

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY,
THE CITY OF AURORA
AND
THE AURORA TOWNSHIP HIGHWAY DEPARTMENT**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this _____ day of _____, 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", THE CITY OF AURORA, a municipal corporation of the State of Illinois, hereinafter called the "CITY", and THE AURORA TOWNSHIP HIGHWAY DEPARTMENT, a body politic and corporate of the State of Illinois, hereinafter called the "TOWNSHIP", 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 Ronald Reagan Memorial ILLINOIS TOLLWAY (I-88) (hereinafter sometimes referred to as "Toll Highway") at Farnsworth Avenue, ILLINOIS TOLLWAY Bridge Number 817, and included in ILLINOIS TOLLWAY construction contract(s) including but not limited to Design Contract RR-13-4151, and Construction Contract I-15-4248 (hereinafter referred to as the "PROJECT") by making the following improvements:

Remove and replace the Farnsworth Avenue bridge over I-88 with a longer structure so as to accommodate the potential future widening of the Toll Highway, and to make certain ramp and interchange configuration improvements modifying the interchange from a "full cloverleaf" arrangement to a "partial cloverleaf" arrangement in order to improve traffic flow and enhance safety for the motorists using the Toll Highway. The interchange modification will consist of the removal of the two (2) loop ramps located to the east of Farnsworth Avenue and the creation of two (2) new signalized intersections along Farnsworth Avenue to accommodate the east bound I-88 to northbound Farnsworth Avenue and the northbound Farnsworth Avenue to westbound I-88 movements. The proposed bridge will be approximately 270'-6" in length of superstructure and deck over the Toll Highway, and shall have a raised profile which will provide a minimum of 16'-5" vertical clearance from the existing Toll Highway to the bottom of the new bridge structure. Two (2) 12' through traffic lanes, a 10' shoulder and a 10' multi-use path with barrier protection on Farnsworth Avenue and a pedestrian safe wall on the outer parapet will be constructed northbound. The bridge will feature the ILLINOIS TOLLWAY's standard bridge aesthetics (Exhibit A). Two (2) 12' through traffic lanes, a 12' auxiliary lane, a 10' shoulder, and a barrier wall on the outer parapet will be constructed southbound. Four (4) newly constructed Toll Highway ramp terminals, two (2) new traffic signals with combination lighting at the intersection of the newly configured eastbound I-88 to Farnsworth Avenue and northbound Farnsworth Avenue to westbound I-88 intersections

will be constructed and interconnected with the intersections of Molitor Road and the Premium Outlet Mall. The traffic signals will include pedestrian signalization and will be part of the CITY system. The traffic signal south of the Toll Highway will provide queue monitoring of the eastbound I-88 exit ramp to Farnsworth Avenue. The PROJECT also includes earthwork and excavation, pavement removal and replacement along Farnsworth Avenue and portions of the interchange ramps, resurfacing of sections of Farnsworth Avenue from the existing resurfacing termini approximately 290' north of Molitor Road to approximately 100' south of Corporate Boulevard, installation of new drainage structures, traffic signal installation, electrical modification for existing toll plazas, pavement markings, the installation of mainline and ramp lighting, erosion control, landscaping and all other work necessary to complete the PROJECT in accordance with the approved plans and specifications; and

WHEREAS, the CITY requests that the ILLINOIS TOLLWAY include in its PROJECT painted combination traffic signal/lighting on Farnsworth Avenue with pedestrian signalization and interconnection to the intersections of Molitor Road and Corporate Boulevard as part of the CITY's system; and

WHEREAS, the TOWNSHIP requests that the ILLINOIS TOLLWAY include in its PROJECT a 10' multi-use path with barrier protection along the east side of Farnsworth Avenue and a pedestrian safe wall on the outer parapet of the bridge; and

WHEREAS, the ILLINOIS TOLLWAY agrees to the CITY's and TOWNSHIP's requested work as stated above; and

