award requirements, the Executive Director is authorized to approve an award to the next lowest responsible bidder, in accordance with the applicable contract award requirements.



Approved by: _____

Chair

RESOLUTION NO. 20598

Background

The Illinois State Toll Highway Authority (“Tollway”) advertised for sealed bids on Contract RR-15-5707 for Bridge Repairs on the Tri-State Tollway (I-294) from Milepost 23.0 (I-55) to Milepost 52.8 (Lake Cook Road). The lowest responsible bidder on Contract No. RR-15-5707 is Lorig Construction Company in the amount of \$8,176,799.75.

Resolution

Contract No. RR-15-5707 is awarded to Lorig Construction Company in the amount of \$8,176,799.75, subject to all required approvals, the contractor satisfying applicable DBE, financial, and all other contract award requirements, and execution of all contract documents by the bidder and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel and the Chief of Finance is authorized to issue warrants in payment thereof.

If the bidder fails to satisfy the contract award requirements, the Executive Director is authorized to approve an award to the next lowest responsible bidder, in accordance with the applicable contract award requirements.



Approved by: _____

Chair

RESOLUTION NO. 20599

Background

The Illinois State Toll Highway Authority (“Tollway”) advertised for sealed bids on Contract I-14-4220 for Interchange Improvements on the Jane Addams Memorial Tollway (I-90) from Milepost 61.7 to Milepost 62.6 (Barrington Road). The lowest responsible bidder on Contract No. I-14-4220 is to Plote Construction, Inc. in the amount of \$34,374,868.37.

Resolution

Contract No. I-14-4220 is awarded to Plote Construction, Inc. Contracting in the amount of \$34,374,868.37, subject to all required approvals, the contractor satisfying applicable DBE, financial, and all other contract award requirements, and execution of all contract documents by the bidder and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel and the Chief of Finance is authorized to issue warrants in payment thereof.

If the bidder fails to satisfy the contract award requirements, the Executive Director is authorized to approve an award to the next lowest responsible bidder, in accordance with the applicable contract award requirements.



Approved by: _____

Chair

RESOLUTION NO. 20600

Background

The Illinois State Toll Highway Authority (“Tollway”) advertised for sealed bids on Contract I-14-4648 for NSMJAWA Water Main Relocatio0n on the Jane Addams Memorial Tollway (I-90) from Milepost 73.5 (Elmhurst Road) to Milepost 74.3 (Higgins Creek). The lowest responsible bidder on Contract No. I-14-4648 is Benchmark Construction Co., Inc. in the amount of \$18,538,027.70.

Resolution

Contract No. I-14-4648 is awarded to Benchmark Construction Co., Inc. in the amount of \$18,538,027.70, subject to all required approvals, the contractor satisfying applicable DBE, financial, and all other contract award requirements, and execution of all contract documents by the bidder and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel and the Chief of Finance is authorized to issue warrants in payment thereof.

If the bidder fails to satisfy the contract award requirements, the Executive Director is authorized to approve an award to the next lowest responsible bidder, in accordance with the applicable contract award requirements.



Approved by: _____

Chair

RESOLUTION NO. 20601

Background


It is necessary and in the best interest of The Illinois State Toll Highway Authority (“Tollway”) to confirm approval of Contract RR-14-5701 for Emergency Bridge Repairs on the Tri-State Tollway (I-294) at Milepost 31.0 (I-88) in the amount of \$142,000, following use of an approved Emergency Purchase Affidavit (IPB reference No 22034713) which authorized Lorig Construction Company to perform bridge repair work in the estimated amount of \$142,000.

The emergency procurement was required to repair certain bridge damage before winter. The necessary construction work also prevented a continuing threat to public health and safety, and minimized service disruption to state services and collection of revenues, in accordance with 30 ILCS 500/20-30 of the Illinois Procurement Code.

Resolution

The Board hereby confirms its approval of Contract No. RR-14-5701 with Lorig Construction Company in an amount not to exceed \$142,000, subject to all required approvals, the contractor satisfying applicable financial, and all other contract award requirements, and execution of all contract documents by Lorig Construction and the Tollway.

The Chair or the Executive Director is authorized to execute the aforementioned Contract, subject to the approval of the General Counsel, and the Chief of Finance is authorized to issue warrants in payment thereof.

Approved by: 

Chair

RESOLUTION NO. 20602

Background

It is necessary and in the best interest of The Illinois State Toll Highway Authority (“Tollway”) to obtain Construction Management Services for Interchange Improvements on the Jane Addams Memorial Tollway (I-90) at Milepost 62.2 (Barrington Road), Contract No. I-14-4192. Tecma Associates, Inc. has submitted a proposal to provide the services for an upper limit of compensation not to exceed \$2,997,085.68. The proposal is for professional services and the services were procured pursuant to 30 ILCS 500/30-15 of the Illinois Procurement Code.

Resolution

The Chief Engineer is authorized to negotiate an agreement with Tecma Associates, Inc., to provide Construction Management Services, Contract No. I-14-4192, with an upper limit of compensation not to exceed \$2,997,085.68, subject to review and approval of the General Counsel. The Chair or the Executive Director is authorized to execute the Agreement and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20603

Background

It is necessary and in the best interest of The Illinois State Toll Highway Authority (“Tollway”) to obtain Construction Management Services for Roadway Extension on Illinois 390 from Park Boulevard to Arlington Heights Road, Contract No. I-14-4636. B.L.A. dba Bollinger, Lach & Associates has submitted a proposal to provide the services for an upper limit of compensation not to exceed \$7,989,646.26. The proposal is for professional services and the services were procured pursuant to 30 ILCS 500/30-15 of the Illinois Procurement Code.

Resolution

The Chief Engineer is authorized to negotiate an agreement with B.L.A. dba Bollinger, Lach & Associates to provide Construction Management Services, Contract No. I-14-4636, with an upper limit of compensation not to exceed \$7,989,646.26, subject to review and approval of the General Counsel. The Chair or the Executive Director is authorized to execute the Agreement and the Chief of Finance is authorized to issue warrants in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20604

Background

It is necessary and in the best interest of The Illinois State Toll Highway Authority (“Tollway”) to obtain Maintenance Facilities Construction Management Upon Request Services, Systemwide, Contract No. RR-14-4201. ESI Consultants, Ltd. has submitted a proposal to provide the services for an upper limit of compensation not to exceed \$600,000.00. The proposal is for professional services and the services were procured pursuant to 30 ILCS 500/30-15 of the Illinois Procurement Code.

Resolution

The Chief Engineer is authorized to negotiate an agreement with ESI Consultants, Ltd. to provide Maintenance Facilities Construction Management Upon Request Services, Systemwide, Contract RR-14-4201, with an upper limit of compensation not to exceed \$600,000.00, subject to review and approval of the General Counsel. The Chair or the Executive Director is authorized to execute the Agreement and the Chief of Finance is authorized to issue warrants in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20605

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20119 approved on October 24, 2013, entered into Contract No. I-13-4606 with F.H. Paschen, S.N. Nielsen & Associates, LLC for Roadway and Bridge Construction on Elgin O'Hare Expressway at Milepost 12.5 (I-290). This Extra Work Order is to provide for structural steel and bearing modifications that are required to advance construction of subsequent portions of the new WB I-290 to WB IL 390 flyover bridge; and the work identified by the contractor is necessary and in the best interest of the Tollway.

Resolution

The Extra Work Order in the amount of \$447,833.86, increasing the upper limit of compensation under the Agreement from \$ 37,524,084.27 to \$37,971,918.13 on Contract No. I-13-4606, is approved and the Chief of Finance is authorized to issue and deliver warrants in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20606

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20434 approved on August 24, 2013, entered into Contract No. I-14-4180 with Benchmark Construction Co., Inc. for Northwest Suburban Municipal Joint Action Water Agency (NSMJAWA) Transmission Line Relocation on the Jane Addams Memorial Tollway (I-90) from Milepost 62.1 (Barrington Road) to Milepost 73.5 (Elmhurst Road). This Extra Work Order is to provide for funding to install a temporary bypass to maintain the water supply to storage tanks. Costs will be refunded 100% by NSMJAWA, per agreement; and the work identified by the contractor is necessary and in the best interest of the Tollway.

Resolution

The Extra Work Order in the amount of \$300,000.00 increasing the upper limit of compensation under the Agreement from \$54,687,037.20 to \$ 54,987,037.20 on Contract No. I-14-4180, is approved and the Chief of Finance is authorized to issue and deliver warrants in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20607

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 19869 approved on January 24, 2013, entered into Contract I-12-4066 with Lorig Construction Company for Roadway Widening and Bridge Reconstruction, I-57 Ramp B on the Tri-State Tollway (I-294) at I-57 Interchange, from Milepost 7.5 to Milepost 7.8. To the Tollway’s knowledge, all work required in the Contract has been substantially completed in an acceptable manner and the contractor has requested a reduction of retainage to an amount equal to twice the calculated value of all remaining uncompleted work, based on adjusted contract items and unit prices.

Resolution

Release of retainage in excess of \$362,456.00 on Contract No. I-12-4066 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20608

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 19943 approved on March 28, 2013, entered into Contract I-12-4067 with Lorig Construction Company for Ramp Construction on the Southbound Tri-State Tollway (I-294) at I-294/I-57 Interchange, from Milepost 7.7 to Milepost 8.8, Ramps X and M. To the Tollway’s knowledge, all work required in the Contract has been substantially completed in an acceptable manner and the contractor has requested a reduction of retainage to an amount equal to twice the calculated value of all remaining uncompleted work, based on adjusted contract items and unit prices.

Resolution

Release of retainage in excess of \$337,714.60 on Contract No. I-12-4067 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20609

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 19943 approved on March 28, 2013, entered into Contract I-12-4087 with Lorig Construction Company for Ramp Construction on the Northbound Tri-State Tollway (I-294) at I-294/I-57 Interchange, from Milepost 7.7 to Milepost 9.1, Ramps B & N. To the Tollway’s knowledge, all work required in the Contract has been substantially completed in an acceptable manner and the contractor has requested a reduction of retainage to an amount equal to twice the calculated value of all remaining uncompleted work, based on adjusted contract items and unit prices.

Resolution

Release of retainage in excess of \$401,060.12 on Contract No. I-12-4087 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20610

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20005 approved on June 27, 2013, entered into Contract I-13-4115 with Plote Construction, Inc. for Widening and Reconstruction on the Westbound Jane Addams Memorial Tollway (I-90) from Milepost 49.7 (Union Pacific Railroad) to Milepost 53.6 (West of Elgin Toll Plaza). To the Tollway’s knowledge, all work required in the Contract has been substantially completed in an acceptable manner and the contractor has requested a reduction of retainage to an amount equal to twice the calculated value of all remaining uncompleted work, based on adjusted contract items and unit prices.

Resolution

Release of retainage in excess of \$1,724,383.72 on Contract No. I-13-4115 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.

Approved by:  _____

Chair

RESOLUTION NO. 20611

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20006 approved on June 27, 2013, entered into Contract I-13-4124 with Plote Construction, Inc. for Widening and Reconstruction on the Westbound Jane Addams Memorial Tollway (I-90) from Milepost 45.8 (West of IL Route 47) to Milepost 49.7 (West of the Union Pacific Railroad). To the Tollway’s knowledge, all work required in the Contract has been substantially completed in an acceptable manner and the contractor has requested a reduction of retainage to an amount equal to twice the calculated value of all remaining uncompleted work, based on adjusted contract items and unit prices.

Resolution

Release of retainage in excess of \$905,206.61 on Contract No. I-13-4124 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20612

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20031 approved on July 25, 2013, entered into Contract I-13-4136 with F.H. Paschen, S.N. Nielsen & Associates, LLC for Widening and Reconstruction on the Westbound Jane Addams Memorial Tollway (I-90) from Milepost 41.5 (US 20) to Milepost 45.5 (IL 47). To the Tollway’s knowledge, all work required in the Contract has been substantially completed in an acceptable manner and the contractor has requested a reduction of retainage to an amount equal to twice the calculated value of all remaining uncompleted work, based on adjusted contract items and unit prices.

Resolution

Release of retainage in excess of \$1,242,561.60 on Contract No. I-13-4136 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.

Approved by: 

Chair

RESOLUTION NO. 20613

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20031 approved on July 25, 2013, entered into Contract I-13-4147 with Divane Brothers Electric Company for Advanced Intelligent Transportation Systems (ITS) Relocation on the Jane Addams Memorial Tollway (I-90) from Milepost 54.2 (Elgin Plaza) to Milepost 79.5 (Kennedy Expressway). To the Tollway’s knowledge, all work required in the Contract has been substantially completed in an acceptable manner and the contractor has requested a reduction of retainage to an amount equal to twice the calculated value of all remaining uncompleted work, based on adjusted contract items and unit prices.

Resolution

Release of retainage in excess of \$40,790.00 on Contract No. I-13-4147 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20614

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 19999 approved on June 27, 2013, entered into Contract No. I-13-4128 with Lorig Construction Company for Bridge Widening and Reconstruction on the Jane Addams Memorial Tollway (I-90), at Milepost 25.3 (Genoa Road over I-90) and at Milepost 37.5 (Getty Road over I-90). To the Tollway’s knowledge, all work required in the Contract has been completed in an acceptable manner.

Resolution

Full release of retainage on Contract No. I-13-4128 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20615

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20064 approved on August 29, 2013, entered into Contract No. RR-13-4142 with William Charles Construction Company, LLC for Bridge and Culvert Repairs on the Reagan Memorial Tollway (I-88) from Milepost 48.9 (Harmon Road) to Milepost 75.0 (West of IL Route 251) and the Jane Addams Memorial Tollway (I-90) from Milepost 3.1 (Rockton Road) to Milepost 10.1 (Rock Cut State Park).

To the Tollway’s knowledge, all work required in the Contract has been completed in an acceptable manner.

Resolution

Full release of retainage on Contract No. RR-13-4142 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20616

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20176 approved on December 19, 2013, entered into Contract No. I-13-4161 with Lorig Construction Company for Bridge Widening and Reconstruction on the Jane Addams Memorial Tollway (I-90) at Milepost 21.8 (Town Hall Road) and at Milepost 23.8 (Pearl Street). To the Tollway’s knowledge, all work required in the Contract has been completed in an acceptable manner.

Resolution

Full release of retainage on Contract No. I-13-4161 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.

Approved by: _____



Chair

RESOLUTION NO. 20617

Background

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 20382 approved on June 26, 2014, entered into Contract No. RR-14-8120 with Broadway Electric, Inc. for Data Room Infrastructure Upgrades at the Tollway Central Administration Building.

To the Tollway’s knowledge, all work required in the Contract has been completed in an acceptable manner.

Resolution

Full release of retainage on Contract No. RR-14-8120 is approved and the Chief of Finance is authorized to issue a warrant in payment thereof.



Approved by: _____

Chair

RESOLUTION NO. 20618

Background

It is in the best interest of the Tollway and the City of DesPlaines and the DesPlaines Park District to enter into an Intergovernmental Agreement. As part of the Tollway’s widening and reconstruction of the I-90 mainline pavement near Scott Street, the Tollway is replacing the existing 24” Corrugated Metal Pipe (“CMP”) with a 30” reinforced Concrete Pipe.

To perform the above referenced work, the Tollway requires a license to cross and access the area where the Project is to be constructed. Pursuant to the terms of this IGA, the City of DesPlaines and the DesPlaines Park District grant their permission and a corresponding license to the Tollway and its contractors allowing them to access the City and Park District owned property for the purposes of constructing and maintaining the work described above.

Resolution

The Chief of Engineering and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Toll Highway Authority and the City of DesPlaines and the DesPlaines Park District in substantially the form of the Intergovernmental Agreement attached to this Resolution. The Chair or the Executive Director is authorized to execute said agreement.



Approved by: _____
Chair

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY,
THE CITY OF DES PLAINES
AND
THE DES PLAINES PARK DISTRICT**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____ AD, 2015, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "ILLINOIS TOLLWAY", THE CITY OF DES PLAINES, a municipal corporation of the State of Illinois, hereinafter called the "CITY", and THE DES PLAINES PARK DISTRICT, a State of Illinois body politic and corporate, hereinafter called the PARK DISTRICT, individually referred to as "PARTY", and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, the ILLINOIS TOLLWAY in order to facilitate the free flow of traffic and further the safety to the motoring public, approved a 15 year Capital Program, "Move Illinois, titled *The Illinois Tollway Driving the Future*," which includes improvements to the Jane Addams Memorial Tollway (I-90) (hereinafter sometimes referred to as "Toll Highway"), including reconstructing and widening from the John F. Kennedy Expressway to Illinois Route 39, and

WHEREAS, as part of the overall project the ILLINOIS TOLLWAY is widening and reconstructing the I-90 mainline pavement which necessitates the replacement of the existing 24" Corrugated Metal Pipe ("CMP") owned and operated by the ILLINOIS TOLLWAY, that crosses both directions south of the I-90 crossing in the vicinity of Scott Street, (hereinafter referred to as the "PROJECT"), and

WHEREAS, the ILLINOIS TOLLWAY plans to replace the existing 24" CMP located in the vicinity of Scott Street in the CITY with a 30" reinforced Concrete Pipe ("RCP") approximately 45' east of its current location which will cause the abandonment of the existing 24" CMP when permanently filling the pipe with flowable concrete is completed. In addition, the ILLINOIS TOLLWAY will disassemble a short segment of the existing retaining wall to extend the pushed 30" RCP and construct a flared end section with grate, reassemble the existing retaining wall, re-grade the ditch to flow toward the new flared end section, and restore all lawns, grounds, sidewalks, parkways, curbs, gutters, signs, streets and pavement markings restored to an "as good as – or – better" than pre-construction condition; and

WHEREAS, for purposes of constructing and maintaining its PROJECT, the ILLINOIS TOLLWAY shall require a license to cross and access the area where the PROJECT is to be constructed and is requesting that the CITY and the PARK DISTRICT grant it a license to access the CITY and PARK DISTRICT owned property for the purposes of constructing and maintaining the PROJECT; and

WHEREAS, the CITY and the PARK DISTRICT agree to the ILLINOIS TOLLWAY's request and grant it a perpetual license to access (ingress and egress), use and cross the property

depicted on Exhibit A attached to and, by this reference, made a part of this AGREEMENT for the purpose of construction, occupancy and maintenance of the PROJECT and specifically grant the ILLINOIS TOLLWAY a perpetual license for access (ingress and egress), use and cross the Property to construct, operate, maintain, repair, and rehabilitate its 30” reinforced concrete pipe (“RCP”); and

WHEREAS, the ILLINOIS TOLLWAY, the CITY and the PARK DISTRICT by this instrument, which shall be known for ILLINOIS TOLLWAY recording purposes as 002014-30, desire to determine and establish their respective responsibilities toward engineering, right of way acquisition, utility relocation, construction, funding and maintenance of the PROJECT as proposed; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, the CITY by virtue of its home rule powers and 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, the PARK DISTRICT by virtue of its powers as set forth in the Park District Code 50 ILCS 605/0.01 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, a cooperative Intergovernmental Agreement is appropriate and such an Agreement is authorized by Article VII, Section 10 of the Illinois Constitution and 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 hereto agree as follows:

I. ENGINEERING

- A. The ILLINOIS TOLLWAY 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 final approved plans and specifications for the PROJECT shall be promptly delivered to the CITY and the PARK DISTRICT by the ILLINOIS TOLLWAY.
- C. The CITY and the PARK DISTRICT shall review and comment on the plans and specifications which impact the CITY's maintained highways and the PARK DISTRICT's property within fifteen (15) calendar days of receipt thereof. If the ILLINOIS TOLLWAY does not receive comments or objections from the CITY and/or the PARK DISTRICT within this time period, the lack of response shall be deemed approval of the plans and specifications. Approval by the CITY and the PARK DISTRICT shall mean the CITY and the PARK DISTRICT agree with all specifications in the plans, including alignment and location of the PROJECT. In the event of disapproval, the CITY and/or the PARK DISTRICT will detail in writing its objections to

the proposed plans and specifications for review and consideration by the ILLINOIS TOLLWAY.

- D. Any dispute concerning the plans and specifications shall be resolved in accordance with Section VI of this AGREEMENT.
- E. The ILLINOIS TOLLWAY agrees to assume the overall PROJECT responsibility, including assuring that all permits and approvals (including, without limitation, U.S. Army Corps of Engineers, Illinois Department of Natural Resources, Metropolitan Water Reclamation District of Greater Chicago, including but not limited to Department of Environmental Concerns and Division of Highways, Illinois Environmental Protection Agency, etc.) and joint participation and/or force account agreements (County, Township, Municipal, Railroad, Utility, etc.), as may be required by the PROJECT, are secured by the PARTIES hereto in support of general project schedules and deadlines. All PARTIES hereto 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.

