RESOLUTION 2018-012    PASSED: FEBRUARY 12, 2018

AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
WITH THE ILLINOIS TOLL HIGHWAY AUTHORITY FOR
MAINTENANCE OF THE PEACE ROAD BRIDGE AND
SOUTH FIRST STREET BRIDGE.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
DEKALB, ILLINOIS:

Section 1: That the MAYOR of the City of DeKalb be authorized and directed to enter into
an Agreement with the Illinois Toll Highway Authority for the maintenance of the Peace
Road Bridge and South First Street Bridge subject to such amendments as shall be
acceptable to him with the recommendation of the City Manager.

Section 2: The Public Works Director or designee thereof is authorized and directed to
provide concurrence, approval or disapproval to the Authority on any bids, specifications
or other items for which City concurrence or approval is required under the Agreement,
provided that such bids, specifications or items are acceptable to the Director.

Section 3: That the City Clerk of the City of DeKalb, Illinois be authorized and directed
to attest the Mayor’s Signature and shall be effective thereupon.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting
thereof held on the 12th day of February, 2018, and approved by me as Mayor on the
same day. Passed by a 7-0-1 roll call vote. Aye: Jacobson, Marquardt, Fagan, Noreiko,

ATTEST:

SUSANNA HERRMANN, City Clerk

JERRY SMITH, Mayor

CITY OF DEKALB
STATE OF ILLINOIS
INTERGOVERNMENTAL AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
THE CITY OF DEKALB

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this 2nd day of March, 2018, 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 CITY OF DEKALB, a municipal corporation of the State of Illinois, hereinafter called the "CITY", 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 Tollway (I-88) from Illinois Route 56, Mile Post 91.4 to Annie Glidden Road, Mile Post 113.3 (hereinafter sometimes referred to as "Toll Highway"), including the Peace Road Bridge (Bridge Number 1119), and the S. First Street Bridge (Bridge Number 1127), (and included in ILLINOIS TOLLWAY construction contract(s) including but not limited to Design Contract # RR-16-4254, and Construction Contract RR-16-4254 (hereinafter referred to as the "PROJECT"), by making the following improvements:

Work includes mainline roadway resurfacing, shoulder reconstruction, mainline pavement patching as necessary; reconstruction and rehabilitation of emergency turnarounds, construction of one new emergency turnaround, construction of crash investigation sites; drainage improvements including culvert repair and underdrain installation along mainline outside shoulder; ditch grading improvements, and rehabilitation of mainline and crossroad bridges.

The improvements to the Peace Road Bridge include joint seal replacement, deck repairs with a deck overlay, repair of existing parapets, bridge approach guardrail repair and replacement as needed, and precast prestressed concrete beam and substructure repairs.

The improvements to the S. First Street Bridge include superstructure replacement with vault removal, conversion to semi-integral joints and installation of bridge approach slabs, installation of new parapets, bridge approach guardrail repair and replacements as needed, and substructure repairs; and

WHEREAS, the maintenance responsibilities for Peace Road Bridge are shared between the ILLINOIS TOLLWAY and the CITY, pursuant to an Intergovernmental Agreement entered into May 16, 1996; and
WHEREAS, pursuant to the terms of the May 16, 1996 Intergovernmental Agreement, the CITY maintains the portions of the grade separation structure including the bridge deck surface, guardrails, parapet walls above the deck, and drainage facilities above structural beams and girders; and

WHEREAS, the CITY requests that the ILLINOIS TOLLWAY include the bridge deck sealing, guardrail repair, and repair of parapet walls of the Peace Road and S. First Street bridges as part of its PROJECT; and

WHEREAS, the ILLINOIS TOLLWAY agrees to the CITY’s request to include the bridge deck sealing, guardrail repair, and repair of parapet walls as part of its PROJECT subject to reimbursement by the CITY; and

WHEREAS, the ILLINOIS TOLLWAY and the CITY 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, 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 CITY as hereinafter stipulated.

B. The final approved plans and specifications for the PROJECT shall be promptly delivered to the CITY by the ILLINOIS TOLLWAY.

C. The CITY shall review the plans and specifications which impact the CITY’s maintained highways within twenty (20) calendar days of receipt thereof. If the ILLINOIS TOLLWAY does not receive comments or objections from the CITY
within this time period, the lack of response shall be deemed approval of the plans and specifications. Approval by the CITY shall mean the CITY agrees with all specifications in the plans, including alignment and location of the PROJECT improvements which impact the CITY’s maintained highways. In the event of disapproval, the CITY will detail in writing its objections to the proposed plans and specifications for review and consideration by the ILLINOIS TOLLWAY.