WHEREAS, the PARTIES 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 CITY 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, the TOWNSHIP by virtue of its powers as set forth in the Township Code 60 ILCS 1/1-1-1 *et seq.* and the Highway Code 605 ILCS 5/6-101 *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. ENGINEERING

- A. The ILLINOIS TOLLWAY agrees to perform preliminary, pre-final, and final design engineering, obtain necessary surveys, and prepare the final plans and specifications for the PROJECT, subject to reimbursement by the CITY as hereinafter stipulated. During the design and preparation of the plans and specifications, the ILLINOIS TOLLWAY shall submit the plans and specifications to the CITY/TOWNSHIP for its review and comment at the following stages of plan preparation:

60% Complete (preliminary)

95% Complete (pre-final)

Final

- B. The CITY and the TOWNSHIP shall review the plans and specifications which impact the CITY's and the TOWNSHIP's maintained highways and facilities respectively and provide comments within thirty (30) calendar days of receipt thereof. If the ILLINOIS TOLLWAY does not receive comments or objections from the CITY and/or the TOWNSHIP within this time period, the lack of response shall be deemed approval of the plans and specifications. Approval by the CITY and the TOWNSHIP shall mean the CITY and the TOWNSHIP agree with all specifications in the plans, including alignment and location of the PROJECT improvements which impact their maintained highways and facilities. In the event of disapproval, the CITY and/or the TOWNSHIP will detail in writing its objections to the proposed plans and specifications for review and consideration by the ILLINOIS TOLLWAY.
- C. Any dispute concerning the plans and specifications shall be resolved in accordance with Section IX of this AGREEMENT.
- D. 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, Kane-Du Page Soil and Water Conservation District, Kane County, including but not limited to Department of Transportation, 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.

- E. The CITY and the TOWNSHIP 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 CITY or the TOWNSHIP.

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

III. UTILITY RELOCATION

- A. The ILLINOIS TOLLWAY agrees to make all reasonable efforts to minimize the number of utility adjustments to the CITY's and the TOWNSHIP's facilities in the design of improvements.
- B. As part of its PROJECT engineering responsibilities, the ILLINOIS TOLLWAY shall identify adjustments to the aforementioned existing utilities.
- C. At all locations where the CITY's or TOWNSHIP's utilities are located on ILLINOIS TOLLWAY rights of way and must be adjusted due to work proposed by the CITY or TOWNSHIP or due to work proposed by the ILLINOIS TOLLWAY, the CITY and the TOWNSHIP agree to obtain from the ILLINOIS TOLLWAY an approved permit for the facility, and to abide by all conditions set forth therein. The CITY and the TOWNSHIP agree 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.
- D. The ILLINOIS TOLLWAY will cause all utility companies to protect, adjust, relocate or remove utility facilities in conflict with the PROJECT.
- E. The CITY and the TOWNSHIP agree to accept applications for permits from utility companies to perform utility relocation work within the PROJECT and located on its property. All such applications for permits shall include an executed Utility Work Order approved by the ILLINOIS TOLLWAY.
- F. During the duration of the PROJECT, the CITY and the TOWNSHIP agree to issue permits within the PROJECT limits in accordance with its regular permit process and only for utility work as documented by a Utility Work Order that is approved by the ILLINOIS TOLLWAY.