II. RIGHT OF WAY

- A. The CITY hereby grants to the ILLINOIS TOLLWAY at no cost to the ILLINOIS TOLLWAY a perpetual license to use the CITY owned Property located within the area described as "Limits of Contractor Construction Activity" as depicted on "EXHIBIT A" ("CITY PROPERTY") for the sole purpose of accessing including but not limited to ingress, egress, use and crossing the worksite for the PROJECT. Except for the license granted pursuant to this AGREEMENT, the ILLINOIS TOLLWAY shall have no legal, beneficial, or equitable interest, whether by adverse possession or prescription or otherwise, in the CITY PROPERTY. The ILLINOIS TOLLWAY hereby accepts the CITY PROPERTY in its condition at the time of the execution of this AGREEMENT. WHERE-IS and AS-IS, and subject to applicable requirements of law. The ILLINOIS TOLLWAY acknowledges and agrees that: (i) the CITY has made no representation or warranty as to the suitability of the CITY PROPERTY for the ILLINOIS TOLLWAY'S intended purposes: and (ii) except as expressly provided in this AGREEMENT, the CITY will have no responsibility to maintain the CITY PROPERTY in any particular condition or manner. The ILLINOIS TOLLWAY waives any implied warranty that the CITY PROPERTY is or will be suitable for the ILLINOIS TOLLWAY's intended purposes. In the event that the ILLINOIS TOLLWAY's use of the CITY PROPERTY threatens the public health and safety, the ILLINOIS TOLLWAY agrees that: (i) the CITY shall have the right but not the obligation, to take all necessary action to abate the dangerous condition: and (ii) the ILLINOIS TOLLWAY shall reimburse the CITY for all actual costs incurred by the CITY in the performance of such abatement. Upon completion of the PROJECT, or any subsequent maintenance work related to the PROJECT, the ILLINOIS TOLLWAY, at its sole cost and expense, shall restore the CITY PROPERTY and all CITY- owned property in the vicinity of the CITY PROPERTY as nearly as practicable to its condition as of the date of execution of this AGREEMENT, including, without limitation: (i) replacement and grading of all topsoil removed by the ILLINOIS TOLLWAY: (ii) restoration of all fences, sidewalks, streets, roads, plantings,

landscaping, and other public improvements as nearly as practicable to the condition immediately preceding the construction of the PROJECT, if disturbed, damaged, or removed by the ILLINOIS TOLLWAY: (iii) replacement of any and all sod removed by the ILLINOIS TOLLWAY with sod of like quality: and (iv) replacement of any and all natural grass removed by the ILLINOIS TOLLWAY by seeding with a good quality seed. The CITY may terminate the license granted pursuant to this Section II.A: (i) upon 60 days written notice, with or without cause: and (ii) immediately if the PROJECT, or any subsequent maintenance work related to the PROJECT, threatens the public health, safety, and welfare, and the CITY determines, in its sole discretion, to immediately terminate the license to perform work necessary to abate the dangerous condition and protect the public health, safety, and welfare. The CITY hereby reserves the right to use CITY PROPERTY in any manner that will not prevent, impede, or interfere in any way with the exercise by the ILLINOIS TOLLWAY of the rights granted pursuant to this AGREEMENT.

- B. The PARK DISTRICT does hereby authorize, consent to, allow, permit, and grant to the ILLINOIS TOLLWAY the right on, over, under, upon, to access for ingress, egress, crossing including but not limited to temporary and permanent use and possession of the area shown on "EXHIBIT A".
- C. The ILLINOIS TOLLWAY has permission to permanently and perpetually occupy, cross, enter PARK DISTRICT real property as shown on EXHIBIT A for the purposes necessary to construct, operate and maintain the PROJECT.
- D. The CITY does hereby permanently and perpetually permit the ILLINOIS TOLLWAY the right to cross, access, use and occupy the CITY PROPERTY identified in EXHIBIT A, and grants it the right to construct, operate, maintain, repair, rehabilitate, the Toll Highway which may impact CITY PROPERTY.

III. CONSTRUCTION

- A. The ILLINOIS TOLLWAY shall advertise and receive bids, provide construction engineering inspections for and cause the PROJECT to be constructed in accordance with the PROJECT plans and specifications.
- B. After award of the construction contract(s), assuming there are no proposed deviations from the plans and specifications that affect the CITY or the PARK DISTRICT, the ILLINOIS TOLLWAY shall provide no less than seven (7) calendar days written notice to the CITY and the PARK DISTRICT prior to accessing the area and commencement of work on the PROJECT.
- C. The ILLINOIS TOLLWAY shall require its contractor(s) working within the CITY and the PARK DISTRICT's rights of way to comply with the indemnification provision contained at Section 107.26 in the ILLINOIS TOLLWAY Supplemental Specifications for construction, issued March 2014, or the indemnification provision in the applicable version of the Illinois State Toll Highway Authority's Standard Specifications subsequently in effect.

- D. The ILLINOIS TOLLWAY shall require that: (i) the CITY, the PARK DISTRICT, and their agents, officers and employees be included as additional insured parties in the General Liability Insurance the ILLINOIS TOLLWAY requires of its contractor(s), (ii) that the CITY, the PARK DISTRICT, and their agents, officers and employees will be indemnified by all contractors who perform work on the PROJECT, or any subsequent maintenance related thereto, for all claims arising in any way from the contractors' performance of, or failure to perform, such work, and (iii) that the CITY and the PARK DISTRICT will be added as an additional protected PARTY on all performance and labor and material payment bonds required of the contractor(s). These requirements shall be included in the Special Provisions of the construction contract(s).
- E. The ILLINOIS TOLLWAY shall replace the existing 24" CMP located in the vicinity of Scott Street in the CITY with a 30" reinforced Concrete Pipe ("RCP") approximately 45' east of its current location.
- F. The ILLINOIS TOLLWAY and/or the ILLINOIS TOLLWAY's contractor(s) shall:
1. Provide a locked secured 6' perimeter chain link fence protecting the work area.
 2. Limit construction working hours from 7 am to 7 pm Monday through Friday.
 3. Protect the existing trees on the Seminole Park site.
 4. Provide a bolted grate on the proposed concrete flared end section.
 5. Not allow construction at the Seminole Park site between April 1 and July 15 (peak youth baseball season).
 6. Protect the existing water main that traverses under the expected location of the contractor(s) access driveway.
 7. Require the contractor(s) to complete all construction at the Seminole Park site within four (4) weeks.
 8. Complete all lawn and ground restorations with sod within three (3) weeks of construction completion and remove the 6' perimeter chain link fence protecting the work area. The sod must be established by the contractor(s) before being accepted by the DISTRICT.
- G. The CITY and the PARK DISTRICT shall have all reasonable rights of inspection (including pre-final and final inspection) during the progress of work included in the PROJECT that affects the CITY's highway system and the PARK DISTRICT's property and shall assign personnel to perform inspections on behalf of the CITY and PARK DISTRICT during the progress of work that affects the CITY and PARK DISTRICT respectively.
- H. Notices required to be delivered by any of the PARTIES pursuant to this AGREEMENT shall be delivered as indicated in Section VIII of this AGREEMENT.

IV. FINANCIAL

- A. The ILLINOIS TOLLWAY agrees to pay all PROJECT costs related to engineering, construction engineering and construction of the PROJECT`.
- B. The CITY and the PARK DISTRICT agree to provide the ILLINOIS TOLLWAY with all necessary temporary and permanent reasonable rights of access necessary for the construction, operation and maintenance of the PROJECT without charge or cost to the ILLINOIS TOLLWAY.

V. MAINTENANCE - RESPONSIBILITIES

- A. It is understood and agreed by the PARTIES that the ILLINOIS TOLLWAY agrees to retain maintenance responsibilities for the 30” reinforced Concrete Pipe (“RCP”) in its entirety. The CITY shall retain jurisdiction and maintenance of the CITY’s highway system and the PARK DISTRICT shall retain jurisdiction and maintenance of its property respectively affected by the permanent access.

VI. GENERAL PROVISIONS

- A. It is understood and agreed that this is an AGREEMENT for perpetual access between the City of Des Plaines, the Des Plaines Park District and the Illinois State Toll Highway Authority.
- B. It is understood and agreed that 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.
- C. Wherever in this AGREEMENT approval or review by any PARTY 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 execution of this AGREEMENT. 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 CITY, the PARK DISTRICT and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY, the City Manager of the CITY and the Superintendent of Parks and Golf Operations of the PARK DISTRICT shall meet and resolve the issue. In the event that they cannot mutually agree on the resolution of a dispute concerning the plans and specifications for the PROJECT or in the carrying out of the terms of this

AGREEMENT in reference to the PROJECT, the decision of the Chief Engineer of the ILLINOIS TOLLWAY shall be final.

- F. The CITY and/or the PARK DISTRICT reserve the right from time to time to grant access, licenses on, over and or upon its property provided such subsequent grants do not unreasonably interfere with the ILLINOIS TOLLWAY's permitted use and temporary occupancy.
- G. This AGREEMENT may be executed in three (3) or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same instrument.
- H. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.
- I. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- J. The failure by the ILLINOIS TOLLWAY, the CITY or the PARK DISTRICT 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 ILLINOIS TOLLWAY, the CITY or the PARK DISTRICT unless such provision is waived in writing.
- K. 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 Du Page County, Illinois.
- L. All written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered, mailed via certified mail, overnight mail delivery, or electronic mail delivery to the following persons at the following addresses:

To the ILLINOIS TOLLWAY:	The Illinois Toll Highway Authority 2700 Ogden Avenue Downers Grove, Illinois 60515 Attn: Chief Engineer
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To the CITY:	The City of Des Plaines 1420 Miner Street Des Plaines, IL 60016 Attn: City Manager
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To the PARK DISTRICT:	The Des Plaines Park District 2222 Birch Street Des Plaines, IL 60018
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Attn: Superintendent of Parks & Golf
Operations

- M. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

(This space intentionally left blank)

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

THE DES PLAINES PARK DISTRICT

By: _____
Donald J. Miletic, Executive Director

Attest: _____

(Please Print Name)

Date:

THE CITY OF DES PLAINES

By: _____
Matthew Bogusz, Mayor

Attest: _____

(Please Print Name)

Date:

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____

Date: _____

Kristi Lafleur, Executive Director

Approved as to Form and Constitutionality

Robert T. Lane, Senior Assistant Attorney General, State of Illinois

JMR_IGA_Des Plaines& Des Plaines Park District_I-90 east of Lee St. @ Scott St_010715

ATTACH ITEM 1 EXHIBIT PDF here – City of DesPlaines

(Christi – don't worry about the exhibit for the resolution – I will attach the PDF in the "Q" drive.)

RESOLUTION NO. 20619

Background

The Tollway intends to improve the Jane Addams Memorial Tollway (I-90) from the John F. Kennedy Expressway to Interstate Route 39. As part of the Tollway's project, the Village requests that the Tollway increase the size of its crossroad culvert under I-90 from 36" to 48". The incremental cost difference for the crossroad engineering and construction work is estimated at \$33,037.20. Pursuant to the terms of the IGA, the Village will reimburse the Tollway for the actual incremental costs associated with the enhanced culvert.

Resolution

The Chief of Engineering and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Toll Highway Authority and the Village of Hoffman Estates in substantially the form of the Intergovernmental Agreement attached to this Resolution. The Chair or the Executive Director is authorized to execute said agreement.



Approved by: _____
Chair

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
THE VILLAGE OF HOFFMAN ESTATES**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____ AD, 2015, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "ILLINOIS TOLLWAY", and THE VILLAGE OF HOFFMAN ESTATES, a municipal corporation of the State of Illinois, hereinafter called the "VILLAGE", individually referred to as "PARTY", and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, the ILLINOIS TOLLWAY in order to facilitate the free flow of traffic and ensure safety to the motoring public, intends to improve the Jane Addams Memorial ILLINOIS TOLLWAY (I-90) from the John F. Kennedy Expressway to Interstate Route 39 (hereinafter sometimes referred to as "Toll Highway"), and included in multiple ILLINOIS TOLLWAY construction contract(s) including but not limited to Contract I-13-5684 (hereinafter referred to as the "PROJECT") by making the following improvements:

- the design and construction of performance based retaining walls
- the design and construction of ground mounted and wall mounted performance based noise walls
- the installation of temporary and permanent drainage
- the installation of temporary lighting and permanent lighting foundations
- installing ITS Gantry truss and sign truss foundations
- installing signing
- grading and temporary erosion control; and

WHEREAS, the VILLAGE requests that the ILLINOIS TOLLWAY increase the size of its crossroad culvert under I-90 from 36" to 48" to supplement the overland flow to the downstream from the North and South Twin Ponds which are upstream from the ILLINOIS TOLLWAY's crossroad culvert adjacent to a VILLAGE's subdivision on the south side of I-90; and

WHEREAS, the ILLINOIS TOLLWAY agrees to the VILLAGE's request to increase the size of its crossroad culvert; and

WHEREAS, the ILLINOIS TOLLWAY and the VILLAGE by this instrument, desire to determine and establish their respective responsibilities toward engineering, right of way acquisition, utility relocation, construction, funding and maintenance of the PROJECT as proposed; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *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 by Article VII, Section 10 of the Illinois Constitution and 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 hereto agree as follows:

I. ENGINEERING

- A. The ILLINOIS TOLLWAY agrees to perform preliminary and final design engineering, obtain necessary surveys, and prepare the final plans and specifications for the PROJECT, subject to reimbursement by the VILLAGE as hereinafter stipulated.
- B. The final approved plans and specifications for the crossroad culvert shall be delivered to the VILLAGE by the ILLINOIS TOLLWAY.
- C. The VILLAGE shall review the plans and specifications which impact the VILLAGE's maintained drainage within fifteen (15) calendar days of receipt thereof. If the ILLINOIS TOLLWAY does not receive comments or objections from the VILLAGE within this time period, the lack of response shall be deemed approval of the plans and specifications. Approval by the VILLAGE shall mean the VILLAGE agrees with all specifications in the plans, including alignment and location of the PROJECT improvements which impact the VILLAGE's maintained drainage. 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 ILLINOIS TOLLWAY.
- D. Any dispute concerning the plans and specifications shall be resolved in accordance with Section VIII of this AGREEMENT.
- E. The ILLINOIS TOLLWAY agrees to assume the overall PROJECT responsibility, including assuring that all permits and approvals (U.S. Army Corps of Engineers, Illinois Department of Natural Resources, Metropolitan Water Reclamation District of Greater Chicago, Kane-Du Page Soil and Water Conservation District, Du Page County, including but not limited to Department of Environmental Concerns and Division of Highways, Illinois Environmental Protection Agency, etc.) and joint participation and/or force account agreements (County, Township, Municipal, Railroad, Utility, etc.), as may be required by the PROJECT, are secured by the PARTIES hereto in support of general project schedules and deadlines. All PARTIES hereto 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.
- F. The VILLAGE shall grant and consent to any and all permits, rights of access (ingress and egress), temporary use of its property and right of way to the ILLINOIS TOLLWAY,

without charge to the ILLINOIS TOLLWAY. Any permit for right of access, temporary use shall not be unreasonably withheld by the VILLAGE.

II. RIGHT OF WAY

- A. The acquisition or transfer of permanent right of way interests is not required from the VILLAGE for the construction of the PROJECT pursuant to the approved plans and specifications, nor is the transfer of any interest in the VILLAGE's or the ILLINOIS TOLLWAY's property or rights of way which the VILLAGE or the ILLINOIS TOLLWAY deem necessary for the maintenance and operation of their respective highway systems. Therefore, it is understood by the PARTIES hereto that there will be no exchange of any interest in the VILLAGE's right of way or of the ILLINOIS TOLLWAY's right of way.
- B. In the event the ILLINOIS TOLLWAY identifies areas of the VILLAGE's right of way temporarily needed for the ILLINOIS TOLLWAY to enter, access and use to allow the ILLINOIS TOLLWAY and/or its contractor(s) to construct the PROJECT, the VILLAGE, shall upon the ILLINOIS TOLLWAY's application on the VILLAGE's permit form, issue the ILLINOIS TOLLWAY a permit without charge allowing the ILLINOIS TOLLWAY all temporary use necessary in furtherance of this AGREEMENT. In addition, the VILLAGE shall waive any bonding requirements. The ILLINOIS TOLLWAY agrees that upon completion of the PROJECT, those lands impacted by the ILLINOIS TOLLWAY or this PROJECT be restored to an "as good as – or – better" than pre-construction condition.

III. UTILITY RELOCATION

- A. The ILLINOIS TOLLWAY 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 ILLINOIS TOLLWAY shall identify adjustments to the aforementioned existing utilities.
- B. The ILLINOIS TOLLWAY agrees to make all reasonable efforts to minimize the number of utility adjustments in the design of improvements.

IV. CONSTRUCTION

- A. The ILLINOIS TOLLWAY shall 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), 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.
- B. After award of the construction contract(s), any proposed deviations from the plans and specifications that affect the VILLAGE shall be submitted to the VILLAGE for approval prior to commencing such work. The VILLAGE shall review the proposed deviations

and indicate its approval or disapproval thereof in writing. If the proposed deviation to the plans and specifications are not acceptable, the VILLAGE shall detail in writing its specific objections. If the ILLINOIS TOLLWAY receives no written response from the VILLAGE within fifteen (15) calendar days after delivery to the VILLAGE of the proposed deviation, the proposed deviation shall be deemed approved by the VILLAGE.

- C. 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 that affects the VILLAGE's system. The VILLAGE shall assign personnel to perform inspections on behalf of the VILLAGE of all work included in the PROJECT that affects the VILLAGE's system, and will deliver written notices to the Chief Engineer of the ILLINOIS TOLLWAY advising the ILLINOIS TOLLWAY as to the identity of the individual(s) assigned to perform said inspections.
- D. Notices required to be delivered by either PARTY pursuant to this AGREEMENT shall be delivered as indicated in Section VIII of this AGREEMENT.
- E. The ILLINOIS TOLLWAY shall have the right, in its sole judgment and discretion, to cancel or alter any or all portions of the work due to circumstances either known or unknown at the time of bidding or arising after the Contract(s) was entered into, in accordance with the Canceled Items Provision 109.06 included in the most current version of the ILLINOIS TOLLWAY Supplemental Specifications to the Illinois Department of Transportation Standard Specifications for Road and Bridge Construction.

V. FINANCIAL

- A. Except as otherwise identified herein, the ILLINOIS TOLLWAY agrees to pay 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 hereto that preliminary and design engineering costs to shall be computed as 5% of the actual construction costs.
- C. It is mutually agreed by the PARTIES hereto that the estimated cost to the VILLAGE for the incremental cost difference for the crossroad culvert based upon bid prices is \$31,464.00 for construction costs and \$1,573.20 (5% of construction costs) for preliminary and design engineering, for a total estimated cost of \$33,037.20.
- D. It is further agreed that notwithstanding the estimated cost, the VILLAGE shall be responsible for the actual costs associated with the requested culvert pipe size increase as described in the Recital section of this AGREEMENT.
- E. The VILLAGE agrees that upon execution of this AGREEMENT for this improvement and receipt of an invoice from the ILLINOIS TOLLWAY, the VILLAGE will pay to the ILLINOIS TOLLWAY, an amount equal to 80% of its obligation incurred under this AGREEMENT, based upon actual bid prices, and will pay to said ILLINOIS TOLLWAY the remainder of its obligation in a lump sum, upon completion of the PROJECT, based on final costs.

- F. Either the VILLAGE or the ILLINOIS TOLLWAY may request, after the construction contract(s) are let by the ILLINOIS TOLLWAY, that supplemental work that increases the total costs of the PROJECT or more costly substitute work be added to the construction contract(s). The ILLINOIS TOLLWAY 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.
- G. The VILLAGE shall indemnify and hold harmless the ILLINOIS TOLLWAY, its officers, employees, and agents from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, concerning claims alleging excess drainage passing through or from the 48" crossroad culvert to be installed under I-90 or otherwise arising out of this AGREEMENT.

VI. MAINTENANCE - RESPONSIBILITIES

- A. The ILLINOIS TOLLWAY agrees to maintain I-90 in its entirety, including the culvert pipe.

VII. ADDITIONAL MAINTENANCE PROVISIONS

- A. During construction, the VILLAGE shall continue to maintain all portions of the PROJECT within the VILLAGE's right of way that are not to be improved or maintained by the construction contractor(s) pursuant to the approved plans and specifications, and the ILLINOIS TOLLWAY shall continue to maintain all portions of the Toll Highway that are not required to be maintained by the construction contractor(s).
- B. All items of construction which are stipulated in this AGREEMENT to be maintained by the VILLAGE shall, upon completion of construction and final inspection, be the sole maintenance responsibility of the VILLAGE, and all items of construction which are stipulated in this AGREEMENT to be maintained by the ILLINOIS TOLLWAY shall, upon completion of construction, be the sole maintenance responsibility of the ILLINOIS TOLLWAY.

VIII. GENERAL PROVISIONS

- A. It is understood and agreed that this is an AGREEMENT between the Village of Hoffman Estates and the Illinois State Toll Highway Authority.
- B. It is understood and agreed that 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.

- C. Wherever in this AGREEMENT approval or review by either the VILLAGE or the ILLINOIS TOLLWAY 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 execution of this AGREEMENT. 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 VILLAGE and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY and the VILLAGE's Director of Engineering shall meet and resolve the issue. In the event that they cannot mutually agree on the resolution of a dispute concerning the plans and specifications for the PROJECT or in the carrying out of the terms of this AGREEMENT in reference to the PROJECT, the decision of the Chief Engineer of the ILLINOIS TOLLWAY 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. Under penalties of perjury, the VILLAGE certifies that its correct Federal Tax Identification number is 36-2434131 and it is doing business as a governmental entity, whose mailing address is Village of Hoffman Estates, 1900 Hassell Road, Hoffman Estates, Illinois 60169.
- H. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.
- I. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- J. The failure by the ILLINOIS TOLLWAY 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 ILLINOIS TOLLWAY or the VILLAGE unless such provision is waived in writing.
- K. 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 Du Page County, Illinois.