D. The PARTIES shall work cooperatively to address and resolve the review comments and objections. Any dispute concerning the plans and specifications shall be resolved in accordance with Section IX 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, Kane County, DeKalb 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 CITY shall grant and consent to any and all construction permits, temporary or construction rights of access (ingress and egress), temporary use of its property and temporary right of way to the ILLINOIS TOLLWAY, without charge to the ILLINOIS TOLLWAY. Any permit for temporary right of access or temporary use shall not be unreasonably withheld by the CITY.

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 temporary 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.
III. UTILITY RELOCATION

A. The ILLINOIS TOLLWAY agrees to provide the CITY, as soon as they are identified, the locations (existing and proposed) of public and/or private utility facilities within existing CITY 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.

C. At all locations where utilities are located on CITY rights of way and must be adjusted due to work proposed by the ILLINOIS TOLLWAY, the CITY 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 CITY for any and all costs the CITY may incur in causing the aforementioned utility or utilities to be adjusted.

IV. CONSTRUCTION

A. The ILLINOIS TOLLWAY shall advertise and receive bids, obtain CITY concurrence as to the amount of bids (for work to be funded wholly or partially by the CITY 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 as hereinafter stipulated.

B. After award of the construction contract(s), any proposed deviations from the plans and specifications that affect the CITY shall be submitted to the CITY for approval prior to commencing such work. The CITY 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 CITY shall detail in writing its specific objections. If the ILLINOIS TOLLWAY receives no written response from the CITY within fifteen (15) calendar days after delivery to the CITY of the proposed deviation, the proposed deviation shall be deemed approved by the CITY.

C. After award of the construction contract(s), assuming there are no proposed deviations from the plans and specifications that affect the CITY, the ILLINOIS TOLLWAY shall provide no less than five (5) calendar days written notice to the CITY prior to commencement of work on the PROJECT.
D. The CITY 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 CITY's system. The CITY shall assign personnel to perform inspections on behalf of the CITY of all work included in the PROJECT that affects the CITY's system, and will deliver written notices to the Chief Engineering Officer 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 CITY upon completion of 70% and 100% of all PROJECT construction contracts to be subsequently maintained by the CITY, and the CITY shall make an inspection thereof not later than fourteen (14) calendar days after notice thereof. If the CITY does not perform a final inspection within fourteen (14) 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 the CITY. At the request of the CITY, 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 CITY's representative shall give immediate verbal notice to the ILLINOIS TOLLWAY's representative of any deficiency, and shall thereafter deliver within seven (7) calendar days a written list identifying such deficiencies to the Chief Engineering Officer of the ILLINOIS TOLLWAY. Deficiencies thus identified shall be subject to joint re-inspection upon completion of the corrective work. The CITY 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 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 agreed to construction costs. It is further agreed that construction engineering shall be computed as 10% of agreed to construction costs and mobilization shall be 6% of agreed to final construction costs.

C. It is mutually agreed by the PARTIES hereto that the estimated cost to the CITY for work related to the Peace Road Bridge is $175,000.35 for construction costs, $8,750.02 (5% of construction costs) for preliminary and design engineering, $17,500.04 (10% of construction costs) for construction engineering and $10,500.02 (6% of construction costs) for mobilization, for a total agreed upon cost of $211,750.43.

D. The CITY agrees that upon award of the contract for this improvement and receipt of an invoice from the ILLINOIS TOLLWAY, the CITY will pay to the ILLINOIS TOLLWAY, an amount equal to 50% of its obligation incurred under this AGREEMENT, and upon receipt of an invoice will pay to said ILLINOIS TOLLWAY the remainder of its obligation in a lump sum, upon completion of the PROJECT. In the event that the total CITY obligations exceed 110% of the estimated CITY costs as specified in this AGREEMENT, said excess costs greater than 110% shall be cause for an Amendment prior to payment of said excess costs.

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.

B. The term "local road" refers to any highway, road or street under the jurisdiction of the CITY.

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. "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 Engineering Officer.

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 the I-88 Toll Highway in its entirety.

B. The CITY agrees, consistent with the balance of this Section VII, to maintain, or cause to maintain, Peace Road, and S. First Street, including all guardrails, any and all fences, walls or appurtenances built to separate vehicular traffic from pedestrian traffic, lighting, roads, etc.