- G. The CITY and/or the TOWNSHIP shall not seek a profit for permits issued within the PROJECT limits and shall not charge a permit fee that exceeds its reasonable cost of administering the permits.
- H. In the event that the work proposed by the CITY and/or the TOWNSHIP results in a conflict with the ILLINOIS TOLLWAY's fiber optic cable system, the City and/or the TOWNSHIP respectively, shall reimburse the ILLINOIS TOLLWAY for the cost to locate, mark, design, protect, adjust and/or relocate the system.
- I. At all locations where the ILLINOIS TOLLWAY's infrastructure (remote traffic microwave sensors, dynamic 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 CITY and/or the TOWNSHIP, the CITY and/or TOWNSHIP agree 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 ILLINOIS TOLLWAY shall advertise and receive bids, obtain the CITY's and the TOWNSHIP's concurrence as to the amount of bids (for work to be funded wholly or partially by the CITY and/or the TOWNSHIP 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 CITY and TOWNSHIP as hereinafter stipulated.
- B. After award of the construction contract(s), any proposed deviations from the plans and specifications that affect the PARTIES shall be submitted to the PARTIES for approval prior to commencing such work. The respective PARTY 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 PARTY shall detail in writing its specific objections. If the ILLINOIS TOLLWAY receives no written response from the PARTY within fifteen (15) calendar days after delivery to the PARTY of the proposed deviation, the proposed deviation shall be deemed approved by the PARTY.
- C. After award of the construction contract(s), assuming there are no proposed deviations from the plans and specifications that affect the PARTIES, the ILLINOIS TOLLWAY shall provide no less than five (5) calendar days written notice to the PARTIES prior to commencement of work on the PROJECT.
- D. The PARTIES and their 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 PARTIES system. The PARTIES shall assign personnel to perform inspections on behalf of the respective PARTY of all

work included in the PROJECT that affects the PARTY'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.

- E. Notices required to be delivered by either PARTY pursuant to this AGREEMENT shall be delivered as indicated in Section IX of this AGREEMENT.
- F. The ILLINOIS TOLLWAY shall give notice to the PARTIES upon completion of 70% and 100% of all PROJECT construction contracts to be subsequently maintained by the PARTIES, and the PARTIES shall make an inspection thereof not later than seven (7) calendar days after notice thereof. If any of the PARTIES do not perform a final inspection within seven (7) calendar days after receiving notice of completion of 100% of all PROJECT construction contracts or other inspection arrangements are not agreed to by the PARTIES hereto, the PROJECT shall be deemed accepted by that PARTY. At the request of the PARTY, the ILLINOIS TOLLWAY's representative shall join in on such inspection. In the event said inspections disclose work that does not conform to the approved final plans and specifications, the PARTY's representative shall give immediate verbal notice to the ILLINOIS TOLLWAY's representative of any deficiency, and shall thereafter deliver within five (5) calendar days a written list identifying such deficiencies to the Chief Engineer of the ILLINOIS TOLLWAY. Deficiencies thus identified shall be subject to joint re-inspection upon completion of the corrective work. The PARTY shall perform such joint re-inspections within seven (7) calendar days after receiving notice from the ILLINOIS TOLLWAY that the deficiencies have been remedied.
- G. 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 CITY and the VILLAGE 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. It is further agreed that construction engineering shall be computed as 10% of actual construction costs and mobilization shall be 6% of actual final construction costs.

- C. It is mutually agreed by the PARTIES hereto that the estimated cost to the CITY and TOWNSHIP is \$303,135.25 for construction costs, \$15,156.76 (5% of construction costs) for preliminary and design engineering, \$30,313.53 (10% of construction costs) for construction engineering and \$18,188.12 (6% of construction costs) for mobilization, for a total estimated cost of \$366,793.65 (Exhibit B).
- D. It is further agreed that notwithstanding the estimated cost, the CITY and TOWNSHIP shall be responsible for the actual costs associated with the requested work described in the Recital section of this AGREEMENT.
- E. The CITY and TOWNSHIP agree that upon award of the contract for this improvement and receipt of an invoice from the ILLINOIS TOLLWAY, the CITY and TOWNSHIP 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. Any of the PARTIES 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.

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 CITY or the TOWNSHIP.
- B. The term "local road" refers to any highway, road or street under the jurisdiction of the CITY or the TOWNSHIP.
- 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, guardrail repair, signing upkeep and repair, 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.