- L. All written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered, mailed via certified mail, overnight mail delivery, or electronic mail delivery to the following persons at the following addresses:

To the ILLINOIS TOLLWAY: The Illinois Toll Highway Authority
2700 Ogden Avenue
Downers Grove, Illinois 60515
Attn: Chief Engineer

To the VILLAGE: The Village of Hoffman Estates
1900 Hassell Road
Hoffman Estates, Illinois 60169
Attn: Director of Engineering

- M. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

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

THE VILLAGE OF HOFFMAN ESTATES

By: _____
William D. McLeod, President

Attest: _____

(Please Print Name)

Date:

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____
Kristi Lafleur, Executive Director

Date: _____

Approved as to Form and Constitutionality

Robert T. Lane, Senior Assistant Attorney General, State of Illinois


RESOLUTION NO. 20620

Background

It is in the best interest of the Illinois State Toll Highway Authority (hereinafter referred to as "Tollway") to enter into an Intergovernmental Agreement (hereinafter referred to as "IGA") with the Illinois Department of Transportation (hereinafter referred to as "IDOT"). The Tollway and IDOT have constructed a new full access interchange at the intersection of the Tri-State Tollway (I-294) and Interstate Route 57 (I-57). This IGA outlines the parties' responsibilities with respect to maintenance and other future obligations relating to the interchange.

Resolution

The Chief of Engineering and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Toll Highway Authority and the Illinois Department of Transportation in substantially the form of the Intergovernmental Agreement attached to this Resolution. The Chair or the Executive Director is authorized to execute said agreement.

Approved by: 
Chair

**INTERGOVERNMENTAL MAINTENANCE AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
THE ILLINOIS DEPARTMENT OF TRANSPORTATION
FOR THE
I-294/I-57 INTERCHANGE**

This INTERGOVERNMENTAL MAINTENANCE AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____ AD, 2015, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "ILLINOIS TOLLWAY", and THE STATE OF ILLINOIS, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called the "DEPARTMENT", individually referred to as "PARTY", and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, the ILLINOIS TOLLWAY and the DEPARTMENT in order to facilitate the free flow of traffic and ensure safety to the motoring public, intends to improve the Tri-State Tollway (I-294) (hereinafter sometimes referred to as "Toll Highway") at Interstate Route 57 (I-57) by constructing a full access interchange, which will be included in multiple DEPARTMENT and ILLINOIS TOLLWAY construction contract(s) commonly to be known as the I-294/I-57 Interchange (hereinafter referred to as the "PROJECT"); and

WHEREAS, the PROJECT has been in development for many years; and

WHEREAS, on February 23, 2000, the DEPARTMENT and the ILLINOIS TOLLWAY entered into an Intergovernmental Agreement that covered among other things, the PROJECT; and

WHEREAS, the ILLINOIS TOLLWAY and the DEPARTMENT by this instrument, desire to determine and establish certain responsibilities toward maintenance and future financial obligations of the PROJECT as proposed; and

WHEREAS, for the purposes of record keeping, this AGREEMENT shall be known as 002012-04; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, the DEPARTMENT by virtue of its powers as set forth in 605 ILCS 5/4-101 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, a cooperative Intergovernmental Agreement is appropriate and such an Agreement is authorized by Article VII, Section 10 of the Illinois Constitution and 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 hereto agree as follows:

I. MAINTENANCE - DEFINITIONS

- A. The term "local" means any PARTY to this AGREEMENT other than the ILLINOIS TOLLWAY. With respect to this AGREEMENT, it means the DEPARTMENT.
- B. The term "local road" refers to any highway, road or street under the jurisdiction of the DEPARTMENT.
- C. 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 II, MAINTENANCE - RESPONSIBILITIES, other activities as more specifically set forth in the following subparts of this Section I. Maintenance includes but is not limited to:
 - 1. "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.
 - 2. "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.
 - 3. "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.
 - 4. "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.
 - 5. "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, 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.
- D. 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.

- E. 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.
- F. 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.
- G. 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 ILLINOIS TOLLWAY, it may proceed with the proposed action if deemed necessary by the Chief Engineer.
- H. 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.
- I. 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.
- J. These are three types of bridge structures that intersect the ILLINOIS TOLLWAY rights of way:
 - 1. Type 1. An intersection where a grade separation structure has been constructed to carry the toll highway over the local road.
 - 2. Type 2. An intersection where a grade separation structure has been constructed to carry the local road over the toll highway.
 - 3. Type 3. An intersection where a partial or complete ramp interchange system, as well as a grade separation structure, has been constructed between the local road and the toll highway.

II. MAINTENANCE - RESPONSIBILITIES

- A. It is understood and agreed by the PARTIES that the ILLINOIS TOLLWAY shall retain jurisdiction and maintenance responsibilities for I-294 in its entirety and the DEPARTMENT shall retain jurisdiction and maintenance responsibilities for I-57 in its entirety.

B. The PARTIES agree to Maintain and have financial responsibility for the following ramps and roads as identified below and as depicted on Exhibits “A”, “B” and “C”:

1. Ramp A – DEPARTMENT – Exhibit A
2. Ramp/ CD Road B from I-57 to A/B split – DEPARTMENT – Exhibit A
3. Ramp/ CD Road B from A/B split to I-294 – TOLLWAY – Exhibit A
4. Ramp C – DEPARTMENT – Exhibit A
5. Ramp D – TOLLWAY – Exhibit A
6. Ramp F2 – DEPARTMENT – Exhibit A
7. Ramp H – TOLLWAY – Exhibit A
8. Ramp L – TOLLWAY - Exhibit A
9. Ramp M from I-294 to B/F2 merge – TOLLWAY – Exhibit A
10. Ramp M from B/F2 merge to I-57 – Exhibit A
11. Ramp A/Ramp B split – Exhibit B
12. Ramp F2/Ramp M merge - Exhibit C
13. Ramp C/I-294 merge – Exhibit A
14. CD Road A/Ramp L merge – Exhibit A
15. Ramp H/CD Road A merge – Exhibit A
16. Ramp C/Ramp D split – Exhibit A

C. To further define each location on Exhibit A, the interface occurs at the convergence or divergence of an entrance/exit ramp. The exact location of the transition is to be at the location of the Transverse Expansion Joint generally indicated in the standard pavement jointing details of the PARTIES hereto. Both the exit and entrance ramp details for the PARTIES with a line indicating the assumed demarcation limits are attached hereto as part of this AGREEMENT as Exhibits “D”, “E”, “F” and “G”. At each location, the gore pavement between the ramp and mainline pavement of the split/merge belong to the owner of the mainline pavement up to the point of the physical gore split between the ramps.

D. The bridge improvements being constructed under this AGREEMENT are of the following types as described in Section VI, Paragraph J above and involve the following roadway(s):

Type of Bridge Structure	Affected Roadway
Type 3	I-57

In case of a conflict between the paragraphs included in this Section, Paragraph “B” shall control over Paragraph “C” and Paragraph “C” shall govern over Paragraph “D”.

1. Type 1 - ILLINOIS TOLLWAY Right of Way over a Local Road

a. The DEPARTMENT has all maintenance responsibility as to the following:

i. All DEPARTMENT right of way, highway roadways, guardrail and other protective devices, pier protective structures or devices, roadway slopes and

shoulders, including but not limited to the portions thereof underneath the grade separation structure;

- ii. All drainage facilities on DEPARTMENT right of way which drain DEPARTMENT highway facilities, except such facilities installed by the ILLINOIS TOLLWAY on DEPARTMENT property for the purpose of carrying exclusively Toll Highway drainage;
 - iii. All underpass lighting;
 - iv. All DEPARTMENT traffic signals;
- b. The ILLINOIS TOLLWAY has all maintenance responsibility as to all remaining portions of the ILLINOIS TOLLWAY right of way at an intersection not maintained by the DEPARTMENT, as set forth herein, including but not limited to the entire grade separation structure, drainage facilities, bridge slope walls and embankments within ILLINOIS TOLLWAY access control fencing, and fences.

2. Type 2 - DEPARTMENT Roadway over ILLINOIS TOLLWAY Right of Way

- a. The DEPARTMENT has all maintenance responsibility as to the following:
 - i. All DEPARTMENT right of way and DEPARTMENT highway roadway approaches to the grade separation structure, including but not limited to pavement, curb and gutter, shoulders, sidewalks, guardrail, approach slabs, and approach embankments outside access control fences.
 - ii. The following portions of the grade elevation structure:
 - iii. The wearing surface;
 - iv. The deck, below the wearing surface and above the structural beams including expansion joints, parapet walls, railings, etc.;
 - v. Drainage facilities above structural beams and girders;
 - vi. All lighting except underpass;
 - vii. All DEPARTMENT signals and signs;
 - viii. To the extent not addressed in other intergovernmental agreements to which the DEPARTMENT is a PARTY, any facilities designed for traffic other than motor vehicles, such as bicycle or pedestrian paths or lanes;
 - ix. All drainage facilities carrying exclusively DEPARTMENT drainage.

- b. The ILLINOIS TOLLWAY has all maintenance responsibility for all portions thereof not maintained by the DEPARTMENT as set forth herein, including but not limited to the following:
 - i. All parts of the grade separation structure, including but not limited to bearings, beams, girders, slope walls, abutments and piers;
 - ii. All fences along ILLINOIS TOLLWAY routes, except overpass fencing installed to separate pedestrians, bicycles and non-vehicular traffic from highway traffic;
 - iii. All bridge deck downspouts, from a clean-out installed directly below the scuppers to the outfall;
 - iv. All remaining drainage facilities installed for the purpose of carrying exclusively Toll Highway drainage;
 - v. All underpass lighting.

3. Type 3 - Bridge Structure with a Partial or Complete Ramp Interchange System

- a. The DEPARTMENT and the ILLINOIS TOLLWAY shall have the same maintenance responsibilities for the grade separation structure as set forth above for "ILLINOIS TOLLWAY over" and "DEPARTMENT over".
- b. At all bridge structures with a partial or complete interchange system; the DEPARTMENT has all maintenance responsibility for the following:
 - i. All DEPARTMENT right of way, highway roadway and highway turning lane facilities, including pavement, curb and gutter, barrier wall, pavement marking deceleration and acceleration merging lanes contiguous to the DEPARTMENT highway pavement connecting the DEPARTMENT highway roadway pavement with ILLINOIS TOLLWAY ramps;
 - ii. All grassed areas and embankments along DEPARTMENT highway roadway, outside fences installed to protect the Toll Highway;
 - iii. All traffic signals on the DEPARTMENT highway and at the intersections between the DEPARTMENT highway and the ramps to and from the Toll Highway;
 - iv. All guardrails on the DEPARTMENT right of way and highway roadway;
 - v. All drainage facilities on DEPARTMENT highways, except for drainage structures under Toll Highway ramps;
 - vi. All lighting on the DEPARTMENT right of way and on areas of the intersection outside fences installed to protect the Toll Highway.

- c. The ILLINOIS TOLLWAY has all maintenance responsibility for the following:
- i. All ramp facilities on Toll Highway right of way or inside fences installed to protect the Toll Highway, and all pavement, shoulders, curb and gutter, pavement marking and delineators of both entrance and exit ramps onto and from the Toll Highway as follows:
 - ii. At diamond interchanges, or where ramps are signalized, the ILLINOIS TOLLWAY shall maintain ramps which intersect at approximately ninety (90) degrees to the DEPARTMENT highway, as well as right turn exit ramps for which no acceleration merge lane has been developed, to the point of connections with the DEPARTMENT's through traffic lanes;
 - iii. At all ramps onto and from the Toll Highway for which acceleration-deceleration merge lanes, collector-distributor roads or through lanes have been developed at the connection with DEPARTMENT highway roadway, or which otherwise do not conform to the description in the paragraph above, the ILLINOIS TOLLWAY shall maintain ramps to a point of connection defined by a line drawn at a forty five (45) degree angle to the edge of pavement of the outside DEPARTMENT highway roadway through traffic lane (or collector-distributor lane) passing through the nose (gore) of the ramp to its intersection with the outside edge of said ramp. When no acceleration-deceleration lane is incorporated in the interchange, the ILLINOIS TOLLWAY shall be responsible for the point of contiguity with the DEPARTMENT's pavement;
 - iv. At interstate to interstate interchanges, ramps, including traffic surveillance equipment, from one agency to another shall be maintained by the agency from which traffic is exiting to the point of connection of the exit ramp to the receiving agency mainline pavement. Notwithstanding, the ILLINOIS TOLLWAY shall maintain all ramp bridge structures;
 - v. All grassed area and embankments, traffic signs, guardrail, drainage facilities and other structures not to be maintained by the DEPARTMENT as set forth above;
 - vi. All lighting installed on ILLINOIS TOLLWAY right of way or inside fences installed to protect the Toll Highway, for the purpose of illuminating the Toll Highway and ramps to and from the Toll Highway, except as otherwise specified elsewhere in this AGREEMENT;
 - vii. Sound walls installed by the ILLINOIS TOLLWAY on ILLINOIS TOLLWAY right of way or for the benefit of the ILLINOIS TOLLWAY and its patrons.
 - viii. Sight screen fence installed by the ILLINOIS TOLLWAY on DEPARTMENT right of way. The DEPARTMENT agrees to allow the ILLINOIS TOLLWAY unlimited and unrestricted access for the maintenance of the sight screen fence. In the event the ILLINOIS TOLLWAY no longer maintains the aforementioned sight screen fence, the ILLINOIS TOLLWAY shall remove the proposed sight

screen fence, erect an access control fence and install an appropriate planted vegetation sight screen at no expense to the DEPARTMENT.

- E. The PARTIES agree that the ILLINOIS TOLLWAY reserves the exclusive right to review and approve the following:
 - 1. Any and all signage affixed to the grade separation structure or placed on ILLINOIS TOLLWAY right of way;
 - 2. The permitting of any and all loads traversing a grade separation structure over the ILLINOIS TOLLWAY issued in accordance with 92 Illinois Administration Code 554, Subchapter f, Subpart F, Section 554.605 (Super load Moves);
 - 3. Restriction of load limits for the grade separation structure, in the event bridge conditions so warrant, provided that the ILLINOIS TOLLWAY will consult with the DEPARTMENT as to the bridge conditions which warrant such restrictions;
- F. The ILLINOIS TOLLWAY will perform the periodic inspections required by the guidelines developed and agreed to by the ILLINOIS TOLLWAY and the Illinois Department of Transportation in 1996 and consistent with the National Bridge Inspection Standards (NBIS) to determine the current condition ratings for all jointly maintained bridges. The inspections performed by the ILLINOIS TOLLWAY will provide condition ratings for the entire jointly maintained structure. The ILLINOIS TOLLWAY and the DEPARTMENT will perform the inspections necessary to collect in depth information for determining maintenance and repair needs for the portions of the structure for which they have maintenance responsibility. A copy of the ILLINOIS TOLLWAY's final inspection reports shall be delivered to the DEPARTMENT.
- G. In the event the DEPARTMENT must perform maintenance of the superstructure, as required, the ILLINOIS TOLLWAY, after proper notice by the DEPARTMENT, shall assist in the coordination of any required lane closures on I-294 to perform such maintenance work.
- H. Closure of lanes of traffic on the grade separation structure, for a repair or replacement project or in the event bridge conditions so warrant, provided that the ILLINOIS TOLLWAY will consult with the DEPARTMENT before such closure;
- I. Attachment to the grade separation structure, or placement on or across ILLINOIS TOLLWAY right of way, of any and all conduit, pipe, wire, pole, device or appurtenance, provided that if such attachment or placement is directly in connection with operation of the DEPARTMENT roadway or performance of DEPARTMENT maintenance obligations under this AGREEMENT, the DEPARTMENT may make such attachment or placement after consultation with the ILLINOIS TOLLWAY.
- J. 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.

- K. In the event that one PARTY observes that emergency maintenance is needed, then the observing PARTY shall immediately notify the other of the observed condition, the nature of the immediate need, and a general description of the measures the observing PARTY intends to take to remedy the immediate need. The observing PARTY may then implement such measures without consultation, provided however that the observing PARTY remains subject to such emergency response and disaster protocols as apply generally to governmental entities. The other PARTY shall not be charged for the cost of the emergency measures taken by the observing PARTY, except after consultation and then only to the extent such maintenance is within the duties of the other PARTY under this AGREEMENT.
- L. In the event that either PARTY places, on the grade separation structure or on the right of way of the other, appurtenances such as architectural enhancements, "gateway logos", conduit pipe, or other devices which are not directly required in connection with the ILLINOIS TOLLWAY or DEPARTMENT roadway operations or required for the performance of maintenance obligations of the respective party under this AGREEMENT, then the PARTY placing such appurtenances shall have sole responsibility for all maintenance, repair, replacement, removal and/or renewal of such items, including such maintenance, repair, replacement, removal and/or renewal of such items which is necessitated by maintenance projects performed by the other PARTY pursuant to this AGREEMENT.
- M. Signalization and pavement markings at the interchange, if any, will be under the control of the DEPARTMENT. The PARTIES shall cooperate regarding signal timing and intersection operation such that traffic exiting the Toll Highway is not unnecessarily delayed or allowed to back up to the extent that it would impact Toll Highway mainline traffic. The DEPARTMENT consents when required to the future interconnection of a Ramp Queue Detection/Warning System installed on Toll Highway exit ramps to both the temporary and permanent traffic signal system and will program the traffic signal option to give exit ramps priority to preclude exiting traffic from unnecessarily backing up onto ILLINOIS TOLLWAY mainline pavement.

III. ADDITIONAL MAINTENANCE PROVISIONS

- A. It is understood and agreed by the PARTIES hereto that this AGREEMENT shall supersede any and all earlier Agreements entered into by the PARTIES hereto regarding maintenance of DEPARTMENT highways and Toll Highway facilities within the limits of this PROJECT.
- B. During construction, the DEPARTMENT shall continue to maintain all portions of the PROJECT within the DEPARTMENT's right of way that are not to be improved or maintained by the construction contractor(s) pursuant to the approved plans and specifications, and the ILLINOIS TOLLWAY shall continue to maintain all portions of the Toll Highway that are not required to be maintained by the construction contractor(s).
- C. All items of construction which are stipulated in this AGREEMENT to be maintained by the DEPARTMENT shall, upon completion of construction and final inspection, be the sole maintenance responsibility of the DEPARTMENT, and all items of construction

which are stipulated in this AGREEMENT to be maintained by the ILLINOIS TOLLWAY shall, upon completion of construction, be the sole maintenance responsibility of the ILLINOIS TOLLWAY.

- D. The DEPARTMENT and the ILLINOIS TOLLWAY agree to remove all snow and ice from the roadways under their respective jurisdiction, and such removal shall be accomplished in such a manner as not to block or obstruct any roadway of the other party.
- E. Nothing herein is intended to prevent or preclude the DEPARTMENT and the ILLINOIS TOLLWAY 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.
- F. Attached as Exhibits A through G are diagrams of the interchanges and other intersections included within the PROJECT as well as a description and identification of the ILLINOIS TOLLWAY's and the DEPARTMENT's respective maintenance responsibilities. In the event there is a conflict between the maintenance provisions contained in the Exhibits A through G and the text in Section II and Section III of this AGREEMENT, the text in Section II and Section III shall control.
- G. The DEPARTMENT agrees to allow the ILLINOIS TOLLWAY to review and will consider comments on major roadway access issues along the DEPARTMENT's highways that arise within one half (1/2) mile from the centerline of I-294. All access control shall be addressed for the mutual benefit of the DEPARTMENT and the ILLINOIS TOLLWAY in an effort to maintain free traffic movement at points of intersection. The DEPARTMENT and the ILLINOIS TOLLWAY encourage private sector funding of regional collector/distributor roadways to minimize throughway traffic impacts. For those sections where access control has been purchased by the ILLINOIS TOLLWAY, the ILLINOIS TOLLWAY agrees to review and coordinate access requests with the DEPARTMENT. For those sections with no access control, the DEPARTMENT shall retain the exclusive statutory right to control access to the DEPARTMENT's highways.
- H. The DEPARTMENT and the ILLINOIS TOLLWAY agree to cooperatively manage incidents as expeditiously as possible to minimize impact and maximize response efficiency. Each agency shall be responsible for incident management within their jurisdictional limits and shall provide reciprocal timely incident response, management, and notification as need demands regardless of incident location.

IV. GENERAL PROVISIONS

- A. It is understood and agreed that this is an AGREEMENT between the Illinois Department of Transportation and the Illinois State Toll Highway Authority.
- B. It is understood and agreed that this AGREEMENT constitutes the complete and exclusive statement of the agreement of the PARTIES relative to interchange maintenance duties and responsibilities, the subject matter hereof, and supersedes all

previous oral and written proposals, negotiations, representations or understandings concerning such subject matter.

