

AGREEMENT FOR THE CONNECTION OF A MUNICIPAL DRAINAGE SYSTEM TO THE COUNTY STORM WATER DRAINAGE SYSTEM ALONG WEBER ROAD

WHEREAS, the Village of Romeoville is a Municipal Corporation and situated in Will County, (hereinafter referred to as “MUNICIPALITY”) under and by virtue of the Constitution and laws of the State of Illinois, and has acted in the exercise of its legal authority in the exercise of this Agreement; and

WHEREAS, the County of Will is a body corporate and politic (hereinafter referred to as the “COUNTY”); and

WHEREAS, Article VII, Section 10, of the Constitution of the State of Illinois of 1970 provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine or transfer any power or function in any manner not prohibited by law or by ordinance; and

WHEREAS, MUNICIPALITY and the COUNTY are public agencies within the meaning of the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

WHEREAS, the Illinois Intergovernmental Cooperation Act authorizes municipalities to exercise jointly with any public agency of the State, including other units of local government, any power, privilege, or authority which may be exercised by a unit of local government individually, and to enter into contracts for the performance of governmental services, activities, and undertakings; and

WHEREAS, Weber Road and the adjacent right of way including a storm water drainage system (herein, the “County System”) are under the jurisdiction of the COUNTY; and

WHEREAS, the MUNICIPALITY, in order to properly manage storm water from the Frontage Road connection to Weber Road, desires to construct a municipal storm water drainage system (herein, the “Municipal System”) and connect it to the County System, and

WHEREAS, the County finds that it is in the public interest to provide adequate drainage for storm water,

NOW, THEREFORE, in consideration of the above stated preambles and mutual covenants and promises hereinafter contained, the COUNTY and MUNICIPALITY formally covenant, agree, and bind themselves as follows:

1. The above Recitals are substantive and are incorporated herein by reference as if fully set forth in this paragraph 1.
2. The MUNICIPALITY shall construct, install and/or connect the Municipal System to the existing County System in compliance with the permit issued by the COUNTY in accordance with the Will County Storm Water Management Ordinance.

3. The MUNICIPALITY shall bear all expenses, including but not limited to expenses of material and labor used in constructing, installing and/or connecting the Municipal System to the County system and shall be responsible for the maintenance and upkeep of the Municipal System up to the point of connection with the County System, which point of connection is identified in the Plans. The MUNICIPALITY shall obtain prior written approval from the Will County Division of Transportation prior to performing any maintenance, construction and/or reconstruction of the Municipal System within the County right of way that will materially impact the County System. All maintenance and upkeep shall be in compliance with the Will County Storm Water Management Ordinance, as more specifically described in the maintenance plan provided and approved by the COUNTY, a copy of which is attached hereto as Exhibit A (the "Maintenance Plan").
4. The MUNICIPALITY shall be financially responsible for any and all damage to the County System to the extent directly related to the failure by the MUNICIPALITY to construct, install, maintain and/or operate the Municipal System in accordance with the Plans and Maintenance Plan. The COUNTY shall be entitled to payment for all actual and reasonable costs incurred should the MUNICIPALITY fail to abide by the terms of this paragraph, including reasonable attorney's fees.
5. Should drainage problems subsequently occur along Weber Road after the Municipal System is completed due to the MUNICIPALITY'S failure to construct, install, maintain and/or operate the Municipal System in substantial accordance with the Plans and the Maintenance Plan, the COUNTY shall provide written notice to the MUNICIPALITY detailing the failure. If the MUNICIPALITY fails to properly commence cure within thirty (30) days following written notice of such failure by the COUNTY, then the COUNTY shall have the right to clean or repair the Municipal System as deemed necessary by the COUNTY. Any cost incurred by the COUNTY to restore the Municipal System outside of the County right-of-way to its original working condition shall be invoiced to the MUNICIPALITY. Payment shall be made within thirty (30) days of the invoice.
6. That during and upon the construction, installation and connection of the Municipal System with the County System, the MUNICIPALITY hereby releases the County of Will and its subdivisions from any and all liability resulting from any and all damage to real or personal property in any way related to the MUNICIPALITY'S failure to construct, install, maintain and/or operate the Municipal System in substantial accordance with the Plans and the Maintenance Plan. The COUNTY shall be entitled to recover all actual and reasonable costs, fees, and damages, including reasonable attorney's fees, expended by the COUNTY should the MUNICIPALITY fail to abide by the terms of this paragraph.
7. The MUNICIPALITY, its successors and/or assigns, agree to indemnify and hold harmless the COUNTY, its officers, agents, employees and/or its subdivisions, for any damage resulting from backup of water, blockage or surcharging of the line arising from

the MUNICIPALITY'S failure to construct, install, maintain and/or operate the Municipal System in substantial accordance with the Plans and the Maintenance Plan, and also agree to indemnify the COUNTY, its officers, agents, employees and/or its subdivisions, against any legal action taken against the COUNTY in any way related to the MUNICIPALITY'S failure to construct, install, maintain and/or operate the Municipal System in substantial accordance with the Plans and the Maintenance Plan. Such indemnity shall include all actual and reasonable fees, costs, and damages, including reasonable attorney's fees. Notwithstanding anything contained in this Agreement to the contrary, in no event shall MUNICIPALITY be required to indemnify or hold harmless COUNTY against (and in no event shall MUNICIPALITY otherwise be liable for) any liability, costs, claims or losses to the extent the same: (i) constitute indirect, special or consequential losses, costs or damages, punitive damages or loss of profits or business opportunity of COUNTY (or any claim therefor), or (ii) result from the negligence or intentional misconduct of COUNTY (or any person or entity claiming by, through or under COUNTY).

8. This document is the complete and final embodiment of the Agreement by and between the COUNTY and MUNICIPALITY. Changes or modification to this Agreement shall be made only in writing and shall be effective only after obtaining the proper approvals and authorized signatures of both the COUNTY and the MUNICIPALITY.
9. In the event that a court of competent jurisdiction should hold any provision of this Agreement invalid, unenforceable, in conflict with or contrary to then applicable law, such provision shall be deemed severable and the holding shall not invalidate or render unenforceable any other provision hereto, except for when such invalidation would materially alter or hinder the purposes of this contract.
10. Failure to enforce any provision herein shall not be considered a waiver of that provision or any other provision found herein.
11. This Agreement shall be binding upon and inure to the benefits of the parties hereto, their successors and/or assigns.
12. Venue for any dispute related to or concerning this Agreement shall be the Twelfth Judicial Circuit, Will County, Illinois and interpretation and enforcement of this Agreement shall be governed by the laws of the State of Illinois irrespective of choice of law considerations.

13. Any notices under this Agreement shall be sent as follows:

If to the County:

Will County Engineer
Will County Division of Transportation
16841 West Laraway Road
Joliet, IL 60433

Will County State's Attorney
Attention: Civil Division
57 N. Ottawa Street, 5th Floor
Joliet, Illinois 60432

If to MUNICIPALITY:

Attention: _____

Village Attorney

14. The PARTIES agree that each shall be responsible to notify the other of any changes in notification procedures.

15. This AGREEMENT may be executed in one or more counterparts, each of which will be deemed an original, but all of which will constitute one instrument.

Dated at Joliet, Illinois this ____ day of _____, 2021.

WILL COUNTY

ATTEST

Will County Executive

Will County Clerk

(Seal)

Dated at _____, Illinois, this ____ day of _____, 2021.

_____ **OF** _____

ATTEST

Mayor

Village Clerk

EXHIBIT A
THE MAINTENANCE PLAN

See attached.