C. 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 CITY 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 CITY.

D. The CITY agrees to continue to maintain, or cause to maintain traffic signals along Peace Road at the ramp terminals with I-88.

E. 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):

<table>
<thead>
<tr>
<th>Type of Bridge Structure</th>
<th>Affected Roadway</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 2</td>
<td>S. First Street</td>
</tr>
<tr>
<td>Type 3</td>
<td>Peace Road</td>
</tr>
</tbody>
</table>

Type 2 - CITY Roadway over ILLINOIS TOLLWAY Right of Way
Type 3 - CITY Roadway over ILLINOIS TOLLWAY Right of Way with a partial interchange

1. The CITY has all maintenance responsibility as to the following:

   i. All CITY right of way and CITY highway roadway approaches to the grade separation structure, including but not limited to pavement, curb and gutter, shoulders, guardrail, approach embankments outside access control fences, and bituminous repair of approach slabs.

   ii. The following portions of the grade elevation structure:

       a. Ice and snow removal accomplished in such a manner as to not block or obstruct I-88
       b. Guardrail maintenance and repair
       c. Signage
       d. Pavement markings
       e. Pothole repair as necessary on the wearing surface
       f. All drainage facilities carrying exclusively CITY drainage

2. The ILLINOIS TOLLWAY has all maintenance responsibility for all portions thereof not maintained by the CITY 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. The deck below the wearing surface, including but not limited to bearings, beams, girders, slope walls, abutments and piers;

iii. All fences along ILLINOIS TOLLWAY routes, except overpass fencing installed to separate pedestrians, bicycles and non-vehicular traffic from highway traffic;

iv. All bridge deck downspouts, from a clean-out installed directly below the scuppers to the outfall;

v. All remaining drainage facilities installed for the purpose of carrying exclusively Toll Highway drainage;

vi. All underpass lighting.

F. The PARTIES agree that the ILLINOIS TOLLWAY reserves the exclusive right to review and approve 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 Administration Code 554, Subchapter f, Subpart F, Section 554.605 (Superload Moves).

3. Any intersection modifications that lead to ILLINOIS TOLLWAY owned facilities.

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

VIII. ADDITIONAL MAINTENANCE PROVISIONS

A. It is understood and agreed by the PARTIES hereto that this AGREEMENT shall supersede any and all earlier Agreements entered into by the PARTIES hereto regarding maintenance of the herein-specified CITY highways and Toll Highway facilities within the limits of this PROJECT.

B. During construction, the CITY shall continue to maintain all portions of the PROJECT within the CITY'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 CITY shall, upon completion of construction and final inspection, be the sole maintenance responsibility of the CITY, 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. Nothing herein is intended to prevent or preclude the CITY and the ILLINOIS TOLLWAY from entering into reciprocal agreements in the future.

IX. GENERAL PROVISIONS

A. It is understood and agreed that this is an AGREEMENT between the City of DeKalb 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 I-88. The CITY shall retain jurisdiction of Peace Road, and S. First Street 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 either the CITY 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 the CITY and the ILLINOIS TOLLWAY in the carrying out of the terms of this AGREEMENT, the Chief Engineering Officer of
the ILLINOIS TOLLWAY and the CITY’s Director of Public Works 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 Engineering Officer of the ILLINOIS TOLLWAY shall be final.

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. Under penalties of perjury, the CITY certifies that its correct Federal Tax Identification number is 36-6005843 and it is doing business as a governmental entity, whose mailing address is 1216 Market Street, DeKalb, Illinois 60115.

I. This AGREEMENT may only be modified by written modification executed by duly authorized representatives of the PARTIES hereto.

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 CITY 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 CITY 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 DuPage 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 Engineering Officer

To the CITY: The City of DeKalb 1216 Market Street DeKalb, Illinois 60115 Attn: Public Works Director
N. The CITY shall maintain books and records relating to the performance of this AGREEMENT necessary to support amounts charged to the ILLINOIS TOLLWAY. Books and records, including information stored in databases or other computer systems, shall be maintained by the CITY for a period of five (5) years from the later of the date of final payment under this AGREEMENT or completion of the work performed under this AGREEMENT. Books and records required to be maintained under this section shall be available for review or audit by representatives of the Auditor General, the Executive Inspector General, the Illinois Tollway Inspector General, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. 30 ILCS 500/20-65.