- C. Wherever in this AGREEMENT approval or review by either the DEPARTMENT or the ILLINOIS TOLLWAY is provided for, said approval or review shall not be unreasonably delayed or withheld.
- D. In the event of a dispute between the DEPARTMENT and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY and the Deputy Director of Highways/Region One Engineer of the DEPARTMENT shall meet and resolve the issue.
- E. 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.
- F. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.
- G. 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 within three (3) years subsequent to the date of execution of this AGREEMENT.
- H. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- I. The failure by the ILLINOIS TOLLWAY or the DEPARTMENT 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 ILLINOIS TOLLWAY or the DEPARTMENT unless such provision is waived in writing.
- J. 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 Du Page County, Illinois.
- K. All written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered, mailed via certified mail, overnight mail delivery, or electronic mail delivery to the following persons at the following addresses:

To the ILLINOIS TOLLWAY:	The Illinois Toll Highway Authority 2700 Ogden Avenue Downers Grove, Illinois 60515 Attn: Chief Engineer
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To the DEPARTMENT:	The Illinois Department of Transportation 201 W. Center Court
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Schaumburg, Illinois 60196
Attn: Deputy Director of Highways/Region
One Engineer

- L. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

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

THE ILLINOIS DEPARTMENT OF TRANSPORTATION

By: _____
John A. Fortmann, P.E.
Deputy Director of Highways/
Region One Engineer

Attest: _____

(Please Print)

Date: _____

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____
Kristi Lafleur, Executive Director

Date: _____

Approved as to Form and Constitutionality

Robert T. Lane, Senior Assistant Attorney General, State of Illinois

ATTACH ITEM 3 – EXHIBIT HERE – Maintenance Agreement – IDOT
(will be attached in “Q” drive)

RESOLUTION NO. 20621

Background

It is in the best interest of the Illinois State Toll Highway Authority (“Tollway”) to enter into an Intergovernmental Agreement with Elk Grove Village (“Village”) in connection with the modifications to Lively Boulevard at the existing Thorndale Avenue intersection. Certain construction contracts occur within the Village’s jurisdictional limits, and the improvements overlap with the Village’s programmed Surface Transportation Program (hereinafter called “STP”) improvement along Lively Boulevard north of Thorndale Avenue. The Village is constructing the Lively Boulevard Reconstruction (Devon Avenue to Thorndale Avenue) STP Project, Project No. M-4003 (315) and Job No. C-91-265-14. The scope of improvements includes the reconstruction of Lively Boulevard from Thorndale Avenue to Devon Avenue. The Village has agreed to assume the final design and construction responsibilities for the portion of the Tollway Contract I-14-4644 improvements at Lively Boulevard that are adjacent to the Village’s STP improvement. The estimated cost to the Tollway is \$136,645.90, and the Tollway shall reimburse the Village for performing these design and construction functions.

Resolution

The Chief Engineer and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Toll Highway Authority and Elk Grove Village in substantially the form attached to this Resolution, the Chair or the Executive Director is authorized to execute said agreement, and the Chief of Finance is authorized to issue warrants in payment of actual costs thereof.



Approved by: _____
Chair

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
ELK GROVE VILLAGE**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____ AD, 2015, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "ILLINOIS TOLLWAY", and ELK GROVE VILLAGE, a municipal corporation of the State of Illinois, hereinafter called the "VILLAGE", individually referred to as "PARTY", and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, the ILLINOIS TOLLWAY in order to facilitate the free flow of traffic and ensure safety to the motoring public, intends to improve the Elgin O'Hare Expressway, extending the expressway from its eastern terminus at Rohlwing Road (Illinois Route 53) to O'Hare International Airport (ORD) to be known in its entirety as Illinois Route 390, and constructing the Western Access connecting the Jane Addams Memorial Tollway (I-90) with the Tri-State Tollway (I-294) (hereinafter sometimes referred to as the Elgin O'Hare Western Access "EOWA"), and included in multiple ILLINOIS TOLLWAY construction contract(s). The ILLINOIS TOLLWAY will implement, operate and maintain the mainline improvements as tolled facilities (hereinafter sometimes referred to as the "Toll Highway"); and

WHEREAS, certain construction contracts occur within the VILLAGE jurisdictional limits, and this AGREEMENT includes the EOWA improvements that overlap with the VILLAGE's programmed Surface Transportation Program (hereinafter called "STP") improvement along Lively Boulevard north of Thorndale Avenue. Additional construction contracts within the VILLAGE jurisdictional limits are part of or will be part of a future AGREEMENT(s) between the VILLAGE and the ILLINOIS TOLLWAY; and

WHEREAS, the ILLINOIS TOLLWAY, as part of the EOWA is constructing Contract I-14-4644, Illinois Route 390 extension between Lively Boulevard and Illinois Route 83 as part of the EOWA improvements. The scope of work for this contract includes construction of Illinois Route 390 from Lively Boulevard to Illinois Route 83 and the eastbound and westbound Illinois Route 390 bridges over Illinois Route 83, improvements to Illinois Route 83, and frontage road construction. The existing Thorndale Avenue roadway will be converted to a westbound frontage road and the intersection of Thorndale Avenue and Lively Boulevard will be reconfigured to a four-way intersection which includes realigning the south leg of Lively Boulevard (constructed by a separate EOWA contract); and

WHEREAS, the VILLAGE is constructing the Lively Boulevard Reconstruction (Devon Avenue to Thorndale Avenue) STP Project, Project No. M-4003 (315) and Job No. C-91-265-14. The scope of improvements includes the reconstruction of Lively Boulevard from Thorndale Avenue to Devon Avenue; and

WHEREAS, the VILLAGE has agreed to assume the final design and construction responsibilities for the portion of the ILLINOIS TOLLWAY Contract I-14-4644 improvements at Lively Boulevard that are adjacent to the VILLAGE's STP improvement. The improvements include the widening of Lively Boulevard, replacement of the existing sidewalk on the east and west sides of Lively Boulevard north of Thorndale Avenue, water main relocation, storm sewer construction, earthwork, driveway pavement, pavement markings, temporary easement acquisition, and all other work necessary to complete the improvements in accordance with the approved plans and specifications (hereinafter referred to as the "PROJECT"); and

WHEREAS, the ILLINOIS TOLLWAY will reimburse the VILLAGE for the portion of the ILLINOIS TOLLWAY Contract I-14-4644 improvements that the VILLAGE is including in the PROJECT; and

WHEREAS, the PROJECT will be constructed in advance of the ILLINOIS TOLLWAY Contract I-14-4644, the subsequent ILLINOIS TOLLWAY contract will include the restriping of Lively Boulevard when Thorndale Avenue becomes a westbound frontage road; and

WHEREAS, the ILLINOIS TOLLWAY and the VILLAGE by this instrument, desire to determine and establish their respective responsibilities toward engineering, right of way acquisition, utility relocation, construction, funding and maintenance of the PROJECT as proposed; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *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 by Article VII, Section 10 of the Illinois Constitution and 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 hereto agree as follows:

I. ENGINEERING

- A. The ILLINOIS TOLLWAY has performed preliminary design engineering, obtained the necessary surveys for ILLINOIS TOLLWAY Contract I-14-4644, and the VILLAGE has agreed to prepare the final plans and specifications for a portion of that contract to include in the PROJECT, subject to reimbursement by the ILLINOIS TOLLWAY as hereinafter stipulated. During the design and preparation of the plans and specifications, the VILLAGE shall submit the plans and specifications to the TOLLWAY for its review and comment at the following stages of plan preparation:

40% Complete

95% Complete (pre-final)

Final

- B. The final approved plans and specifications for the PROJECT shall be promptly delivered to the ILLINOIS TOLLWAY by the VILLAGE.
- C. The ILLINOIS TOLLWAY shall review the plans and specifications which impact the ILLINOIS TOLLWAY's maintained highways within fifteen (15) calendar days of receipt thereof. Approval by the ILLINOIS TOLLWAY shall mean the ILLINOIS TOLLWAY agrees with all specifications in the plans, including alignment and location of the PROJECT improvements which impact the ILLINOIS TOLLWAY's maintained highways. In the event of disapproval, the ILLINOIS TOLLWAY will detail in writing its objections to the proposed plans and specifications.
- D. Any dispute concerning the plans and specifications shall be resolved in accordance with Section IX of this AGREEMENT.
- E. The VILLAGE agrees to assume the overall PROJECT responsibility, including assuring that all permits and approvals (U.S. Army Corps of Engineers, Illinois Department of Natural Resources, Metropolitan Water Reclamation District of Greater Chicago, Du Page County, including but not limited to Department of Environmental Concerns and Division of Highways, Illinois Environmental Protection Agency, etc.) and joint participation and/or force account agreements (County, Township, Municipal, Railroad, Utility, etc.), as may be required by the PROJECT, are secured by the PARTIES hereto in support of general project schedules and deadlines. All PARTIES hereto 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.
- F. The ILLINOIS TOLLWAY shall grant and consent to any and all permits, rights of access (ingress and egress), temporary use of its property and right of way to the VILLAGE, without charge to the VILLAGE. Any permit for right of access, temporary use shall not be unreasonably withheld by the ILLINOIS TOLLWAY.

II. RIGHT OF WAY

- A. The transfer of property interests is not required between the PARTIES for this PROJECT, nor is the transfer of any interest in land deemed necessary for the future maintenance and operation of their respective facilities. Therefore, it is understood by the PARTIES hereto that there will be no exchange of any property interests pursuant to this AGREEMENT
- B. If during the construction of the PROJECT it becomes necessary for either PARTY to enter upon and temporarily use lands owned by the other PARTY, then permission for

the use, entry and subsequent restoration will not be unreasonably delayed. This permission will be granted with waiver of all fees and free of any consideration.

- C. The VILLAGE pursuant to the approved plan, shall perform all survey work and prepare all parcel plats and legal descriptions for the acquisition of all new right of way interests for the construction and future operation of the PROJECT.
- D. For purposes of financial consideration, "Right-Of-Way Costs" incurred by the VILLAGE shall include the purchase price, court ordered judgments and final settlement amounts. Furthermore the expenses for title research, survey preparation, appraisal, negotiations, relocation, and court proceedings together with any other incidental expenses typically necessary to effectuate the acquisition of right-of-way shall be included into the final tally of "Right-Of-Way Cost" as addressed in SECTION V. of this AGREEMENT

III. UTILITY RELOCATION

- A. The VILLAGE agrees to provide the ILLINOIS TOLLWAY, as soon as they are identified, the locations (existing and proposed) of public and/or private utility facilities within existing ILLINOIS TOLLWAY rights of way which require adjustment as part of the PROJECT. As part of its PROJECT engineering responsibilities, the VILLAGE shall identify adjustments to the aforementioned existing utilities.
- B. The VILLAGE agrees to make all reasonable efforts to minimize the number of utility adjustments in the design of improvements.
- C. The VILLAGE agrees to make arrangements for and issue all permits for the PROJECT and cooperate with necessary adjustments to existing utilities located within existing VILLAGE rights of way, and on proposed VILLAGE rights of way where improvements to VILLAGE highways are proposed by the VILLAGE to be done in conjunction with the PROJECT, at no expense to the ILLINOIS TOLLWAY.
- D. The ILLINOIS TOLLWAY agrees to make arrangements for and issue all permits for the PROJECT required adjustments to utility facilities located on existing ILLINOIS TOLLWAY rights of way, and on proposed ILLINOIS TOLLWAY rights of way which are outside areas of VILLAGE jurisdiction, where improvements to ILLINOIS TOLLWAY facilities are proposed to be done as part of the PROJECT, at no expense to the VILLAGE.
- E. At all locations where utilities are located on VILLAGE rights of way and must be adjusted due to work proposed by the ILLINOIS TOLLWAY, the VILLAGE agrees to cooperate with the ILLINOIS TOLLWAY in making arrangements with the applicable utility and issue all permits for the requisite adjustment(s) at no cost to the ILLINOIS TOLLWAY. The ILLINOIS TOLLWAY agrees to reimburse and/or credit the VILLAGE for any and all out of pocket costs the VILLAGE may incur in causing the aforementioned utility or utilities to be adjusted.

- F. At all locations where utilities are located on ILLINOIS TOLLWAY rights of way and must be adjusted due to work proposed by the VILLAGE, the ILLINOIS TOLLWAY agrees to make arrangements with the applicable utility and issue all permits for the requisite adjustment(s). At all locations where the VILLAGE's utilities are located on ILLINOIS TOLLWAY rights of way and must be adjusted due to work proposed by the VILLAGE or due to work proposed by the ILLINOIS TOLLWAY, the VILLAGE agrees to obtain from the ILLINOIS TOLLWAY an approved permit for the facility, and to abide by all conditions set forth therein. The VILLAGE agrees to reimburse the ILLINOIS TOLLWAY for any and all out of pocket costs the ILLINOIS TOLLWAY may incur in causing the aforementioned utility or utilities to be adjusted.
- G. In the event that the work proposed by the VILLAGE results in a conflict with the ILLINOIS TOLLWAY's fiber optic cable system, the VILLAGE shall reimburse the ILLINOIS TOLLWAY for the cost to locate, mark, design, protect, adjust and/or relocate the system.
- H. At all locations where the ILLINOIS TOLLWAY's infrastructure (remote traffic microwave sensors, message signs, weather stations, weigh-in-motion sites, signs, roadway lighting controllers, electrical services and data connections) that are currently in place within the PROJECT limits and must be adjusted due to work proposed by the VILLAGE, the VILLAGE agrees to reimburse the ILLINOIS TOLLWAY for any and all out of pocket costs the ILLINOIS TOLLWAY may incur in causing the aforementioned infrastructure to be adjusted.

IV. CONSTRUCTION

- A. The VILLAGE shall advertise and receive bids, obtain the ILLINOIS TOLLWAY concurrence as to the amount of bids (for work to be funded wholly or partially by the ILLINOIS TOLLWAY before award), 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 ILLINOIS TOLLWAY as hereinafter stipulated.
- B. After award of the construction contract(s), any proposed deviations from the plans and specifications that affect the ILLINOIS TOLLWAY shall be submitted to the ILLINOIS TOLLWAY for approval prior to commencing such work. The ILLINOIS TOLLWAY shall review the proposed deviations and indicate its approval or disapproval thereof in writing. If the proposed deviation to the plans and specifications are not acceptable, the ILLINOIS TOLLWAY shall detail in writing its specific objections.
- C. After award of the construction contract(s), assuming there are no proposed deviations from the plans and specifications that affect the ILLINOIS TOLLWAY, the VILLAGE shall provide no less than five (5) calendar days written notice to the ILLINOIS TOLLWAY prior to commencement of work on the PROJECT.
- D. The VILLAGE shall require that the ILLINOIS TOLLWAY, and its agents, officers, directors and employees be named as "additional insured" PARTIES in the General

Liability Insurance and any other type of insurance coverage that the VILLAGE requires of its contractor(s) and that the ILLINOIS TOLLWAY be added as an additional protected PARTY on all performance bonds required of the VILLAGE's contractor(s). The above referenced insurance requirements must be incorporated into any and all contract(s), construction, maintenance, or otherwise, that might be entered into in furtherance of this AGREEMENT. In addition, the VILLAGE must include contractual language in any of its contracts entered into in furtherance of this AGREEMENT requiring its contractor(s) to maintain documentation throughout the duration of this AGREEMENT evidencing the existence of required ILLINOIS TOLLWAY insurance coverage. The required insurance documentation shall include, but not be limited to: copies of policies, certificates of insurance and additional insured endorsements.

- E. The ILLINOIS TOLLWAY 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 that affects the ILLINOIS TOLLWAY's system. The ILLINOIS TOLLWAY shall assign personnel to perform inspections on behalf of the ILLINOIS TOLLWAY of all work included in the PROJECT that affects the ILLINOIS TOLLWAY's system, and will deliver written notices to the Director of Public Works of the VILLAGE advising the VILLAGE as to the identity of the individual(s) assigned to perform said inspections.
- F. Notices required to be delivered by either PARTY pursuant to this AGREEMENT shall be delivered as indicated in Section IX of this AGREEMENT.
- G. No inspections or approvals by the ILLINOIS TOLLWAY or its employees, officers or agents shall relieve the VILLAGE's contractor(s) of responsibility and liability for the proper performance of the work as determined by the ILLINOIS TOLLWAY. VILLAGE inspections and approvals shall not be considered a waiver of any right the ILLINOIS TOLLWAY may have at law or pursuant to this AGREEMENT. All ILLINOIS TOLLWAY communications and correspondence with the VILLAGE's contractor(s) or relating to a contract shall be through the VILLAGE, unless otherwise specifically directed by the VILLAGE. In the event an ILLINOIS TOLLWAY representative discovers ILLINOIS TOLLWAY 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 VILLAGE or the VILLAGE's duly designated representative.

V. FINANCIAL

- A. Except as otherwise identified herein, the VILLAGE agrees to pay all PROJECT related engineering, right of way, construction engineering and construction costs subject to reimbursement by the ILLINOIS TOLLWAY as hereinafter stipulated.
- B. It is mutually agreed by the PARTIES hereto that preliminary and design engineering costs shall be computed as 5% of the actual construction costs and construction engineering shall be computed as 10% of actual final construction costs.

- C. It is mutually agreed by the PARTIES hereto that the estimated cost to the ILLINOIS TOLLWAY is \$108,235.00 for construction costs, \$5,411.75 (5% of construction costs) for preliminary and design engineering, \$10,823.50(10% of construction costs) for construction engineering and \$12,175.65 for a temporary easement, for a total estimated cost of \$136,645.90, as shown on the attached additional work breakdown.
- D. It is further agreed that notwithstanding the estimated cost, the ILLINOIS TOLLWAY shall be responsible for the actual costs associated with the portion of ILLINOIS TOLLWAY Contract I-14-4644 requested by the ILLINOIS TOLLWAY described in the Recital section of this AGREEMENT.
- E. The ILLINOIS TOLLWAY agrees that upon award of the contract for this improvement and receipt of an invoice from the VILLAGE, the ILLINOIS TOLLWAY will pay to the VILLAGE, an amount equal to 80% of its obligation incurred under this AGREEMENT, based upon actual bid prices, and will pay to said VILLAGE the remainder of its obligation in a lump sum, upon completion of the PROJECT, based on final costs.
- F. Either the VILLAGE or the ILLINOIS TOLLWAY may request, after the construction contract(s) are let by the VILLAGE, that supplemental work that increases the total costs of the PROJECT or more costly substitute work be added to the construction contract(s). The VILLAGE will cause said supplemental work or such substitute work to be added to the construction contract(s). The PARTY requesting or causing said supplemental work or more costly substitute work shall pay for the cost increases of said work in full.

VI. MAINTENANCE - DEFINITIONS

- A. The term "local" means any PARTY to this AGREEMENT other than the ILLINOIS TOLLWAY. With respect to this AGREEMENT, it means the VILLAGE.
- B. The term "local road" refers to any highway, road or street under the jurisdiction of the VILLAGE.
- C. 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:
 - 1. "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.
 - 2. "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, 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.

- D. 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.
- E. 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.
- F. 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.
- G. 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 ILLINOIS TOLLWAY, it may proceed with the proposed action if deemed necessary by the Chief Engineer.
- H. 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.

VII. MAINTENANCE - RESPONSIBILITIES

- A. The ILLINOIS TOLLWAY agrees to maintain Illinois Route 390 in its entirety.
- B. The VILLAGE agrees to maintain, or cause to maintain, Lively Boulevard, including all facilities, sidewalks on the west and east sides of Lively Boulevard north of Thorndale Avenue, any and all fences, walls or appurtenances built to separate vehicular traffic from pedestrian traffic, the curb and gutter along Lively Boulevard, and the VILLAGE's water main that extends west to east across Lively Boulevard north of Thorndale Avenue, in its entirety.

VIII. ADDITIONAL MAINTENANCE PROVISIONS

- A. All items of construction which are stipulated in this AGREEMENT to be maintained by the VILLAGE shall, upon completion of construction and final inspection, be the sole maintenance responsibility of the VILLAGE, and all items of construction which are

stipulated in this AGREEMENT to be maintained by the ILLINOIS TOLLWAY shall, upon completion of construction, be the sole maintenance responsibility of the ILLINOIS TOLLWAY.

- B. The VILLAGE and the ILLINOIS TOLLWAY agree to remove all snow and ice from the roadways under their respective jurisdiction, and such removal shall be accomplished in such a manner as not to block or obstruct any roadway of the other PARTY.
- C. Nothing herein is intended to prevent or preclude the VILLAGE and the ILLINOIS TOLLWAY 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 that this is an AGREEMENT between Elk Grove Village and the Illinois State Toll Highway Authority.
- B. It is understood and agreed by the PARTIES hereto, that the ILLINOIS TOLLWAY shall have jurisdiction of Illinois Route 390. The VILLAGE shall retain jurisdiction of Lively Boulevard traversed or affected by Illinois Route 390 except as otherwise expressly provided for in this AGREEMENT. For the purpose of this AGREEMENT, jurisdiction shall mean the authority and obligation to administer, control, construct, maintain, and operate.
- C. It is understood and agreed that 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.
- D. Wherever in this AGREEMENT approval or review by either the VILLAGE or the ILLINOIS TOLLWAY is provided for, said approval or review shall not be unreasonably delayed or withheld.
- E. 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 execution of this AGREEMENT. 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.
- F. In the event of a dispute between VILLAGE and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY and the Director of Public Works of VILLAGE shall meet and resolve the issue.