VII. MAINTENANCE – RESPONSIBILITIES

- A. The ILLINOIS TOLLWAY agrees to maintain I-88 in its entirety.
- B. The CITY agrees to maintain, or cause to maintain, traffic signals, combination lighting, pedestrian signals along Farnsworth Avenue and the interconnection although the proposed signals will be located within a segment of Farnsworth that is in Township jurisdiction.
- C. The TOWNSHIP agrees to maintain, or cause to maintain, Farnsworth Avenue, including all facilities, sidewalks, multi-use paths, and any and all fences, guardrails, walls or appurtenances built to separate vehicular traffic from pedestrian traffic, the bridge aesthetics, or any work the ILLINOIS TOLLWAY is including in the PROJECT for the TOWNSHIP at their request, in its entirety.

- 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	Farnsworth Avenue

Type 2 - TOWNSHIP Roadway over ILLINOIS TOLLWAY Right of Way

- E. The TOWNSHIP has all maintenance responsibility as to the following:
1. All TOWNSHIP right of way and TOWNSHIP 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.
 2. The following portions of the grade elevation structure:
 - a. The wearing surface maintenance of each element;
 - b. The deck, below the wearing surface and above the structural beams including expansion joints, parapet walls, railings, etc.;
 - c. Drainage facilities above structural beams and girders;
 - d. All lighting except underpass;
 - e. All TOWNSHIP signals and signs;
 3. To the extent not addressed in other intergovernmental agreements to which the TOWNSHIP is a PARTY, any facilities designed for traffic other than motor vehicles, such as bicycle or pedestrian paths or lanes;
 - a. All bridge deck downspouts, from a clean-out installed directly below the scuppers to the outfall;
 - b. All drainage facilities carrying exclusively TOWNSHIP drainage.
- F. The CITY has all maintenance responsibility as to the following:
1. All traffic signals on the TOWNSHIP highway and at the intersections between the TOWNSHIP highway and the ramps to and from the Toll Highway;
 2. All lighting on the TOWNSHIP right of way within the project limits.

G. The ILLINOIS TOLLWAY has all maintenance responsibility for all portions thereof not maintained by the TOWNSHIP as set forth herein, including but not limited to the following:

1. All part of the grade separation structure, including but not limited to bearings, beams, girders, slope walls, abutments and piers;
2. All fences along ILLINOIS TOLLWAY routes, except overpass fencing installed to separate pedestrians, bicycles and non-vehicular traffic from highway traffic;
3. All remaining drainage facilities installed for the purpose of carrying exclusively Toll Highway drainage;
4. All underpass lighting.

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

H. The TOWNSHIP and the ILLINOIS TOLLWAY shall have the same maintenance responsibilities for the grade separation structure as set forth above for "TOWNSHIP over ILLINOIS TOLLWAY Right of Way".

I. At all bridge structures with a partial or complete interchange system; the TOWNSHIP has all maintenance responsibility for the following:

1. All TOWNSHIP 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 TOWNSHIP highway pavement connecting the TOWNSHIP highway roadway pavement with ILLINOIS TOLLWAY ramps;
2. All grassed areas and embankments along TOWNSHIP highway roadway, outside fences installed to protect the Toll Highway;
3. All guardrails on the TOWNSHIP right of way and highway roadway;
4. All drainage facilities on TOWNSHIP highways, except for drainage structures under Toll Highway ramps;

J. The ILLINOIS TOLLWAY has all maintenance responsibility for the following:

1. 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:

- a. At all ramps onto and from the Toll Highway, the ILLINOIS TOLLWAY shall maintain ramps as set forth in Exhibit C;
 - b. All grassed area and embankments, traffic signs, guardrail, drainage facilities and other structures not to be maintained by the TOWNSHIP as set forth above;
 - c. 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;
- K. The PARTIES agree that the ILLINOIS TOLLWAY reserves the exclusive right to review and comment on 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 Administrative Code 554, Subchapter f, Subpart F, Section 554.605 (Super load Moves);
- L. 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 TOWNSHIP 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 TOWNSHIP.
- M. In the event the TOWNSHIP must perform maintenance of the superstructure, as required, the ILLINOIS TOLLWAY, after proper notice by the TOWNSHIP, shall assist in the coordination of any required lane closures on I-88 to perform such maintenance work.
- N. 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.
- O. Signalization at the interchange, if any, will be under the control of the CITY. 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 CITY 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.