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 CITY OF DEKALB

By: [Signature]

Jerry Smith
Mayor

Date: 2/3/18

CITY OF DE KALB

STATE OF ILLINOIS

Susanna Herrmann
(Please Print Name)

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: [Signature]

Greg M. Bedalov
Executive Director

Date: 3/2/18

Kevin Aker
CEO

Approved as to Form and Constitutionality

Tiffany B. Schafer, Senior Assistant Attorney General, State of Illinois

1GA_City of DeKalb Peace Rd. & S. First St. over I-88_Draft_08.03.17_12.08.17

13
RESOLUTION NO. 21473

Background

It is in the best interest of the Illinois State Toll Highway Authority (the "Tollway") to enter into an Intergovernmental Agreement with the City of DeKalb ("City") in connection with repairs and rehabilitation along the Reagan Memorial Tollway ("I-88") including the Peace Road Bridge over I-88 at Mile Post 91.71, and S. First Street Bridge over I-88 at Mile Post 94.02. The City has requested and the Tollway agrees to perform City maintenance responsibility repairs and rehabilitation to Peace Road Bridge, and S. First Street Bridge over I-88 as part of the project subject to reimbursement by the City. This Agreement updates Tollway and City responsibilities for portions of the ongoing crossroad bridges maintenance.

Resolution

The Chief Engineering Officer and the Acting General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between the Illinois State Tollway Highway Authority and the City of DeKalb in substantially the form attached to this Resolution. The Chairman or the Executive Director is authorized to execute said agreement.

Approved by: _______________________
Chairman
March 5, 2018

Mr. Tim Holdeman  
Public Works Director  
City of DeKalb  
1216 Market Street  
DeKalb, Illinois 60115

Attn: Mr. Greg Chismark, P.E.  
Municipal Practice Principal  
WBK Engineering, LLC  
116 West Main Street, Suite 201  
St. Charles, Illinois 60174

RE: Intergovernmental Agreement – Peace Road & S. First Street over I-88

Dear Mr. Holdeman:

Enclosed is one fully executed original Intergovernmental Agreement by and between the Illinois Tollway and the County of DuPage for the above mentioned project.

This Agreement is transmitted to your attention for your records. Thank you for your cooperation in the processing of this document.

Sincerely,

[Signature]
Rocco J. Zuccherio  
Chief Planning Officer

Enclosures

Cc: Manar Nashif  
Bob Lane  
Jim McDonough
EAST-WEST TOLLWAY INTERCHANGE
AT PEACE ROAD
AGREEMENT BETWEEN
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
AND
THE CITY OF DEKALB

This Agreement is entered into this ___ day of ___ A.D., 1996, by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY, an instrumentality and administrative agency of the State of Illinois, hereinafter called the "AUTHORITY", and the CITY OF DEKALB, of the State of Illinois, hereinafter called the "CITY".

WITNESSETH:

WHEREAS, the AUTHORITY and the CITY, in order to facilitate the free flow of traffic for the safety and convenience of the motoring public, are desirous of completing the interchange at the intersection of Peace Road and the East-West Tollway (I-88) in DeKalb County; and

WHEREAS, the improvements to be covered by this Agreement shall consist of the replacement of Peace Road bridge deck over I-88 hereinafter called the "PROJECT"; and

WHEREAS, the AUTHORITY and the CITY are desirous of cooperating in the construction of the PROJECT, providing for a division of cost thereof, and of dividing the maintenance responsibilities thereof following completion of the PROJECT; and

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

WHEREAS, it is in the best interests of the AUTHORITY and the CITY to enter into this Agreement.

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

I - PRELIMINARY ENGINEERING

1. The AUTHORITY agrees to prepare or cause to be prepared the contract plans, special provisions and estimate, receive bids and award the construction contract for the PROJECT and provide engineering inspection thereof during construction.

2. Prior to advertising for letting, the AUTHORITY shall submit to the CITY, for review and comment, the plans and special provisions for the PROJECT. After review thereof, within five (5) working days of receipt of said portion of the plans and special provisions, the CITY will send to the AUTHORITY a letter either approving the documents or stating any objections thereto, including reasons therefor. Approval thereof shall not be unreasonably withheld. No major changes in the approved plans and special provisions relating to the PROJECT shall be made by the AUTHORITY without prior notice to the CITY. Such proposed changes, if any,
in the approved plans and special provisions shall be promptly reviewed by the CITY and comments forwarded to the AUTHORITY in writing within five (5) working days.