- G. 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.
- H. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.
- I. 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 within three (3) years subsequent to the date of execution of this AGREEMENT.
- J. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- K. The failure by the ILLINOIS TOLLWAY 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 ILLINOIS TOLLWAY or the VILLAGE unless such provision is waived in writing.
- 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 Du Page County, Illinois.
- M. All written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered, mailed via certified mail, overnight mail delivery, or electronic mail delivery to the following persons at the following addresses:

To the ILLINOIS TOLLWAY:	The Illinois Toll Highway Authority 2700 Ogden Avenue Downers Grove, Illinois 60515 Attn: Chief Engineer
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To the VILLAGE:	Elk Grove Village 901 Wellington Avenue Elk Grove Village, Illinois 60007 Attn: Village Manager
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- N. The VILLAGE certifies that it is not barred from being awarded a contract under 30 ILCS 500/50-10. Section 50-10 prohibits a contractor from entering into a contract with a State agency if the contractor has been convicted of a felony and 5 years have not passed from the completion of the sentence for that felony. The contractor further acknowledges that the chief procurement officer may declare the related contract void if this certification is false.
- O. The VILLAGE certifies that neither the VILLAGE nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S.

Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This applies to contracts that exceed \$10,000 (30 ILCS 582).

- P. Forced Labor. The VILLAGE certifies it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the ILLINOIS TOLLWAY under this AGREEMENT have been or will be produced in whole or in part by forced labor, or indentured labor under penal sanction (30 ILCS 583).

- Q. Procurement of Goods or Services – State Funds. For purchases of products or services with any State of Illinois funds that are less than the small purchase threshold amount established by the Illinois Procurement Code Rules, the VILLAGE shall obtain price or rate quotations from an adequate number (at least three) of qualified sources. Procurement of products or services with any State of Illinois funds that are more than the small purchase threshold amount established by the Illinois Procurement Code Rules will require the VILLAGE to use the Invitation for Bid process or the Request for Proposal process. In the absence of formal codified procedures of the VILLAGE, the procedures of the ILLINOIS TOLLWAY will be used. The VILLAGE may only procure products or services from one source with any State of Illinois funds if: (1) the products or services are available only from a single source; or (2) the ILLINOIS TOLLWAY authorizes such a procedure; or, (3) after solicitation of a number of sources, competition is determined inadequate.

- R. The VILLAGE agrees to maintain books and records related to the performance of this AGREEMENT and necessary to support amounts charged to the ILLINOIS TOLLWAY and/or the VILLAGE under the AGREEMENT for a minimum of three (3) years from the last action on the AGREEMENT. The VILLAGE further agree to cooperate fully with any audit and to make its books and records, and books and records within its custody or control available to the Illinois Attorney General, the Illinois Auditor General, the ILLINOIS TOLLWAY Inspector General, the ILLINOIS TOLLWAY Department of Internal Audit, the ILLINOIS TOLLWAY or any other governmental agency or agent thereof that is authorized to audit or inspect such books and records.

- S. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

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

ELK GROVE VILLAGE

By: _____
Craig B. Johnson, Mayor

Attest: _____

(Please Print Name)

Date:

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____
Kristi Lafleur, Executive Director

Date: _____

Approved as to Form and Constitutionality

Tiffany I. Bohn, Assistant Attorney General, State of Illinois

ATTACH ITEM 4 EXHIBIT – Elk Grove Village here
(will be attached in “Q” drive)

RESOLUTION NO. 20622

Background

It is in the best interest of the Illinois State Toll Highway Authority (“Tollway”) to enter into an Intergovernmental Agreement (“IGA”) with the University of Illinois for pavement research. The Tollway is interested in reconstructing the central Tri-State corridor using Continuously Reinforced Concrete Pavement (CRCP). CRCP is not a new type of pavement; however, it may sometimes result in premature concrete distress and erosion of the base layer. The University of Illinois and its partners, Texas A&M University and Purdue University, are recognized experts in this area of study and possess the facilities and staffing necessary to perform the research and develop an innovative structural and material design for CRCP. The research resulting from this IGA is expected to provide the Tollway with a CRCP system that has the same or lower cost and life cycle assessment relative to its alternative, Jointed Plain Concrete Pavement. Further, it is anticipated that the research will result in prolonged roadway smoothness, greater maintenance intervals, and a favorable concrete surface for a future asphalt overlay. The term of the agreement runs from February 1, 2015 through December 31, 2017, and the cost for this research is \$750,000.

Resolution

The Chief Engineer and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Toll Highway Authority and the University of Illinois in substantially the form of the Intergovernmental Agreement attached to this Resolution, which will expire December 31, 2017, and be subject to costs not to exceed \$750,000. The Chair or the Executive Director is authorized to execute said agreement.

Approved by: _____



Chair

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
THE UNIVERSITY OF ILLINOIS
FOR THE INNOVATIVE STRUCTURAL AND MATERIAL DESIGN
FOR CONTINUOUSLY REINFORCED CONCRETE PAVEMENT**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____ AD, 2015, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "ILLINOIS TOLLWAY", and THE UNIVERSITY OF ILLINOIS, a body politic and corporate of the State of Illinois, hereinafter called the "UNIVERSITY", individually referred to as "PARTY", and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, the ILLINOIS TOLLWAY in order to facilitate the free flow of traffic and ensure safety to the motoring public, approved a 15 year Capital Program titled, "Move Illinois; *The Illinois Tollway Driving the Future.*" One of its goals is to be the "Cleanest and Greenest" Program possible. The ILLINOIS TOLLWAY intends to reconstruct the Central Tri-State corridor (I-294) in the years 2020-2022 which is expected to include a concrete pavement with an extended performance life, minimal maintenance requirements, exceptional smoothness, and superb durability; and

WHEREAS, Continuously Reinforced Concrete Pavement (CRCP) offers these qualities and characteristics and provides advantages over Jointed Plain Concrete Pavement (JPCP) including a prolonged smoothness, greater maintenance intervals, and the most favorable concrete surface for a future asphalt overlay; and

WHEREAS, the UNIVERSITY has demonstrated the necessary expertise and facilities to perform research and develop an innovative structural and material design for CRCP through its partnership with Texas A&M University and Purdue University; and

WHEREAS, the ILLINOIS TOLLWAY and the UNIVERSITY by this instrument, which for ILLINOIS TOLLWAY recording purposes shall be known as RR-14-9168, intend to outline their respective responsibilities toward implementation and funding of the research and development of the CRCP. A copy of the UNIVERSITY's proposal titled Innovative Structural and Material Design for Continuously Reinforced Concrete Pavement (CRCP) Illinois State Toll Highway Authority (February 1, 2015 to December 31, 2017) (hereinafter referred to as the "PROPOSAL") is incorporated into this AGREEMENT by reference and attached to this AGREEMENT as "EXHIBIT A"; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, the UNIVERSITY by virtue of its powers as set forth in the University of Illinois Act 110 ILCS 305/1 to enter into this AGREEMENT; and

WHEREAS, a cooperative Intergovernmental Agreement is appropriate and such an Agreement is authorized by Article VII, Section 10 of the Illinois Constitution and other provisions of Illinois Law.

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

ARTICLE I – Sponsorship/Scope

- A. The ILLINOIS TOLLWAY agrees to sponsor the UNIVERSITY in the research and development of an innovative structural and material design for CRCP.
- B. The UNIVERSITY is to provide the ILLINOIS TOLLWAY with a balanced CRCP system expected to have the same or lower cost and life-cycle assessment relative to JPCP.
- C. The pavement objectives will be achieved by designing concrete materials to achieve the desired early-age and long-term properties through innovative mix designs and curing management while maintaining the physical and chemical durability of concrete and steel.

ARTICLE II - Tasks

- A. The tasks as outlined in this plan are detailed in the PROPOSAL that is included herein as EXHIBIT A. The schedule for deliverables of any task shall comply with the PROPOSAL included in in EXHIBIT A.
- B. The tasks shall be in substantial conformance with the Schedule, Table 1 of the PROPOSAL.

ARTICLE III – Expected Outcomes and Benefits

- A. The re-engineering of CRCP for the ILLINOIS TOLLWAY is estimated to save millions of dollars through the development of improvements over existing practices by optimizing and improving the concrete materials properties.
- B. The primary benefits of this research are the initial cost savings and more sustainable design for the material, maintenance and the use phases.
- C. The costs associated with this research will result in pavement with extended service life and will be recovered from the savings in material, construction and maintenance costs.
- D. A smoother CRCP reduces rolling resistance and will reduce the environmental impacts compared with current ILLINOIS TOLLWAY concrete pavements.

ARTICLE IV – Deliverables

- A. The research deliverables will include quarterly progress reports in electronic format containing a summary of effort performed during the quarter and expected progress for the following quarter, semi-annual technical meetings with the ILLINOIS TOLLWAY and participating research project partners, and quarterly research team meetings primarily via video conference with onsite visits rotating between the UNIVERSITY, Purdue University and Texas A&M University. A final report in electronic format summarizing the results and recommendations developed as a result of this research effort will be submitted to the TOLLWAY as well as a one page technical briefing document summarizing the results of the research effort.

ARTICLE V – Financial Terms

- A. The ILLINOIS TOLLWAY as sponsor will compensate the UNIVERSITY as outlined in this AGREEMENT including the UNIVERSITY'S PROPOSAL.
- B. The funding for the research and development of an innovative structural and material design for CRCP shall be provided directly by the ILLINOIS TOLLWAY to the UNIVERSITY.
- C. The UNIVERSITY will be paid based upon its invoice(s) which shall include a detailed description of the services performed, administration costs of performance, and all other charges as contemplated by this AGREEMENT in substantial conformance with Table 5: Summary of Research Project Budget for Tasks 1 through 6 included in the PROPOSAL.
- D. The UNIVERSITY shall certify in writing, upon presentment of each invoice hereunder, that work as invoiced has been actually performed and that the UNIVERSITY is in fact complying with all other provisions of this AGREEMENT. Invoicing shall be sufficiently itemized to permit the ILLINOIS TOLLWAY or its consultant(s) or cooperating governmental unit(s) to verify performance of the work so invoiced.
- E. It is mutually agreed that the estimated budget shall not exceed \$750,000 for the term of this AGREEMENT from February 1, 2015 through December 31, 2017.
- F. To the extents that travel will be required for specific tasks of this AGREEMENT. All travel will be reimbursed according to travel regulations of the UNIVERSITY. Out of state travel when appropriate, must be approved by the Associate Vice Chancellor for Research, Director of Office of Sponsored Programs and Research Administration of the UNIVERSITY and the Chief Engineer of the ILLINOIS TOLLWAY.

ARTICLE VI – Work Product and Documents

- A. The UNIVERSITY shall retain title to equipment and all other items purchased with the funds provided by the ILLINOIS TOLLWAY under this AGREEMENT.
- B. Each PARTY, including its agents and subcontractors to this AGREEMENT may have or gain access to confidential data or information owned or maintained by the other PARTY

in the course of carrying out its responsibilities under this AGREEMENT. (Confidential Data). Any form of data resulting from the finished research and development of an innovative structural and material design for CRCP that is generated from any input data of or from the ILLINOIS TOLLWAY shall be considered Confidential Data. For any remaining data, preferably prior to disclosure or transmission of Confidential Data to the receiving PARTY, the disclosing PARTY shall designate the data or information as being confidential. Disclosure of Confidential Data, which shall include, but not be limited to written, oral or visual disclosures, shall not be disclosed except as required by law, without the advanced written approval of the other PARTY. The receiving PARTY must return any and all data collected, maintained, used or resulting from the ILLINOIS TOLLWAY's Confidential Data in the course of the performance of the AGREEMENT at the conclusion of this AGREEMENT, or earlier if requested by the other PARTY. In the alternative, the receiving PARTY may provide written certification of the destruction of the Confidential Data to the other PARTY. The foregoing obligations shall not apply to Confidential Data or information lawfully in the receiving PARTY's possession prior to its acquisition from the disclosing PARTY; received in good faith from a third-party not subject to any confidentiality obligation to the disclosing PARTY; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving PARTY; or is independently developed by the receiving PARTY without the use or benefit of the disclosing PARTY's confidential information. The confidentiality requirements in this Section will not prohibit the UNIVERSITY for publishing as outlined in ARTICLE VI-E.

- C. If the UNIVERSITY receives a request under the Illinois Freedom of Information Act or a request by legal process to disclose confidential information. The UNIVERSITY will provide prompt notice to the ILLINOIS TOLLWAY, and will not release any documents until at least five (5) business days after providing the ILLINOIS TOLLWAY with notice.
- D. **OWNERSHIP.** Deliverables are those tangible items and the intangible (intellectual) property identified and included in Exhibit A. The UNIVERSITY grants the ILLINOIS TOLLWAY shared ownership of all such work product identified and detailed in Exhibit A as a Deliverable except as detailed within this paragraph. The UNIVERSITY shall retain the rights to all methodologies, technologies, algorithms, source codes, and know-how described and/or incorporated in the Deliverables for the development of the use and end-of-life phases of the research and development of an innovative structural and material design for CRCP ("UNIVERSITY Intellectual Property"). The UNIVERSITY and the ILLINOIS TOLLWAY shall jointly retain ownership of all methodologies, technologies, algorithms, source codes, and know-how described and / or incorporated into the Deliverables for the development of the materials, construction, and operation / maintenance phases of the research and development of an innovative structural and material design for CRCP ("Jointly-Owned Intellectual Property"). Each PARTY retains the rights to use, modify, maintain, and create derivative works from the Jointly-Owned Intellectual Property of these Deliverables. The UNIVERSITY retains the rights to (a) use the Deliverables containing both UNIVERSITY Intellectual Property and Jointly Owned Intellectual Property for research and academic purposes; (b) continue further development of these specific Deliverables; and (c) share these specific Deliverables with public bodies provided UNIVERSITY recognizes the contributions of the ILLINOIS

TOLLWAY. If the ILLINOIS TOLLWAY determines the need for modifications to the Deliverables containing only UNIVERSITY Intellectual Property, the terms and conditions of any further work shall be addressed in a separate agreement between the PARTIES.

- E. The UNIVERSITY shall have the right to publish or otherwise disclose the results of the research and development of an innovative structural and material design for CRCP without the ILLINOIS TOLLWAY's approval, except for any Confidential Data as defined in ARTICLE IV-B above. Permitted publications and disclosures resulting from this AGREEMENT shall acknowledge the contribution and participation of the ILLINOIS TOLLWAY.
- F. The UNIVERSITY shall furnish to the ILLINOIS TOLLWAY, no later than the time of the final invoice, or within forty-five (45) days of termination of this AGREEMENT, whichever is earlier, a final technical report summarizing the work performed and the results thereof.

ARTICLE VII – Term and Termination

- A. The tasks shall be performed beginning February 1, 2015 and shall be completed no later than December 31, 2017.
- B. Nothing in this AGREEMENT shall be construed to require the PARTIES to contract for services and studies or to preclude the PARTIES from entering into a subsequent Agreement or Agreements as to some or all of the components of Exhibit A, or for other or different studies, consultations or services in relation to the same subject matter of the research and development of an innovative structural and material design for CRCP.
- C. In the event of any termination prior to completion of the research and development of an innovative structural and material design for CRCP, the amount due to the UNIVERSITY from the ILLINOIS TOLLWAY shall not exceed \$750,000, the total cost set forth above in ARTICLE V-E. The ILLINOIS TOLLWAY will pay for all costs incurred through the date of termination including all non-cancelable obligations. The UNIVERSITY will furnish to the ILLINOIS TOLLWAY a final technical report summarizing the work performed and results thereof, through the date of termination.

ARTICLE VIII – General Provisions

- A. The UNIVERSITY shall acknowledge the contribution and participation of the ILLINOIS TOLLWAY in any project where the ILLINOIS TOLLWAY funds are used in the implementation of the innovative structural and material design for CRCP. Such acknowledgement shall be made in any project reports or presentations.
- B. Neither PARTY will state or imply in any publication, advertisement, or other medium that any product or service bearing the name of the other PARTY, and manufactured, sold or distributed by that PARTY were approved or endorsed by the other PARTY.

- C. Each PARTY shall be responsible for injuries to persons and damages to tangible property to the extent caused by its actions, inactions, errors and omissions, including those of its officers, employees and agents, acting in the scope of their employment or agency in performing this AGREEMENT.
- D. The UNIVERSITY agrees that in the performance of this AGREEMENT and the implementation of the innovative structural and material design for CRCP, the UNIVERSITY including its officers, employees and agents will comply with all applicable state, federal and local statutes, ordinances and regulations.
- E. Each PARTY represents that no person or agency has been employed to solicit, secure or facilitate this AGREEMENT for a commission, percentage, brokerage or contingent fee.
- F. This AGREEMENT may not be assigned or transferred by either PARTY without the prior written consent of the other.
- G. It is understood and agreed that 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.
- H. Wherever in this AGREEMENT approval or review by either the UNIVERSITY or the ILLINOIS TOLLWAY is provided for, said approval or review shall not be unreasonably delayed or withheld.
- I. In the event of a dispute between UNIVERSITY and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY and the Associate Vice Chancellor for Research, Director of Office of Sponsored Programs and Research Administration of the UNIVERSITY shall meet and resolve the issue. In the event that they cannot mutually agree on the resolution of a dispute concerning the carrying out of the terms of this AGREEMENT in reference to the research and development of an innovative structural and material design for CRCP, the decision of the Chief Engineer of the ILLINOIS TOLLWAY shall be final.
- J. 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.
- K. Under penalties of perjury, the UNIVERSITY certifies that its correct Federal Tax Identification number is 37-6000511 and it is doing business as a governmental entity, whose mailing address is University of Illinois, c/o Office of Sponsored Programs and Research Administration, 1901 South First Street, Suite A, Research Park, Champaign, Illinois 61820-7406.
- L. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.

- M. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- N. The failure by the ILLINOIS TOLLWAY or the UNIVERSITY 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 ILLINOIS TOLLWAY or the UNIVERSITY unless such provision is waived in writing.
- O. 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 Du Page County, Illinois.
- P. All written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered, mailed via certified mail, overnight mail delivery, or electronic mail delivery to the following persons at the following addresses:

To the ILLINOIS TOLLWAY:

The Illinois Toll Highway Authority
2700 Ogden Avenue
Downers Grove, Illinois 60515
Attn: Chief Engineer

To the UNIVERSITY:

The University of Illinois
1208 Newmark Laboratory
Civil and Environmental
Engineering
205 North Mathews Avenue
Urbana, Illinois 61801
Attn: Jeffery R. Roesler

- Q. The UNIVERSITY certifies that it is not barred from being awarded a contract under 30 ILCS 500/50-10. Section 50-10 prohibits a contractor from entering into a contract with a State agency if the contractor has been convicted of a felony and 5 years have not passed from the completion of the sentence for that felony. The contractor further acknowledges that the chief procurement officer may declare the related contract void if this certification is false.
- R. The UNIVERSITY certifies that neither the UNIVERSITY nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This applies to contracts that exceed \$10,000 (30 ILCS 582).
- S. Forced Labor. The UNIVERSITY certifies it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the ILLINOIS TOLLWAY under this AGREEMENT have been or will be produced in whole or in part by forced labor, or indentured labor under penal sanction (30 ILCS 583).

- T. Procurement of Goods or Services – State Funds. For purchases of products or services with any State of Illinois funds that cost more than \$10,000.00, (\$5,000.00 for professional and artistic services) but less than the small purchase amount set by the Illinois Procurement Code Rules, (currently set at \$31,300.00 and \$20,000.00 for professional and artistic services) the UNIVERSITY shall obtain price or rate quotations from an adequate number (at least three) of qualified sources. Procurement of products or services with any State of Illinois funds for \$31,300.00 or more for goods and services and \$20,000.00 or more for professional and artistic services) will require the UNIVERSITY to use the Invitation for Bid process or the Request for Proposal process. In the absence of formal codified procedures of the UNIVERSITY, the procedures of the ILLINOIS TOLLWAY will be used. The UNIVERSITY may only procure products or services from one source with any State of Illinois funds if: (1) the products or services are available only from a single source; or (2) the ILLINOIS TOLLWAY authorizes such a procedure; or, (3) after solicitation of a number of sources, competition is determined inadequate.

- U. The UNIVERSITY agrees to maintain books and records related to the performance of this AGREEMENT and necessary to support amounts charged to the ILLINOIS TOLLWAY under the AGREEMENT for a minimum of three (3) years from the last action on the AGREEMENT. The UNIVERSITY further agrees to cooperate fully with any audit and to make its books and records, and books and records within its custody or control available to the Illinois Attorney General, the Illinois Auditor General, the ILLINOIS TOLLWAY Inspector General, the ILLINOIS TOLLWAY Department of Internal Audit, the ILLINOIS TOLLWAY or any other governmental agency or agent thereof that is authorized to audit or inspect such books and records.

- V. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

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

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

By: _____
 Walter K. Knorr, Comptroller

Date: _____

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____
 Kristi Lafleur, Executive Director

Date: _____

Approved as to Form and Constitutionality

Robert T. Lane, Senior Assistant Attorney General, State of Illinois

JMR_IGA_UofIUC_Innovative Structural & Material Design for CRCP_010515

ATTACH ITEM 5 EXHIBIT here – University of Illinois (Concrete)
(to be attached in “Q” drive)

RESOLUTION NO. 20623

Background

It is in the best interest of the Illinois State Toll Highway Authority (“Tollway”) to enter into an Intergovernmental Agreement with the University of Illinois (“University”) to continue its relationship with the scientists from the Illinois Natural History Survey which is based out of the University to survey the Tollway’s projects to evaluate the presence of state and federal endangered or threatened species, assist with the expediting and fostering environmental approval permitting with the state and federal resource and regulatory agencies by monitoring for listed species in association with Tollway projects, and conduct biotic and aquatic surveys throughout the Tollway’s system. The estimated cost for a five-year term is \$7,979,903.