VIII. ADDITIONAL MAINTENANCE PROVISIONS

- A. During construction, the PARTIES shall continue to maintain all portions of the PROJECT within the respective PARTY'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 an individual PARTY shall, upon completion of construction and final inspection, be the sole maintenance responsibility of that PARTY.
- C. The PARTIES 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.
- D. Nothing herein is intended to prevent or preclude any PARTY 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.
- E. Attached as Exhibit C 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 TOWNSHIP's respective maintenance responsibilities. In the event there is a conflict between the aforementioned Exhibits and the maintenance provisions contained in Section VII of this AGREEMENT, the text in Section VII shall control.

IX. GENERAL PROVISIONS

- A. It is understood and agreed that this is an AGREEMENT between the City of Aurora, Aurora Township Highway Department and the Illinois State Toll Highway Authority.
- B. It is understood and agreed by the PARTIES hereto, that the ILLINOIS TOLLWAY shall retain jurisdiction of I-88. The TOWNSHIP shall retain jurisdiction of Farnsworth Avenue traversed or affected by I-88 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 any PARTY 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 the PARTIES in the carrying out of the terms of this AGREEMENT, the Chief Engineer of the ILLINOIS TOLLWAY, the CITY's Engineer and the TOWNSHIP's Highway Commissioner 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.
 - G. In the event of a dispute between the PARTIES in the carrying out of the terms of this AGREEMENT in reference to the CITY's or the TOWNSHIP's requested work, or a dispute concerning the plans and specifications for the CITY's or the TOWNSHIP's requested work, the Chief Engineer of the ILLINOIS TOLLWAY, the CITY's Engineer and/or the TOWNSHIP Highway Commissioner shall meet and resolve the issue. In the event that they cannot mutually agree on the resolution of the dispute concerning the CITY's and/or TOWNSHIP's requested work, the decision of the CITY's Engineer and/or the TOWNSHIP's Highway Commissioner shall be final as long as that decision does not delay delivery of the PROJECT or be detrimental to the maintenance and operation of the Toll Highway.
 - H. 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.
 - I. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.

- J. This AGREEMENT and the covenants contained herein shall become null and void in the event the contract covering the construction work contemplated herein is not awarded within three (3) years subsequent to the date of execution of this AGREEMENT.
- K. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and approved assigns
- L. The failure by the ILLINOIS TOLLWAY, the CITY or the TOWNSHIP 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 TOWNSHIP unless such provision is waived in writing.
- M. 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 DuPage County, Illinois.
- N. 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 CITY: The City of Aurora
44 East Downer Place
Aurora, Illinois 60507
Attn: City Engineer

To the TOWNSHIP: Aurora Township Highway
Department
220 Butterfield Road
North Aurora, Illinois 60542
Attn: Highway Commissioner

- O. 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 AURORA TOWNSHIP HIGHWAY DEPARTMENT

By: _____
John Shoemaker,
Highway Commissioner

Attest: _____

Date: _____

(Please Print Name)

THE CITY OF AURORA

By: _____
Thomas J. Weisner,
Mayor

Attest: _____

Date: _____

(Please Print Name)

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: _____
Greg M. Bedalov,
Executive Director

Date: _____

By: _____
Michael Colsch,
Chief of Finance

Date: _____

By: _____
David A. Goldberg,
General Counsel

Date: _____

Approved as to Form and Constitutionality

Tiffany Bohn, Senior Assistant Attorney General,
State of Illinois