3. The AUTHORITY shall pay all design engineering cost related to the PROJECT.

II - CONSTRUCTION AND CONSTRUCTION ENGINEERING

1. The AUTHORITY agrees to furnish all inspection engineering during construction, and to cause the PROJECT to be built substantially in accordance with the approved plans and special provisions.

2. Any proposed changes in plans or special provisions during construction which would cause the PROJECT not to be built in substantial accordance with the approved plans and special provisions, shall be submitted to the CITY for prior written approval. The CITY shall respond within five (5) business days to such submittal. Said approval(s) shall not be unreasonably delayed or withheld.

3. The AUTHORITY shall give ten (10) calendar days notice of the CITY prior to commencement of construction work on the PROJECT.

4. The AUTHORITY shall require its contractor to have full responsibility for the installation, maintenance and removal of temporary traffic control devices along Peace Road and the East-West Tollway within the construction limits detailed in the
approved plans and special provisions. Said contractor shall be required to meet regularly with CITY and AUTHORITY representatives in order to keep them abreast of maintenance of traffic changes or deficiencies, and to give them 24-hour minimum notice of proposed phase changes. The contractor shall comply with all special provisions for traffic control contained in the contract. Should the contractor fail to install or maintain temporary traffic control along Peace Road as provided for in the approved plans and special provisions, upon prior notice to the contractor, the AUTHORITY shall have the right to perform the traffic control work on Peace Road on a force account basis at the expense of the contractor, said expense to be deducted from any payments by the AUTHORITY due the contractor.

5. The CITY shall grant the AUTHORITY permission to close Peace Road between the ramp terminals during the replacement of the bridge deck. The AUTHORITY shall give the CITY fourteen (14) calendar days notice prior to closing of the road.

The AUTHORITY shall expeditiously prosecute the bridge deck replacement to minimize the duration of the Peace Road closure.

6. If any of the proposed construction on the PROJECT requires the AUTHORITY to adjust or relocate existing tollway facilities or utilities not included on the approved plans and special provisions, the AUTHORITY shall have the right to add such work to the contract during construction of the PROJECT.
7. The AUTHORITY shall require the contractor to indemnify and hold harmless the CITY in accordance with the indemnification provided the AUTHORITY in Article 107.14 of the AUTHORITY's Standard Specifications. This requirement shall be included in the special provisions of the construction contract.

8. The AUTHORITY shall require that the contractor execute full and complete releases of the CITY for any and all claims of the contractor, except claims related to the CITY's intentional or malicious conduct, prior to making final payment to the contractor.

9. The AUTHORITY shall require that the CITY, and its employees, Officers and Agents be included as additional insured parties in all insurance required of the contractor, and that the CITY be added as an additional protected party on all payment and performance bonds required of the contractor. Copies of said insurance policies and bonds shall be delivered to the CITY prior to commencement of construction. This requirement shall be included in the special provisions for the construction contract.

10. The CITY shall have all reasonable rights of inspection during the progress of the work on the Peace Road bridge portion of the PROJECT, however any inspection by the CITY shall be pursuant to prior reasonable notice to the Chief Engineer of the AUTHORITY or his authorized representative. The CITY representative shall promptly notify the Chief Engineer of the AUTHORITY or his authorized
representative where such construction deviates from approved plans and special provisions and the AUTHORITY shall thereafter cause said work to be performed in accordance with said approved plans and special provisions.

When the work is complete, the AUTHORITY shall give notice to the CITY of the date for final inspection of the work. The CITY shall have five (5) working days from the receipt of said notice to inspect the Peace Road work. In the event the CITY identifies work that does not conform to the contract plans and special provisions, it shall notify the Chief Engineer of the AUTHORITY of such nonconformity and shall promptly detail in writing each item of work that requires correction. Should the CITY fail to conduct its inspection within the five (5) day time period, it shall be deemed to have approved said work.

11. The AUTHORITY shall not issue final payment to the contractor for the work on the PROJECT until all work is completed in substantial compliance with the approved plans and special provisions and the CITY has had an opportunity for inspection of the Peace Road work as called for in this Agreement.

III - CONSTRUCTION FINANCING

1. It is agreed that the AUTHORITY shall pay all costs for the deck replacement of the Peace Road bridge.
2. Either the AUTHORITY or the CITY may, after the construction contracts are let by 
the AUTHORITY, request that supplemental work, not necessary to the completion 
of the PROJECT, that increases the total cost of the PROJECT or more costly 
substitute work be added to the construction contract and the AUTHORITY 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 
improvements. However, the party requesting or causing said non-essential 
supplemental work or more costly substitute work shall pay for the cost increases 
of said work, in addition to the costs otherwise provided in this Agreement to be 
paid by the party.