Resolution

The Chief Engineer and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Toll Highway Authority and the University of Illinois in substantially the form attached to this Resolution, which will be for a five-year term in an amount not to exceed \$7,979,903. The Chair or the Executive Director is authorized to execute said agreement, and the Chief of Finance is authorized to issue warrants in payment thereof.



Approved by: _____
Chair

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS
URBANA-CHAMPAIGN**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____ AD, 2015, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "ILLINOIS TOLLWAY", and THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS URBANA-CHAMPAIGN, a body politic and corporate of the State of Illinois, hereinafter called the "UNIVERSITY", individually referred to as "PARTY", and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, the ILLINOIS TOLLWAY to facilitate the free flow of traffic and further the safety to the motoring public, approved a 15 year Capital Program, "Move Illinois; *The Illinois Tollway Driving the Future*," which includes improvements to new facilities and improvements to existing facilities along the Toll Highway system and are substantially included in multiple ILLINOIS TOLLWAY construction contract(s); and

WHEREAS, the ILLINOIS TOLLWAY desires to continue its relationship with the scientists from the Illinois Natural History Survey (INHS) which is based out of the UNIVERSITY to survey the ILLINOIS TOLLWAY's projects to evaluate the presence of state and federal endangered or threatened species assisting with the expediting and fostering environmental approval permitting with the state and federal resource and regulatory agencies by monitoring for listed species in association with the ILLINOIS TOLLWAY projects and conducting biotic and aquatic surveys throughout the ILLINOIS TOLLWAY's system, hereinafter referred to as the "PROJECT"; and

WHEREAS, the UNIVERSITY has demonstrated the necessary expertise and facilities to perform the above services; and

WHEREAS, the UNIVERSITY has submitted a scope of work and budget for the for the first five (5) years to continue their biological survey and monitoring efforts for the PROJECT, hereinafter referred to as the "PROPOSAL", which is attached hereto as "EXHIBIT A"; and

WHEREAS, the ILLINOIS TOLLWAY and the UNIVERSITY by this instrument, which shall be known for ILLINOIS TOLLWAY recording purposes as 002014-38, desire to determine and establish their respective responsibilities toward monitoring and funding of the PROJECT as proposed; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, the UNIVERSITY by virtue of its powers as set forth in the “University of Illinois Act,” 110 ILCS 305/1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, a cooperative Intergovernmental Agreement is appropriate and such an Agreement is authorized by Article VII, Section 10 of the Illinois Constitution and 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 hereto agree as follows:

ARTICLE I – Sponsorship/Scope

- A. The ILLINOIS TOLLWAY agrees to sponsor the UNIVERSITY in the continuation of their biological survey and monitoring efforts for the PROJECT.
- B. The scope of work consists of the components as set forth in the proposal titled “Biological Monitoring Associated with Illinois Tollway Construction Activities (2015 – 2019)” submitted by Michael J. Dreslik, Chistopher A. Phillips, and John B. Taft (EXHIBIT A).
- C. The UNIVERSITY is to furnish the personnel, materials, services, facilities and equipment for conducting the continuation of their biological survey and monitoring efforts for the ILLINOIS TOLLWAY.

ARTICLE II – Tasks

- A. The tasks as outlined in this AGREEMENT are detailed in the PROPOSAL that is included herein as EXHIBIT A. The schedule for deliverables of any task shall comply with the PROPOSAL included in EXHIBIT A or as required by the ILLINOIS TOLLWAY.
- B. The tasks shall be in substantial conformance with the PROJECT details of the PROPOSAL

ARTICLE III – Expected Outcomes and Benefits

- A. I-90 Improvements
 - The post-construction assessment of the richness and diversity of amphibians, fishes, mussels, and reptiles at stream crossings sampled in 2012 during the pre-construction survey.
- B. Illinois Route 53 & Illinois Route 120 Corridors
 - Conduct corridor surveys for evaluating the presence of state and federal endangered or threatened species and produce necessary conservation plans if incidental take authorizations are required by the Illinois Department of Natural Resources, should the presence of a listed species be discovered within the corridor.

C. I-355 South Extension

- Provide additional demographic data for the Blanding's Turtle population.

D. I-294 Improvements

- Determine if performance standards relating to vegetation, composition, structure, and integrity are met in four different bioswale designs.
- Complete the final survey for the Eastern Massasauga along the I-294 Corridor in 2015 as required by the conservation plan.
- Determine the floristic quality of the I-294 restoration site.

E. North Chicago Mitigation Site Monitoring

- Determine whether performance standards relating to vegetation composition, diversity, and integrity are met following habitat management.
- Assess the changes in species richness and diversity in 2017-2019 from baseline surveys of amphibian, bird, fish, insect, mammal, mussel, and reptile species conducted in 2015-2016.

ARTICLE IV – Deliverables

- A. The research deliverables will include written reports from the UNIVERSITY to the TOLLWAY documenting the findings from the yearly surveys, assessments and monitoring.

ARTICLE V – Financial terms

- A. The ILLINOIS TOLLWAY as sponsor will compensate the UNIVERSITY as outlined in this AGREEMENT and included in the UNIVERSITY'S PROPOSAL.
- B. The funding for the continuation of the biological survey and monitoring efforts shall be provided directly by the ILLINOIS TOLLWAY to the UNIVERSITY.
- C. The UNIVERSITY will be paid based upon its invoice(s) which shall include a detailed description of the services performed, administration costs of performance, and all other charges as contemplated by this AGREEMENT in substantial conformance with the "BUDGET" included in the PROPOSAL.
- D. The UNIVERSITY shall certify in writing, upon presentment of each invoice hereunder, that work as invoiced has been actually performed and that the UNIVERSITY is in fact complying with all other provisions of this AGREEMENT. Invoicing shall be sufficiently itemized to permit the ILLINOIS TOLLWAY or its consultant(s) or cooperating governmental unit(s) to verify performance of the work so invoiced.

- E. It is mutually agreed that the estimated budget shall not exceed \$7,979,903 for the term of this AGREEMENT from January 1, 2015 through December 31, 2019.
- F. To the extent that travel will be required for specific tasks of this AGREEMENT. All travel will be reimbursed according to travel regulations of the UNIVERSITY and in accordance with the PROPOSAL.

ARTICLE VI – Work Product and Documents

- A. The UNIVERSITY shall retain title to equipment and all other items purchased with the funds provided by the ILLINOIS TOLLWAY under this AGREEMENT.
- B. Each PARTY, including its agents and subcontractors to this AGREEMENT may have or gain access to confidential data or information owned or maintained by the other PARTY in the course of carrying out its responsibilities under this AGREEMENT. (Confidential Data). Any form of data resulting from the finished research and development of an innovative structural and material design for CRCP that is generated from any input data of or from the ILLINOIS TOLLWAY shall be considered Confidential Data. For any remaining data, preferably prior to disclosure or transmission of Confidential Data to the receiving PARTY, the disclosing PARTY shall designate the data or information as being confidential. Disclosure of Confidential Data, which shall include, but not be limited to written, oral or visual disclosures, shall not be disclosed except as required by law, without the advanced written approval of the other PARTY. The receiving PARTY must return any and all data collected, maintained, used or resulting from the ILLINOIS TOLLWAY's Confidential Data in the course of the performance of the AGREEMENT at the conclusion of this AGREEMENT, or earlier if requested by the other PARTY. In the alternative, the receiving PARTY may provide written certification of the destruction of the Confidential Data to the other PARTY. The foregoing obligations shall not apply to Confidential Data or information lawfully in the receiving PARTY's possession prior to its acquisition from the disclosing PARTY; received in good faith from a third-party not subject to any confidentiality obligation to the disclosing PARTY; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving PARTY; or is independently developed by the receiving PARTY without the use or benefit of the disclosing PARTY's confidential information. The confidentiality requirements in this Section will not prohibit the UNIVERSITY for publishing as outlined in ARTICLE VI-E.
- C. If the UNIVERSITY receives a request under the Illinois Freedom of Information Act or a request by legal process to disclose confidential information. The UNIVERSITY will provide prompt notice to the ILLINOIS TOLLWAY, and will not release any documents until at least five (5) business days after providing the ILLINOIS TOLLWAY with notice.
- D. **OWNERSHIP.** Deliverables are those tangible items and the intangible (intellectual) property identified and included in EXHIBIT A. The UNIVERSITY grants the ILLINOIS TOLLWAY shared ownership of all such work product identified and detailed in EXHIBIT A as a Deliverable.

- E. The UNIVERSITY shall have the right to publish or otherwise disclose the results of the biological survey and monitoring efforts without the ILLINOIS TOLLWAY's approval, except for any Confidential Data as defined in ARTICLE VI-B above. Permitted publications and disclosures resulting from this AGREEMENT shall acknowledge the contribution and participation of the ILLINOIS TOLLWAY.
- F. The UNIVERSITY shall furnish to the ILLINOIS TOLLWAY, no later than the time of the final invoice, or within forty-five (45) days of termination of this AGREEMENT, whichever is earlier, a final technical report summarizing the work performed and the results thereof.

ARTICLE VII – Term and Termination

- A. The tasks shall be performed beginning January 1, 2015 and shall be completed no later than December 31, 2019.
- B. Nothing in this AGREEMENT shall be construed to require the PARTIES to contract for services and studies or to preclude the PARTIES from entering into a subsequent Agreement or Agreements as to some or all of the components of Exhibit A, or for other or different studies, consultations or services in relation to the same subject matter of the biological survey and monitoring efforts.
- C. In the event of any termination prior to completion of the biological survey and monitoring, the amount due to the UNIVERSITY from the ILLINOIS TOLLWAY shall not exceed \$7,979,903, the total cost set forth above in ARTICLE V-E. The ILLINOIS TOLLWAY will pay for all costs incurred through the date of termination including all non-cancelable obligations. The UNIVERSITY will furnish to the ILLINOIS TOLLWAY a final report summarizing the work performed and results thereof, through the date of termination.

ARTICLE VIII – General Provisions

- A. The UNIVERSITY shall acknowledge the contribution and participation of the ILLINOIS TOLLWAY in any project where the ILLINOIS TOLLWAY funds are used in the biological monitoring associated with ILLINOIS TOLLWAY construction activities. Such acknowledgement shall be made in any project reports or presentations.
- B. Neither PARTY will state or imply in any publication, advertisement, or other medium that any product or service bearing the name of the other PARTY, and manufactured, sold or distributed by that PARTY were approved or endorsed by the other PARTY.
- C. Each PARTY shall be responsible for injuries to persons and damages to tangible property to the extent caused by its actions, inactions, errors and omissions, including those of its officers, employees and agents, acting in the scope of their employment or agency in performing this AGREEMENT.

- D. The UNIVERSITY agrees that in the performance of this AGREEMENT for the biological survey and monitoring efforts, the UNIVERSITY including its officers, employees and agents will comply with all applicable state, federal and local statutes, ordinances and regulations.
- E. Each PARTY represents that no person or agency has been employed to solicit, secure or facilitate this AGREEMENT for a commission, percentage, brokerage or contingent fee.
- F. This AGREEMENT may not be assigned or transferred by either PARTY without the prior written consent of the other PARTY.
- G. It is understood and agreed that 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.
- H. Wherever in this AGREEMENT approval or review by either the UNIVERSITY or the ILLINOIS TOLLWAY is provided for, said approval or review shall not be unreasonably delayed or withheld.
- I. In the event of a dispute between UNIVERSITY and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY and the Associate Vice Chancellor for Research, Director of Office of Sponsored Programs and Research Administration of the UNIVERSITY shall meet and resolve the issue. In the event that they cannot mutually agree on the resolution of a dispute concerning the carrying out of the terms of this AGREEMENT in reference to the biological monitoring associated with ILLINOIS TOLLWAY construction activities, the decision of the Chief Engineer of the ILLINOIS TOLLWAY shall be final.
- J. 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.
- K. Under penalties of perjury, the UNIVERSITY certifies that its correct Federal Tax Identification number is 37-6000511 and it is doing business as a governmental entity, whose mailing address is University of Illinois, c/o Office of Sponsored Programs and Research Administration, 1901 South First Street, Suite A, Research Park, Champaign, Illinois 61820-7406.
- L. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.
- M. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- N. The failure by the ILLINOIS TOLLWAY or the UNIVERSITY 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 ILLINOIS TOLLWAY or the UNIVERSITY unless such provision is waived in writing.

- O. 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 Du Page County, Illinois.
- P. All written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered, mailed via certified mail, overnight mail delivery, or electronic mail delivery to the following persons at the following addresses:

To the ILLINOIS TOLLWAY: The Illinois Toll Highway Authority
 2700 Ogden Avenue
 Downers Grove, Illinois 60515
 Attn: Chief Engineer

To the UNIVERSITY: University of Illinois, c/o Office of
 Sponsored Programs and Research
 Administration,
 1901 South First Street, Suite A,
 Champaign, Illinois 61820
 Attn: Julie McCabe

- Q. The UNIVERSITY certifies that it is not barred from being awarded a contract under 30 ILCS 500/50-10. Section 50-10 prohibits a contractor from entering into a contract with a State agency if the contractor has been convicted of a felony and 5 years have not passed from the completion of the sentence for that felony. The contractor further acknowledges that the chief procurement officer may declare the related contract void if this certification is false.
- R. The UNIVERSITY certifies that neither the UNIVERSITY nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This applies to contracts that exceed \$10,000 (30 ILCS 582).
- S. Forced Labor. The UNIVERSITY certifies it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the ILLINOIS TOLLWAY under this AGREEMENT have been or will be produced in whole or in part by forced labor, or indentured labor under penal sanction (30 ILCS 583).
- T. Procurement of Goods or Services – State Funds. For purchases of products or services with any State of Illinois funds that cost more than \$10,000.00, (\$5,000.00 for professional and artistic services) but less than the small purchase amount set by the Illinois Procurement Code Rules, (currently set at \$31,300.00 and \$20,000.00 for professional and artistic services) the UNIVERSITY shall obtain price or rate quotations from an adequate number (at least three) of qualified sources. Procurement of products or services with any State of Illinois funds for \$31,300.00 or more for goods and services

and \$20,000.00 or more for professional and artistic services) will require the UNIVERSITY to use the Invitation for Bid process or the Request for Proposal process. In the absence of formal codified procedures of the UNIVERSITY, the procedures of the ILLINOIS TOLLWAY will be used. The UNIVERSITY may only procure products or services from one source with any State of Illinois funds if: (1) the products or services are available only from a single source; or (2) the ILLINOIS TOLLWAY authorizes such a procedure; or, (3) after solicitation of a number of sources, competition is determined inadequate.

- U. The UNIVERSITY agrees to maintain books and records related to the performance of this AGREEMENT and necessary to support amounts charged to the ILLINOIS TOLLWAY under the AGREEMENT for a minimum of three (3) years from the last action on the AGREEMENT. The UNIVERSITY further agrees to cooperate fully with any audit and to make its books and records, and books and records within its custody or control available to the Illinois Attorney General, the Illinois Auditor General, the ILLINOIS TOLLWAY Inspector General, the ILLINOIS TOLLWAY Department of Internal Audit, the ILLINOIS TOLLWAY or any other governmental agency or agent thereof that is authorized to audit or inspect such books and records.
- V. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

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

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

By: _____
Walter K. Knorr, Comptroller

Date: _____

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____
Kristi Lafleur, Executive Director

Date: _____

By: _____
Michael Colsch, Chief of Finance

Date: _____

By: _____

Date: _____

David A. Goldberg, General Counsel

Approved as to Form and Constitutionality

Tiffany I. Bohn, Assistant Attorney General, State of Illinois

JMR_IGA_UofI-Urbana-Champaign_Illinois Natural History Survey

RESOLUTION NO. 20624

Background

It is in the best interest of the Illinois State Toll Highway Authority (“Tollway”) to enter into an Intergovernmental Agreement (“IGA”) with the University of Nebraska (“University”) for pavement research. Certain types of light poles are commonly found along the Tollway which, due to the need to provide proper illumination to critical areas of the Toll Highway, often must be placed close to the roadway behind guardrail. It is in the Tollway’s best interest to conduct research into safety practices associated with using such light poles in close proximity to guardrail. The University has the necessary expertise to perform research and to develop design guidelines for safe placement of light poles through its “Midwest Roadside Safety Facility” located at the University of Nebraska-Lincoln. The term of the Agreement is March 1, 2015 through February 28, 2017 and the upper limit of compensation is \$262,603.

Resolution

The Chief Engineer and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Toll Highway Authority and the University of Nebraska in substantially the form of the Intergovernmental Agreement attached to this Resolution, calling for research through February 28, 2017, with an upper limit on compensation of \$262,603. The Chair or the Executive Director is authorized to execute said agreement.



Approved by: _____
Chair

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
THE BOARD OF TRUSTEES OF THE UNIVERSITY OF NEBRASKA
FOR THE GUIDELINES FOR PLACEMENT OF BREAKAWAY LIGHT POLES
BEHIND MIDWEST GUARDRAIL SYSTEM**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____ AD, 2015, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "ILLINOIS TOLLWAY", and THE BOARD OF TRUSTEES OF THE UNIVERSITY OF NEBRASKA, a body politic and corporate of the State of Nebraska, hereinafter called the "UNIVERSITY", individually referred to as "PARTY", and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, the ILLINOIS TOLLWAY in order to facilitate the free flow of traffic and ensure safety to the motoring public, recently approved a 15 year Capital Program, "Move Illinois; *The Illinois Tollway Driving the Future*," which as part of its goal is to be the "Cleanest and Greenest" Program possible. The ILLINOIS TOLLWAY intends to reconstruct the Central Tri-State corridor (I-294) in the years 2020-2022 and a concrete pavement with an extended performance life, minimal maintenance, exceptional smoothness, and superb durability is required; and

WHEREAS, light poles are commonly found along the ILLINOIS TOLLWAY due to the need to provide proper illumination to critical areas of the Toll Highway and often must be placed sufficiently close to the roadway in areas where guardrail is present; and

WHEREAS, several concerns exist when placing light poles in close proximity to guardrail that may affect the guardrails ability to safely contain and redirect vehicles; and

WHEREAS, the use of breakaway light poles may mitigate these concerns to some degree and the interaction between a guardrail system and a closely positioned light pole requires further investigation; and

WHEREAS, the UNIVERSITY has demonstrated the necessary expertise and facilities to perform research and to develop design guidelines for safe placement of light poles through its "Midwest Roadside Safety Facility" located at the University of Nebraska-Lincoln; and

WHEREAS, the ILLINOIS TOLLWAY and the UNIVERSITY by this instrument, which for ILLINOIS TOLLWAY recording purposes shall be known as 002014-37, desire to outline and establish their respective responsibilities toward implementation and funding of the research and development of the design guidelines for safe placement of light poles. A copy of the UNIVERSITY's proposal titled "APPENDIX C: PROPOSAL COVER SHEET FOR SOLICITATION # 14-02" dated December 18, 2014, (hereinafter referred to as the "PROPOSAL") is incorporated by reference and attached to this AGREEMENT as "EXHIBIT A"; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, a cooperative Intergovernmental Agreement is appropriate and such an Agreement is authorized by Article VII, Section 10 of the Illinois Constitution and 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 hereto agree as follows:

ARTICLE I – Sponsorship/Scope

- A. The ILLINOIS TOLLWAY agrees to sponsor the UNIVERSITY in the research and development of guidance for use in the safe placement of ILLINOIS TOLLWAY standard light poles behind Midwest Guardrail System (MGS).
- B. The UNIVERSITY is to provide the ILLINOIS TOLLWAY with guidelines for placement of breakaway light poles behind MGS.
- C. The objectives will be achieved by utilizing computer simulation of various pole offsets and critical impact points to determine the minimal pole offset for the MSG with standard post spacing and the recommended configuration for full-scale testing. Full-scale crash testing will be conducted to evaluate the minimum proposed pole offset according to the AASHTO MASH Test Level 3 (TL-3) impact safety requirements in MASH. The results of the crash testing, computer simulation and previous testing of the MGS system will be applied to develop pole placement guidance for the MGS.

ARTICLE II - Tasks

- A. The tasks as outlined in this plan are detailed in the PROPOSAL that is included herein as EXHIBIT A. The schedule for deliverables of any task shall comply with the PROPOSAL in EXHIBIT A and be compliant with the ILLINOIS TOLLWAY's original request for a proposal.
- B. The tasks shall be in substantial conformance with the Major Task List – Phase I and Major Task List – Phase II of the PROPOSAL.

ARTICLE III – Expected Outcomes and Benefits

- A. The successful development and evaluation of a minimal offset for light poles placed adjacent to the MGS to allow the ILLINOIS TOLLWAY to reduce light pole relocations in upcoming construction projects and avoid relocation in projects that are currently underway.
- B. Avoid or reduce light pole relocations when minimum clearance distance is not met would reduce construction costs.

- C. The research could potentially reduce the need for supplemental lighting, planning, and analysis of lighting impacts due to necessary light pole relocation.
- D. The recommendation of modifications to the ILLINOIS TOLLWAY standard drawings and manuals based upon research.
- E. Suggested guidance regarding clearance distance for similar, breakaway devices.
- F. Obtain Federal Highway Administration Eligibility Letter for proposed clearance distance for breakaway devices.

ARTICLE IV – Deliverables

The following are items and materials to be delivered to the ILLINOIS TOLLWAY (hereinafter referred to as “DELIVERABLES”).