IV - MAINTENANCE

1. Upon completion of the PROJECT it is agreed that the maintenance responsibilities 
therefor shall be divided between the AUTHORITY and the CITY as follows:

a. Until such time as the AUTHORITY enters into a separate, future 
maintenance agreement with another governmental body(ies) for the 
maintenance obligations set forth below, the CITY shall maintain or cause 
to be maintained the following:

(1) All through lanes, turning lanes, medians, curbs, gutters, shoulders, 
guardrails, signs (excluding Tollway signs), drainage installations, 
slopes and embankments adjacent to the through lanes, and
appurtenances within the Peace Road right-of-way and not inaccessible by reason of access control fencing.

(2) The following portions of the grade separation structure:

(a) During the twenty-five (25) year design life of the bridge deck, the CITY OF DEKALB shall be responsible for maintaining the bridge deck surface. This includes timely and quality maintenance operations for partial deck patching of the deck. Partial deck patches are deck repairs that are necessary from the top of the deck down to the top reinforcing steel.

(b) Guardrails. The CITY OF DEKALB shall maintain the parapet walls above the deck.

(c) Drainage facilities above structural beams and girders.

(3) The CITY highway grassed areas and embankments adjacent to Peace Road.

b. The AUTHORITY shall maintain, or cause to be maintained, until such time as it enters into a separate maintenance agreement the following:
(1) The westbound entrance ramp to I-88 and eastbound exit from I-88 to the point where the ramps meet Peace Road mainline pavement, including ramp shoulders, embankments, drainage structures and curbs and gutters and/or guardrail adjacent thereto.

(2) All drainage facilities which carry exclusive Tollway drainage.

(3) All grassed areas and embankments within the AUTHORITY right-of-way not previously specified to be maintained by the CITY.

(4) All Tollway ramp lighting, including energy costs.

(5) All fences that control access to AUTHORITY property.

(6) At the end of the bridge deck twenty-five (25) year design life, the AUTHORITY shall be responsible for major rehabilitation cost of the deck, when the AUTHORITY deems rehabilitation is necessary.

2. As used herein the terms "maintenance" or "maintain" shall refer to the satisfactory upkeep, repair, reconstruction and operation of the right-of-way and facilities to assure safe and continued use and preservation including, but not limited to, snow and ice control, pavement patching, resurfacing, the removal of dirt and debris and the upkeep of grassed and infield area.
3. Any maintenance work required to be performed by a party to this agreement may be performed by the other party, following ten (10) calendar days advance written notice identifying the work to be performed and requesting the maintenance work to be performed within a reasonable specified time, if the party responsible for said maintenance work pursuant to this Agreement fails thereafter to perform. In such event, the party who thereafter performs work required hereunder to be performed by the other party shall be entitled to prompt reimbursement of actual costs and expenses of said maintenance.

4. These maintenance provisions shall replace and supersede any and all prior maintenance agreements relating to this interchange area.

V - GENERAL

THIS AGREEMENT and the covenants contained herein shall become null and void in the event the contract covering the construction work contemplated herein is not awarded by December 1996.

Wherever in this Agreement the approval or review of either the CITY or the AUTHORITY is provided for, said approval or review shall not be unreasonably delayed or withheld.
Any dispute concerning the final plans and specifications or in carrying out the terms of this Agreement shall be resolved by a meeting of the CITY Engineer and the Chief Engineer of the AUTHORITY. Any dispute not resolved as provided above shall be resolved by decision of the CITY Manager and the Executive Director of the AUTHORITY, and their decision shall be final.

Not later than fourteen (14) days after the execution of this Agreement, each party shall designate a representative in writing to the other party who shall serve as the full time representative of the said party during the carrying out of the construction of the improvements. Each representative shall have the authority on behalf of such party, to receive notices and make inspections and give approvals 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 and shall devote full time to this work.

THIS AGREEMENT shall be executed in six counterparts each of which shall be deemed as original.
THIS AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

By: John C. [Signature]
    Chairman

By: [Signature]
    Chief Engineer

Attest:

By: [Signature]
    Assistant Secretary

CITY OF DEKALB

By: [Signature]
    Mayor of DeKalb

Attest:

By: [Signature]
    City Clerk

Approved as to Form and Constitutionality

[Signature]
Attorney General, State of Illinois

(PleaseRd Agr Final March 22, 1996 MIP-92-534)