- A. Obtain Federal Highway Administration Eligibility Letter for proposed clearance distance for breakaway devices.
- B. Provide a one (1) page technical summary of report.
- C. Update the ILLINOIS TOLLWAY with quarterly briefings (electronic memo) of findings as well as student involvement.
- D. Submit two (2) hardcopies and one (1) electronic copy (PDF) of final report.
- E. Archive to a DVD the MASH TL-3 crash videos.
- F. The UNIVERSITY shall furnish to the ILLINOIS TOLLWAY, no later than the time of the final invoice, or within forty-five (45) days of termination of this AGREEMENT, whichever is earlier, a final technical report summarizing the work performed and the results thereof.
- G. Other materials and reports referenced in the AGREEMENT.

ARTICLE V – Financial Terms

- A. The ILLINOIS TOLLWAY as sponsor will fund the UNIVERSITY, pursuant to the provisions of this AGREEMENT.
- B. The funding for the research and development of guidelines for placement of breakaway light poles behind Midwest Guardrail System shall be provided directly by the ILLINOIS TOLLWAY to the UNIVERSITY.
- C. The UNIVERSITY will be paid based upon its invoice(s) which shall include a detailed description of the services performed, administration costs of performance, and all other

charges as contemplated by this AGREEMENT in substantial conformance with Table 1 and Table 2 included in the PROPOSAL.

- D. The UNIVERSITY shall certify in writing, upon presentment of each invoice hereunder, that work as invoiced has been actually performed and that the UNIVERSITY is in fact complying with all other provisions of this AGREEMENT. Invoicing shall be sufficiently itemized to permit the ILLINOIS TOLLWAY or its consultant(s) or cooperating governmental unit(s) to verify performance of the work so invoiced.
- E. It is mutually agreed that the estimated budget and upper limit of compensation shall not exceed \$262,603 for the term of this AGREEMENT from March 1, 2015 through February 28, 2017.

ARTICLE VI – Work Product and Documents

- A. The UNIVERSITY shall retain title to equipment and all other items purchased with the funds provided by the ILLINOIS TOLLWAY under this AGREEMENT.
- B. Each PARTY, including its agents and subcontractors, to this AGREEMENT may have or gain access to confidential data or information owned or maintained by the other PARTY in the course of carrying out its responsibilities under this AGREEMENT.
- C. **Confidential Data.** Any form of data resulting from the finished research and development of guidelines for placement of breakaway light poles behind Midwest Guardrail System that is generated from any input data of or from the ILLINOIS TOLLWAY shall be considered Confidential Data. For any remaining data, prior to disclosure or transmission of Confidential Data to the receiving PARTY, the disclosing PARTY shall designate the data or information as being confidential. Disclosure of Confidential Data, which shall include, but not be limited to written, oral or visual disclosures, shall not be disclosed except as required by law, without the advanced written approval of the other PARTY. The receiving PARTY must return any and all data collected, maintained, used or resulting from the ILLINOIS TOLLWAY's Confidential Data in the course of the performance of the AGREEMENT at the conclusion of this AGREEMENT, or earlier if requested by the other PARTY. In the alternative, the receiving PARTY may provide written certification of the destruction of the Confidential Data to the other PARTY. The foregoing obligations shall not apply to Confidential Data or information lawfully in the receiving PARTY's possession prior to its acquisition from the disclosing PARTY if Confidential Data was; 1) received in good faith from a third-party not subject to any confidentiality obligation to the disclosing PARTY; 2) now is or later becomes publicly known through no breach of confidentiality obligation by the receiving PARTY; or 3) is independently developed by the receiving PARTY without the use or benefit of the disclosing PARTY's confidential information. The confidentiality requirements in this Section will not prohibit the UNIVERSITY for publishing as outlined in ARTICLE VI-G.
- D. If the UNIVERSITY receives a request under the Illinois Freedom of Information Act or a request by legal process to disclose confidential information. The UNIVERSITY will provide prompt notice to the ILLINOIS TOLLWAY, and will not release any documents

until at least five (5) business days after providing the ILLINOIS TOLLWAY with notice.

- E. **OWNERSHIP.** Deliverables are those tangible items and the intangible (intellectual) property identified and included in Exhibit A. The UNIVERSITY grants the ILLINOIS TOLLWAY shared ownership of all such work product identified and detailed in Exhibit A as a Deliverable except as detailed within this paragraph. The UNIVERSITY shall retain the rights to all methodologies, technologies, algorithms, source codes, simulation analysis and know-how described and/or incorporated in the Deliverables for the development of the use of the guidelines for placement of breakaway light poles behind Midwest Guardrail System. Each PARTY retains the rights to use, modify, maintain, and create derivative works from the jointly-owned property of these Deliverables. The UNIVERSITY retains the rights to (a) use the Deliverables containing both UNIVERSITY Intellectual Property and Jointly Owned Intellectual Property for research and academic purposes; (b) continue further development of these specific Deliverables; and (c) share these specific Deliverables with public bodies provided UNIVERSITY recognizes the contributions of the ILLINOIS TOLLWAY. If the ILLINOIS TOLLWAY determines the need for modifications to the Deliverables, the terms and conditions of any further work shall be addressed in a separate agreement between the PARTIES.
- F. **FORMAT.** All research and development of the guidelines for placement of breakaway light poles behind Midwest Guardrail System shall be developed by UNIVERSITY using the Microsoft Excel program.
- G. The UNIVERSITY shall have the right to publish or otherwise disclose the results of the guidelines for placement of breakaway light poles behind Midwest Guardrail System without the ILLINOIS TOLLWAY's approval, except for any Confidential Data as defined in ARTICLE VI-C above. Permitted publications and disclosures resulting from this AGREEMENT shall acknowledge the contribution and participation of the ILLINOIS TOLLWAY.

ARTICLE VII – Term and Termination

- A. The tasks shall be performed beginning March 1, 2015 through February 28, 2017.
- B. In the event of any termination prior to completion of the research and development of the guidelines for placement of breakaway light poles behind Midwest Guardrail System, the ILLINOIS TOLLWAY will pay for all costs incurred through the date of termination including all non-cancelable obligations, even though obligations may extend beyond the termination date. The UNIVERSITY will furnish to the ILLINOIS TOLLWAY a final technical report summarizing the work performed and results thereof, through the date of termination.

ARTICLE VIII – General Provisions

- A. The UNIVERSITY shall acknowledge the contribution and participation of the ILLINOIS TOLLWAY in the implementation of the guidelines for placement of

breakaway light poles behind Midwest Guardrail System. Such acknowledgement shall be made in any project reports or presentations.

- B. Each PARTY shall be responsible for injuries to persons and damages to tangible property to the extent caused by its actions, inactions, errors and omissions, including those of its officers, employees and agents, acting in the scope of their employment or agency, in performing this AGREEMENT.
- C. The UNIVERSITY agrees that in the performance of this AGREEMENT and the implementation of the guidelines for placement of breakaway light poles behind Midwest Guardrail System, the UNIVERSITY including its officers, employees and agents will comply with all applicable state, federal and local statutes, ordinances and regulations.
- D. Each PARTY represents that no person or agency has been employed to solicit, secure or facilitate this AGREEMENT for a commission, percentage, brokerage or contingent fee.
- E. This AGREEMENT may not be assigned or transferred by either PARTY without the prior written consent of the other.
- F. It is understood and agreed that 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.
- G. Wherever in this AGREEMENT approval or review by either the UNIVERSITY or the ILLINOIS TOLLWAY is provided for, said approval or review shall not be unreasonably delayed or withheld.
- H. 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 execution of this AGREEMENT. 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.
- I. In the event of a dispute between UNIVERSITY and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY and the Research Associate Professor and Director of the UNIVERSITY shall meet and resolve the issue. The decision of the Chief Engineer will be final.
- J. 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.
- K. Under penalties of perjury, the UNIVERSITY certifies that its correct Federal Tax Identification number is _____ and it is doing business as a governmental entity, whose mailing address is University of Nebraska-Lincoln, Office of

Sponsored Programs, 2200 Vine Street, 151 Whittier Research Center, Lincoln, Nebraska 68583-0861.

- L. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.
- M. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns.
- N. The failure by the ILLINOIS TOLLWAY or the UNIVERSITY 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 ILLINOIS TOLLWAY or the UNIVERSITY unless such provision is waived in writing.
- O. 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 Du Page County, Illinois.
- P. All written reports, notices and other communications related to this AGREEMENT shall be in writing and shall be personally delivered, mailed via certified mail, overnight mail delivery, or electronic mail delivery to the following persons at the following addresses:

To the ILLINOIS TOLLWAY:	The Illinois Toll Highway Authority 2700 Ogden Avenue Downers Grove, Illinois 60515 Attn: Chief Engineer
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To the UNIVERSITY:	The University of Nebraska Nebraska Department of Roads Materials and Research 1500 Nebraska Highway 2 Lincoln, Nebraska 68502 Attn: Research Coordinator
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- Q. The UNIVERSITY certifies that it is not barred from being awarded a contract under 30 ILCS 500/50-10. Section 50-10 prohibits a contractor from entering into a contract with a State agency if the contractor has been convicted of a felony and 5 years have not passed from the completion of the sentence for that felony. The contractor further acknowledges that the chief procurement officer may declare the related contract void if this certification is false.
- R. The UNIVERSITY certifies that neither the UNIVERSITY nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This applies to contracts that exceed \$10,000 (30 ILCS 582).

- S. Forced Labor. The UNIVERSITY certifies it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the ILLINOIS TOLLWAY under this AGREEMENT have been or will be produced in whole or in part by forced labor, or indentured labor under penal sanction (30 ILCS 583).

- T. Procurement of Goods or Services – State Funds. For purchases of products or services with any State of Illinois funds that cost more than \$10,000.00, (\$5,000.00 for professional and artistic services) but less than the small purchase amount set by the Illinois Procurement Code Rules, (currently set at \$31,300.00 and \$20,000.00 for professional and artistic services) the UNIVERSITY shall obtain price or rate quotations from an adequate number (at least three) of qualified sources. Procurement of products or services with any State of Illinois funds for \$31,300.00 or more for goods and services and \$20,000.00 or more for professional and artistic services) will require the UNIVERSITY to use the Invitation for Bid process or the Request for Proposal process. In the absence of formal codified procedures of the UNIVERSITY, the procedures of the ILLINOIS TOLLWAY will be used. The UNIVERSITY may only procure products or services from one source with any State of Illinois funds if: (1) the products or services are available only from a single source; or (2) the ILLINOIS TOLLWAY authorizes such a procedure; or, (3) after solicitation of a number of sources, competition is determined inadequate.

- U. The UNIVERSITY agrees to maintain books and records related to the performance of this AGREEMENT and necessary to support amounts charged to the ILLINOIS TOLLWAY and/or the UNIVERSITY under the AGREEMENT for a minimum of three (3) years from the last action on the AGREEMENT. The UNIVERSITY further agree to cooperate fully with any audit and to make its books and records, and books and records within its custody or control available to the Illinois Attorney General, the Illinois Auditor General, the ILLINOIS TOLLWAY Inspector General, the ILLINOIS TOLLWAY Department of Internal Audit, the ILLINOIS TOLLWAY or any other governmental agency or agent thereof that is authorized to audit or inspect such books and records.

- V. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

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

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF NEBRASKA

By: _____
Ronald K. Faller, Ph.D., P.E.
Research Associate Professor
& Director

Attest: _____
Jeanne Wicks, Director
Sponsored Programs

Date: _____

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____
Kristi Lafleur, Executive Director

Date: _____

By: _____
Michael Colsch, Chief of Finance

Date: _____

By: _____
David A. Goldberg, General Counsel

Date: _____

Approved as to Form and Constitutionality

Robert T. Lane, Senior Assistant Attorney General, State of Illinois

JMR_IGA_UofNebraska_Placement of Breakaway Light Poles Guidelines_020315

Attach Item 8 – University of Nebraska EXHIBIT here
(will be attached in “Q” drive)

RESOLUTION NO. 20625

Background

It is in the best interest of the Illinois State Toll Highway Authority (“Tollway”) to enter into a General Utility Agreement with Zayo Group Communications (“Zayo”). This Agreement defines the processes and procedures required to identify, design, construct and make payments for the relocation, removal or protection of Zayo fiber optic facilities that conflict with current and future Tollway Improvements. The costs for the necessary relocations and reimbursements will be included in the applicable Tollway construction contract(s).

Resolution

The Chief of Engineering and the General Counsel are authorized to negotiate and prepare an Agreement between the Illinois State Toll Highway Authority and Zayo Group Communications in substantially the form of the Agreement attached to this Resolution. The Chair or the Executive Director is authorized to execute said agreement.



Approved by: _____
Chair

GENERAL UTILITY AGREEMENT BETWEEN
THE ILLINOIS STATE TOLLWAY HIGHWAY AUTHORITY
AND
ZAYO GROUP LLC

THIS GENERAL AGREEMENT, (hereinafter referred to as the “AGREEMENT”) is entered into this ____ day of _____, AD, 20__ by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, (hereinafter called the “ILLINOIS TOLLWAY”), and the ZAYO GROUP, LLC, a Delaware Limited Liability Company, (hereinafter called the “UTILITY”), individually referred to as “PARTY” and collectivity referred to as “PARTIES”

W I T N E S S E T H

WHEREAS, it may become necessary for the ILLINOIS TOLLWAY to construct new toll highway routes or improve the existing toll highway in the future (hereinafter referred to as the “PROJECT”); and

WHEREAS, The UTILITY owns, operates and maintains ELECTRONIC COMMUNICATIONS, (hereinafter called the “FACILITIES”), in or about the area to be traversed by the PROJECTS, or future improvements, and may have interests in lands and right-of-way, where portions of which may or will interfere with the construction, operation or maintenance of the toll highway, and it is necessary that portions of said FACILITIES which interfere be protected, adjusted, relocated, modified or removed (hereinafter referred to as the “MODIFICATIONS”) to avoid conflict with the PROJECT; and

WHEREAS, the PARTIES desire to cooperate in the MODIFICATIONS of the FACILITIES and construction of the PROJECTS or future improvements so that inconvenience to the public and interruptions to service are minimized and construction of the PROJECTS is expedited; and

WHEREAS, the PARTIES by this instrument, which shall be known for recording purposes as ILLINOIS TOLLWAY agreement 002013-37; desire to determine and establish their respective responsibilities toward engineering, right of way acquisition, utility relocation, construction, funding and maintenance of the PROJECT, or future improvements; and

WHEREAS, the ILLINOIS TOLLWAY by virtue of its powers as set forth in the "Toll Highway Act," 605 ILCS 10/1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, Section 11 of the ACT requires utilities (as defined in the Public Utilities Act Illinois Compiled Statues, Chapter 20, Act 5, Section 10-101) currently in force: and incorporated by reference to MODIFY FACILITIES which the ILLINOIS TOLLWAY determines interfere with a Toll Highway PROJECTS; and

WHEREAS, Section 11 of the ACT requires that the ILLINOIS TOLLWAY ascertain and pay all necessary MODIFICATION costs of the UTILITY whose FACILITIES are so ordered modified. FACILITIES installed under a permit granted by the ILLINOIS TOLLWAY, or other agreement under which the UTILITY retains financial responsibility for the costs associated with any relocation notwithstanding the UTILITY'S financial responsibilities, shall be protected, adjusted, modified or removed in accordance with the work order process and approvals required by the provisions of this AGREEMENT; and

WHEREAS, it is appropriate and in the best interest of the PARTIES that they agree on the manner in which the necessary work to MODIFY the FACILITIES shall be done, the costs incurred and credits due, the method and manner of ascertaining the costs, and credits, and making payment therefore, and the procedures for providing necessary rights-of-way for the FACILITIES which must be modified to accommodate the proposed PROJECTS; and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt hereof which is hereby acknowledged, the PARTIES hereto agree as follows:

I. STATEMENT OF PURPOSE

It is the intention of the PARTIES that the ILLINOIS TOLLWAY and the UTILITY cooperate so that all utility interferences related to the construction of the PROJECT(S) shall be resolved in a timely manner and to establish a process to identify, design, construct and make payment for the MODIFICATIONS of the FACILITIES in conflict with the proposed PROJECTS.

II. NOTICE OF INTERFERENCE

A. The ILLINOIS TOLLWAY will from time to time give the UTILITY written "Notification of Utility Interference" (NOI), (similar in form to Exhibit "A"), whenever, in the opinion of the ILLINOIS TOLLWAY, any MODIFICATION of the FACILITIES appears necessary. Each Notification shall designate a "Utility Job Number" assigned by the ILLINOIS TOLLWAY and include information concerning the location of the FACILITIES to be modified.

B. The ILLINOIS TOLLWAY agrees to provide the UTILITY with plans, specifications, survey data, soil borings and other supplementary

information relating to the PROJECTS as soon as they become available in order to facilitate the design and/or other options of the FACILITIES to eliminate the conflicts which may require MODIFICATIONS as part of the PROJECTS.

III. OTHER GOVERNMENTAL IMPROVEMENTS

- A.** This AGREEMENT is not intended to alter the terms of any previously issued permits or prior agreements between the UTILITY and any local government, county, governmental agency or departments relating to utility occupancies or relocations. Improvements to FACILITIES under the jurisdictions of a local government, county, governmental agency or departments may be required in addition to ILLINOIS TOLLWAY PROJECTS. This work (hereinafter referred to as “OTHER GOVERNMENTAL IMPROVEMENTS”) may include, but is not limited to, improvements to traffic lanes, intersections, approaches, exit and entrance ramps, lighting, and drainage systems.
- B.** OTHER GOVERNMENTAL IMPROVEMENTS may be incorporated into the ILLINOIS TOLLWAY construction contracts.
- C.** After the issuance of the Notice of Interference, but before the approval of the Order for Utility Work, the ILLINOIS TOLLWAY shall notify the UTILITY if a portion of their MODIFICATIONS, are required due to OTHER GOVERNMENTAL IMPROVEMENTS.
- D.** The TOLLWAY shall not be obligated to reimburse the UTILITY for the cost of any MODIFICATIONS of the FACILITIES which the UTILITY is directed to make for the benefit of another local government, county, governmental agency or department due to OTHER GOVERNMENTAL IMPROVEMENTS and which are not required for the construction, operation, or maintenance of the ILLINOIS TOLLWAY.
- E.** The PARTIES further agree that the MODIFICATIONS of FACILITIES made necessary by OTHER GOVERNMENTAL IMPROVEMENTS which are the subject of a NOI, the MODIFICATIONS shall be identified, designed,

constructed, and carried out in accordance with the terms and conditions of this AGREEMENT.

- F.** Any reimbursement received by the ILLINOIS TOLLWAY from a local government, county, governmental agency or department for utility work due to OTHER GOVERNMENTAL IMPROVEMENT which is included in the ILLINOIS TOLLWAY construction contracts and not subject to reimbursement by the ILLINOIS TOLLWAY, shall whenever possible, be passed on to the UTILITY.
- G.** The UTILITY shall specifically designate the part or percentage of the MODIFICATIONS made necessary by the PROJECT (and reduced by the proposed OTHER GOVERNMENTAL IMPROVEMENTS) for which it seeks reimbursement by the ILLINOIS TOLLWAY in accordance with the terms and conditions of this AGREEMENT.

IV. ORDER FOR UTILITY WORK

A. Upon receipt of the “NOI” and after such supplementary information as may reasonably be required by the UTILITY to prepare a detailed plan to MODIFY its FACILITIES, the UTILITY shall prepare and submit to the ILLINOIS TOLLWAY the completed “Order for Utility Work” (in a form similar to Exhibit “B”) with the following completed documents:

1. Completed Order for Utility Work form.
2. Plan and profile detailing the work required.
3. Plan and profile for temporary facilities (if required).
4. Cost estimate for the MODIFICATIONS.
5. Detailed Work schedule.
6. Time estimate to perform each phase of the work and time estimates for any required temporary or staged construction.
7. Percentage of reimbursement resulting from to OTHER GOVERNMENTAL IMPROVEMENTS.

B. The UTILITY shall prepare and submit an “Order for Utility Work” to the ILLINOIS TOLLWAY for each FACILITY or group of FACILITIES designated by a separate Utility Job Number.

C. The UTILITY’S submittals shall detail the plan and cross sections, of the locations and profile of existing and proposed FACILITIES, including any

temporary construction, staged construction and right-of-way that may be required. If the relocation of the FACILITIES is necessary, the ILLINOIS TOLLWAY shall determine the sites within the right-of-way to which the FACILITIES shall be relocated, taking into consideration the costs of relocation to various proposed sites and the UTILITY'S site preferences, maintenance and access requirements.

C. The Cost Estimate to MODIFY the FACILITIES for each Utility Job Number shall include, but shall not be limited to, the following:

1. The UTILITY's Engineering Costs.
 - a. Engineering Expense.
 - b. Administrative and General Expenses.
 - c. Benefits, Pension, Welfare, Payroll Taxes.
2. The UTILITY's Labor Costs.
 - a. Labor expenses.
 - b. Administrative and General Expenses.
 - c. Benefits, Pension, Welfare, Payroll Taxes.
3. Materials and Supplies.
 - a. Estimated itemized quantities.
 - b. Estimated cost of each item.
 - c. Inventory and Handling costs.
4. Contractor Charges;
5. Motor vehicle and equipment costs breakdown.
6. Estimated costs of temporary or staged FACILITIES.
7. Estimated cost of construction and environmental permits.
8. Estimated costs of additional right-of-way.
 9. Credit for betterment of FACILITIES.
 10. Credit for salvage.
11. The reimbursable percentage associated with OTHER GOVERNMENTAL IMPROVEMENTS as outlined in this AGREEMENT

E. The cost estimate shall include only the cost to MODIFY FACILITIES identified by a "Utility Job Number" issued by the ILLINOIS TOLLWAY. The UTILITY shall not purchase right-of-way or property rights for the MODIFICATIONS of its FACILITIES without prior written approval by the Chief Engineer of the ILLINOIS TOLLWAY. The approval of the Order for Utility Work and cost estimate shall not be deemed an approval to purchase property or property rights.

F. The UTILITY shall submit to the ILLINOIS TOLLWAY an estimate of time required to perform all major phases of the work including any time required for temporary or staged construction and shall note any other time limitations applicable to the work to the extent known.

G. The UTILITY shall state, as part of the estimate, the method that will be used to perform the work (in-house company forces, independent contractor, performing maintenance or blanket contractor).

H. The cost estimate shall not include a profit to the UTILITY and shall be signed by a duly authorized representative of the UTILITY who shall certify that the estimate constitutes an accurate statement of all anticipated costs associated with the proposed work.

I. If the UTILITY desires to replace the FACILITY, or a portion thereof, with FACILITY of increased capacity (betterments), or if the FACILITY includes other betterments, the estimate shall include the costs of those betterments and the UTILITY shall not be entitled to reimbursement for the betterments unless the relocation cannot be carried out or performed without the installation of inclusion of such betterments. The cost of the betterments shall be shown on the cost estimate as a credit and is not reimbursable.

J. Upon request, the UTILITY shall make available to the ILLINOIS TOLLWAY any explanations, documents, plans, or other information as may be reasonably required for a complete review of the proposed plans and estimates to MODIFY the FACILITIES.

K. The ILLINOIS TOLLWAY shall indicate its approval of the plans and estimates by executing the "Order for Utility Work" (exhibit "B"). The UTILITY shall then proceed in accordance with this Agreement.

V. TOLLWAY OPTION TO PERFORM THE WORK

A. The UTILITY may by mutual agreement of the parties include a portion, or all of the MODIFICATIONS in the ILLINOIS TOLLWAY construction contract. In this event, the PARTIES shall enter into a separate Utility Work Order relative to these MODIFICATIONS. The UTILITY shall

notify the ILLINOIS TOLLWAY of its intent to include the work in the ILLINOIS TOLLWAY PROJECT(S) construction contract(s). If the MODIFICATIONS are included in ILLINOIS TOLLWAY contracts. The UTILITY shall submit revised cost estimates with all such portions of the work deleted and adjusted where necessary.

VI. PRE-CONSTRUCTION

- A.** The PARTIES shall cooperate in identifying needs, exchanging information, and assessing progress during the preparation of plans.
- B.** The UTILITY may perform the work required by the ILLINOIS TOLLWAY for each Utility Job Number by using its own forces or an independent outsourced contractor selected through a competitive bidding process.
- C.** The bid documents shall require the UTILITY'S Contractor to perform the work within the schedule established by the construction contract. The ILLINOIS TOLLWAY requires competitive bidding of proposals for any portions of the work other than work performed by in-house employees. Upon receipt of all bids resulting from the competitive bidding process and prior to awarding the contracted work, the UTILITY shall promptly submit bid tabulation spread sheets and the three lowest responsible bids to the ILLINOIS TOLLWAY for review. The ILLINOIS TOLLWAY shall review and approve all proposed contracts and contractors. Such review and approval by the ILLINOIS TOLLWAY shall not be unreasonably withheld or delayed. In the event that UTILITY desires to award the contract to a company with a bid other than the lowest responsible bidder, the UTILITY shall provide a written explanation to the ILLINOIS TOLLWAY.
- D.** The UTILITY shall advertise and receive bids, provide construction engineering inspections and cause the FACILITIES work to be constructed in accordance with the ILLINOIS TOLLWAY approved Order for Utility Work.

VII. NOTICE TO PROCEED

- A.** The UTILITY shall not proceed with the construction of any MODIFICATION work under a Utility Job Number until it has received a written “Notice to Proceed” (similar in form to Exhibit "C"), from the ILLINOIS TOLLWAY. The “Notice to Proceed” shall specify a reasonable time within which the work is to be done. The UTILITY shall use its best efforts to complete the work in the specified amount of time and in conjunction with the approved construction schedule.
- B.** The ILLINOIS TOLLWAY shall not be obligated to issue the “Notice to Proceed” until the UTILITY or its contractors have provided copies of all documents, bonds and insurance certificates on forms reasonably satisfactory to the ILLINOIS TOLLWAY which shows the ILLINOIS TOLLWAY as a protected party and as an additional named insured as required by this Agreement, the plans and specifications, or by law. The ILLINOIS TOLLWAY shall not be obligated to issue a “Notice to Proceed” until sufficient right-of-way has been acquired for the MODIFICATION of the FACILITIES.

VIII. SCHEDULING AND COORDINATION

- A.** The UTILITY shall cooperate, and shall also require its contractors to cooperate, with the ILLINOIS TOLLWAY and all the contractors and subcontractors of the ILLINOIS TOLLWAY to ensure that construction of the PROJECTS progress as expeditiously as possible with minimal interference to ILLINOIS TOLLWAY operations.
- B.** The ILLINOIS TOLLWAY shall cooperate, and shall also require its contractors to cooperate, with the UTILITY and all the contractors and

subcontractors of the UTILITY to ensure that the relocation of FACILITIES shall progress as expeditiously as possible with minimal interference to any of the UTILITY'S operations.

- C. The UTILITY reserves the right to proceed with such work as may be required to protect and insure the safe and efficient operation of the FACILITIES.

IX. PERFORMANCE OF THE WORK

- A. The UTILITY shall perform the work in accordance with the approved Order for Utility Work in conjunction with the approved plans and cost estimates. All work shall comply with the approved plans, applicable statutes, codes and safety standards of general applicability in the industry for the type of work involved.
- B. All work performed by the UTILITY within the ILLINOIS TOLLWAY'S right-of-way shall comply with the ILLINOIS TOLLWAY'S applicable Standard Specifications and the ILLINOIS TOLLWAY'S Policy on the Accommodation of Utilities to the extent not inconsistent with this Agreement. Copies of any such applicable Specifications or Policies will be provided to the UTILITY by the ILLINOIS TOLLWAY upon request.

X. CHANGES IN THE WORK

- A. The UTILITY shall issue written notice to the Chief Engineer of any changes from the approved plans and cost estimates or any unscheduled or extra work required with respect to a Utility Job Number. Such changes or extra work shall be reviewed, and if deemed acceptable, approved in writing by the Chief Engineer of the ILLINOIS TOLLWAY. The UTILITY shall not be entitled to reimbursement for field changes or extra work without prior written

notice and approval from the ILLINOIS TOLLWAY.

- B.** In the event the UTILITY'S Contract does not contain unit prices for the unscheduled or extra work to MODIFY the FACILITIES, the cost of any change in the approved final plans or the cost of extra work shall be negotiated between the UTILITY and its Contractor and subject to approval by the ILLINOIS TOLLWAY.
- C.** If the ILLINOIS TOLLWAY and the UTILITY cannot agree on the negotiated additional charges for proposed field changes or extra work and the UTILITY elects to proceed with the work in dispute, the UTILITY shall keep separate and complete records of the time and materials and other related costs required to perform the work in dispute. Nothing herein shall prevent the UTILITY from completing the extra work or field changes at its sole cost and expense. In this event, extra work submitted for reimbursement shall be negotiated based upon the applicable rates included within the "Schedule of Average Annual Equipment Ownership Expense" published by the Illinois Department of Transportation (IDOT).
- D.** The Chief Engineer of the ILLINOIS TOLLWAY reserves the right to disallow proposed field changes or extra work and direct the UTILITY to stop work in connection with a Utility Job Number if continuation of the work results in a substantial increase in costs or disrupts the construction of the PROJECTS. However, the UTILITY may continue the work if necessary to restore or maintain service to its customers.

XI. REMOVAL OF EQUIPMENT AND SALVAGE

- A.** Upon completion of the removal or relocation of the FACILITIES in accordance with approved plans, or any modifications thereof as ordered by the ILLINOIS TOLLWAY, the UTILITY shall, without unreasonable delay, dismantle and remove all existing permanent and temporary FACILITIES and other structures which have been abandoned, except for portions thereof which have been abandoned in

place in accordance with approved plans, and shall inventory all materials having salvage value. The ILLINOIS TOLLWAY shall receive a credit from the UTILITY for the salvage value of the removed facilities.

XII. RECORD DOCUMENTS

- A.** The UTILITY shall provide the ILLINOIS TOLLWAY with one (1) set of reproducible full size (24" x 36") and one set of reduced size (11" x 17") as-built record drawings and specifications for each permanent FACILITY located within the ILLINOIS TOLLWAY'S right-of-way within ninety (90) calendar days after completion of work on the FACILITIES.
- B.** It is understood and agrees that this AGREEMENT constitutes a complete and exclusive understanding between the PARTIES relative to the design, construction and the reimbursement of cost for relocation of the FACILITIES for the PROJECT. Further, the PARTIES may have prior agreements and/or anticipate subsequent agreements pertaining to RIGHT of Entry, Permits and /or Contracts for Sale which shall remain in force and be governed by these previously approved documents.

XIII. INSURANCE

- A.** The UTILITY agrees to procure and maintain, or, with respect to operations undertaken by its contractors, to cause its contractors to procure and maintain, insurance of the kinds and amounts specified herein, with insurance companies rated A - or better by AM Best and authorized to transact insurance business in the State of Illinois, covering all operations undertaken pursuant to any order for MODIFICATIONS of the FACILITIES given by the ILLINOIS TOLLWAY under the terms of this Agreement. Before commencing any such work, the UTILITY shall furnish the certificates of insurance

satisfactory to the ILLINOIS TOLLWAY, which shall provide that thirty (30) days prior written notice will be given to the ILLINOIS TOLLWAY in the event of cancellation. The ILLINOIS TOLLWAY'S failure to request certificates of insurance or insurance policies do not constitute a waiver of the obligations and requirements to maintain the minimal coverage specified as stated in the ILLINOIS TOLLWAY STANDARD SPECIFICATIONS.

B. The UTILITY shall maintain the insurance requirements as well as third party liability insurance covering bodily injury and property damage with coverage and limits as specified in the ILLINOIS TOLLWAY STANDARD SPECIFICATIONS section 107.27. All independent and outsourcing contracts and contractors for the UTILITY shall have and maintain the insurance limits as associated in the ILLINOIS TOLLWAY STANDARD SPECIFICATIONS section 107.27 and have the ILLINOIS TOLLWAY named as additionally insured.

C. In lieu of procuring and maintaining insurance as provided in the ILLINOIS TOLLWAY STANDARD SPECIFICATIONS (section 107.27), if the UTILITY is self-insured for any of the risks for which insurance is required, must furnish the ILLINOIS TOLLWAY with evidence of its financial responsibility to undertake such self-insurance, which is reasonability satisfactory to the ILLINOIS TOLLWAY, and with CERTIFICATE of self-Insurance.

D. The UTILITY understands that the ILLINOIS TOLLWAY has not obtained Builders Risk Insurance covering loss to the property of the UTILITY on account of the work being performed by the UTILITY and its Contractors. Nothing in this Agreement is intended to impose liability on the ILLINOIS TOLLWAY for property losses of the UTILITY on account of work being performed by the UTILITY and its Contractors.

XIV. INDEMNIFICATION

- A.** The UTILITY shall indemnify and save the ILLINOIS TOLLWAY, its directors, officers, agents, and employees harmless from any and all liability for any loss of life, personal injury, damage to property and any and all claims, suits, actions, judgments, costs and fees of every nature and description arising out of or connected with the work performed by the UTILITY or its contractors under this Agreement, or from the operations of the FACILITIES covered by this Agreement or resulting from the failure of the FACILITIES to operate properly or from other malfunctions of the FACILITIES, or from any other actions or inactions on the part of or on behalf of the UTILITY in the design, construction, reconstruction or maintenance of the UTILITY'S FACILITIES located on or near the ILLINOIS TOLLWAY'S right-of-way.
- B.** To the extent allowable by law, the ILLINOIS TOLLWAY shall indemnify and save the UTILITY, its directors, officers, agents, and employees harmless from any and all liability for loss of life, personal injury, damage to property and any and all claims, suits, actions, judgments, costs and fees of every nature and description arising out of or connected with the construction of the IMPROVEMENT by the ILLINOIS TOLLWAY or its Contractors, or from the ILLINOIS TOLLWAY'S operations on the ILLINOIS TOLLWAY'S right-of-way or from any other actions or inactions on the part of or on behalf of the ILLINOIS TOLLWAY in connection with the design, construction, reconstruction, operation, or maintenance of the IMPROVEMENT.

XV. SUBMISSIONS OF COSTS AND BILLING

B. Upon completion of the work contemplated by a Utility Job Number or of a PROJECT including more than one Utility Job Number, the UTILITY shall submit to the ILLINOIS TOLLWAY an invoice for reimbursement. All bills or invoices shall be accompanied by supporting documents detailing the following costs itemized as follows:

1. Construction or Removal of FACILITIES.
 - a. Engineering Costs;
 - b. Labor Costs;
 - c. Costs of Work Contracted for by the UTILITY;
 - d. Motor Vehicle and Equipment Costs; and
 - e. Material Costs.
2. General and Overhead Costs
 - a. Administrative and General;
 - b. Payroll Taxes;
 - c. Pension;
 - d. Welfare; and
 - e. Insurance
3. Credit for the salvage value of abandoned or removed Facilities
 4. Credit for any and all Betterment of Facilities
 5. Credit for the reimbursable percentage due to OTHER GOVERNMENT IMPROVEMENTS.

C. The bill/invoice shall be signed by a duly authorized representative of the UTILITY with certification that he/she has examined the records and accounts of the UTILITY and that the statement is a true and complete bill for the items set forth therein.

D. Audit/retention of records: UTILITY and its subcontractors shall maintain books and records relating to the performance of the MODIFICATIONS necessary to support amounts charged to the State as required by 30 ILCS 500/20-65. Books and records, including information stored in databases or other computer systems, shall be maintained by the UTILITY for a period of three years from the later of the date of final payment under the contract or completion of the contract. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the ILLINOIS TOLLWAY, the Auditor General, the Executive

Inspector General, and the State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. The UTILITY and its contractors and subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the ILLINOIS TOLLWAY under the contract for which adequate books and records are not available to support the purported disbursement. The UTILITY or subcontractors shall not impose a charge for audit or examination of the UTILITY's books and records.

XVI. PAYMENT

- A.** After the UTILITY has submitted an approved invoice for reimbursement with all required supporting statements and documentation, the ILLINOIS TOLLWAY shall promptly reimburse the UTILITY for its substantiated costs for the MODIFICATION of the FACILITIES covered by each Utility Job Number. Periodic or partial payments and invoicing shall be permitted for materials and supplies delivered with work completed. The UTILITY shall also submit, prior to payment, any additional information reasonably requested by the ILLINOIS TOLLWAY.
- B.** Final payment by the ILLINOIS TOLLWAY for the cost of eligible reimbursable utility work performed on each Utility Job Number or improvement shall constitute full payment for the performance of its obligation to pay money, full satisfaction of any and all claims for payment of money which the UTILITY may have against the ILLINOIS TOLLWAY arising from the Utility Job Number or improvement set forth in this AGREEMENT.
- C.** The UTILITY shall submit a final invoice within one (1) year of the completion of work on each Utility Work Order unless prior

arrangements are made to extend the time period due to unforeseen circumstances. The final invoice shall be marked "FINAL INVOICE" and shall state the date on which the last work was performed or the last item of billed expense was incurred.

XVII. FUTURE REMOVALS OR RELOCATIONS

- A.** If at any time the ILLINOIS TOLLWAY determines that it is necessary to remove, adjust, protect or relocate the UTILITY'S FACILITIES, the PARTIES shall proceed in accordance with the terms and conditions of this Agreement.

XVIII. MODIFICATIONS

- A.** Any modification to this Agreement must be in writing, executed by the duly authorized representatives of the PARTIES.
- B.** It is understood and agreed that this AGREEMENT constitutes a complete and exclusive understanding between the PARTIES relative to the design, construction and the reimbursement of cost for relocation of the FACILITIES for the PROJECT. Further, the PARTIES may have prior agreements and/or anticipate subsequent agreements pertaining to Right of Entry, Permits and /or Contracts for Sale which shall remain in force.

XIX. TERMINATION

- A.** Either PARTY may terminate this Agreement upon one (1) year prior written notice to the other PARTY.

XX. GENERAL PROVISIONS

- A.** This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the laws of the United States and

the State of Illinois. Any suit or proceeding relating to this Agreement, including arbitration proceedings, shall be brought in DuPage County, Illinois.

B. 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.

C. Under penalties of perjury, the UTILITY certifies that its correct Federal Tax Identification number is _____ and it is doing business as a private entity, whose mailing address is _____.

D. This AGREEMENT may only be modified in writing and executed by duly authorized representatives of the PARTIES hereto.

E. This Agreement shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and assigns.

F. The failure by the ILLINOIS TOLLWAY or the UTILITY 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 ILLINOIS TOLLWAY or the UTILITY unless such provision is waived in writing.

NOTICES

All notices shall be in writing and shall be personally delivered or mailed to the following persons at the following addresses:

To: The Illinois State Toll Highway Authority
2700 Ogden Avenue
Downers Grove, Illinois 60515
Attention: Chief Engineer

To: Zayo Group
ATTN: Legal Department
1805 29th Street
Boulder, CO 80301

EXHIBITS

The following exhibits are attached to this Agreement and hereby incorporated

by reference:

- Exhibit A: Notice of Utility Interference.
- Exhibit B: Order for Utility Work.
- Exhibit C: Notice to Proceed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated.

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____ Date:

Kristi Lafleur, Executive Director

ATTEST: _____ Date:

Secretary

ZAYO GROUP, LLC

By: _____ Date:

Tim Gentry, CFO

ATTEST: _____ Date:

Secretary

Approved as to Form and Constitutionality

_____,
Robert T. Lane, Senior Assistant Attorney General, State of Illinois

EXHIBITS

"A" – NOTIFICATION OF UTILITY INTERFERENCE

"B" – ORDER FOR UTILITY WORK

"C" – NOTICE TO PROCEED – UTILITY WORK

EXHIBIT A

Utility Job Number

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
NOTIFICATION OF UTILITY INTERFERENCE
_____ TOLLWAY

Date _____

(Utility or Municipality)

Address

City, State, Zip

Dear Sir,

This is notification that your facilities consisting of

BRIEF DESCRIPTION OF FACILITIES

Location _____

GENERAL LOCATION OF INTERFERENCE

Within _____ and more specifically located at _____ + _____,
_____ on the

DESIGN SECTION/CONTACT NUMBER
MILEPOST NO.

STATION NUMBER

_____ Tollway, will interfere with the construction or improvement of said
Toll Highway

This interference has been assigned UTILITY JOB

NUMBER _____

Recommended for Notification this _____ day of _____ of
20 _____

By _____

By _____

DESIGN SECTION ENGINEER

ISTHA UTILITY SECTION

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

Signed _____

CHIEF ENGINEER

04-29-14

rev

EXHIBIT B

Utility Job Number

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

ORDER FOR UTILITY WORK - _____

TOLLWAY

_____ hereby requests authority to do such work as shown on
(Utility or Municipality)

the attached drawings and identified by Utility Job Number _____ in accordance with the terms and conditions of the Utility Agreement dated _____, 20 _____ and the Supplemental Provisions and Restrictions as may be hereinafter set forth:

Final Plans, a detailed cost estimate, and time estimate to perform the utility work are attached.

A summary of the estimated cost and time requirements are listed below:

1. Estimated Cost of Abandoning, Removing or Retiring Existing Facilities: \$ _____

2. Estimated Cost of Adjusting or Protecting Existing Facilities: \$ _____

3. Estimated Cost of Relocating Facilities: \$ _____

4. Estimated Cost of Temporary Facilities: \$ _____

5. Estimated Cost of Additional Right-of-Way (if required): \$ _____

6. Estimated Credit for Used Life, Betterment, Salvage: \$ _____

Total Estimated Cost: \$ _____

The estimated time to complete the work is _____ days.

Signed on this _____ day of _____, 20 ____ . _____

(Utility or Municipality)

Signature

Title

Recommended for Approval this _____ day of _____ of 20 ____.

Design Section Engineering

Signature

Tollway Utility Section

Approved and Ordered for Construction this _____ day of _____, 20 _____.

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

Signed _____

Chief Engineer

04-29-14 rev

EXHIBIT C

Utility Job Number

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
NOTICE TO PROCEED – UTILITY WORK

Date _____

(Utility or Municipality)

Address

City, State, Zip

Gentlemen:

You are hereby authorized to proceed, effective this date, with construction of the utility work

Identified by Utility Job Number _____.

All work is subject to the terms and conditions of the Utility Agreement and the approved Order for Utility Work. The estimated time to complete the utility work is _____ days.

It is the Utility's responsibility to make known to itself the construction schedule for the project and to coordinate the utility work with the work of others.

Sincerely,

Chief Engineer

Illinois State Toll Highway Authority

04-29-