

## RESOLUTION NO. 22029

**Background**

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

To provide funds to pay a portion of the costs of the Authority’s long-range capital plan known as the Move Illinois Program, pursuant to the terms of the Fifteenth Supplemental Indenture, dated as of May 1, 2013, between the Authority and the Trustee, the Authority issued its Toll Highway Senior Revenue Bonds, 2013 Series A in the aggregate principal amount of \$500,000,000 (“2013A Bonds”).

To provide funds to pay a portion of the costs of the Authority’s long-range capital plan known as the Move Illinois Program, pursuant to the terms of the Eighteenth Supplemental Indenture, dated as of June 1, 2014, between the Authority and the Trustee, the Authority issued its Toll Highway Senior Revenue Bonds, 2014 Series B in the aggregate principal amount of \$500,000,000 (“2014B Bonds” and collectively with the 2013A Bonds, “Refunding Candidates”).

The Authority has determined that it is advisable, necessary and in its best interests to authorize the borrowing of a maximum aggregate principal amount of \$900,000,000 for the purpose of refunding all or portions of the Refunding Candidates, to the extent determined to be in the best interests of the Authority by an Authorized Officer (as hereinafter defined) in order to reduce debt service for the Authority, provided such reduction in debt service exceeds, on a present value

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**Background - continued**

basis, an amount equal to 8% of the aggregate principal amount of bonds refunded (“Refunding”), and in evidence thereof to issue one or more series of Additional Senior Bonds (as defined in the Master Indenture) pursuant to Section 204 of the Master Indenture (“2020 Refunding Bonds”), at one or more times as herein provided, such borrowing being for a proper public purpose and in the public interest, and the Authority, by virtue of all laws applicable thereto, has the power to issue such 2020 Refunding Bonds. Any 2020 Refunding Bonds authorized herein shall be issued on a parity with all Senior Bonds (as defined in the Master Indenture) now or hereafter outstanding under the Master Indenture and shall be secured by the Master Indenture, as supplemented and amended, including as authorized herein, or as may be supplemented and amended in the future.

It is necessary for the Authority to authorize the issuance of the 2020 Refunding Bonds and to approve and to authorize the execution of the 2020 Refunding Supplemental Indenture, Bond Purchase Agreement, Refunding Escrow Agreement, Continuing Disclosure Agreement (all as defined below) and certain other documents and agreements and the performance of acts necessary or convenient in connection with the implementation of this Resolution and the issuance of the 2020 Refunding Bonds.

**Resolution**

1. *Incorporation of Background.* The Background of this Resolution is hereby incorporated into this text as if set out in full herein.
2. *Issuance of 2020 Refunding Bonds.* The Authority authorizes the issuance and delivery of 2020 Refunding Bonds in a maximum aggregate principal amount of \$900,000,000 for purposes of the Refunding. The 2020 Refunding Bonds may be issued from time to time in one or more series as Additional Senior Bonds in said respective maximum aggregate principal amounts or lesser principal amounts, all as may be determined by the Chairman of the Authority (“Chairman”).

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The 2020 Refunding Bonds shall be issued as bonds bearing interest at fixed rates and paying interest semiannually. Each series of 2020 Refunding Bonds shall be issued pursuant to, and have such terms and provisions as are set forth in, a supplemental indenture (“2020 Refunding Supplemental Indenture”) between the Authority and the Trustee, supplementing and amending the Master Indenture.

In connection with the issuance of each series of 2020 Refunding Bonds, the Chairman is hereby authorized to execute, and the Secretary of the Authority (“Secretary”) is hereby authorized to attest to a 2020 Refunding Supplemental Indenture in substantially the form previously used in connection with the sale of revenue bonds of the Authority, with such revisions, insertions, completions and modifications therein including, without limitation, such revisions as shall be necessary to incorporate provisions relating to (i) the dating, series designation, denominations, interest payment dates, tax status, redemption provisions, registration and transfer of the 2020 Refunding Bonds, and (ii) the application of proceeds of the 2020 Refunding Bonds for the Refunding, as shall be approved by the Chairman and that are not inconsistent with the terms and provisions of this Resolution, such execution to constitute conclusive evidence of the Chairman’s approval and this Authority’s approval of such revisions, insertions, completions and modifications thereof.

3. *Terms of 2020 Refunding Bonds.* The 2020 Refunding Bonds of each series shall be designated “Toll Highway Senior Revenue Bonds” with such additions, modifications or revisions as shall be determined to be necessary by the Chairman at the time of sale of the 2020 Refunding Bonds to reflect the order of sale of such Bonds if issued in more than one series, the specific series of such Bonds, the use of proceeds of such Bonds, tax status, and any other authorized features of the 2020 Refunding Bonds determined by the Chairman as desirable to be reflected in the title of the 2020 Refunding Bonds being issued. Each series of 2020 Refunding Bonds shall bear interest at a rate or rates not to exceed 7.00 percent per annum. Interest shall be payable on each series of the 2020 Refunding

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Bonds at such times and on such basis and terms as shall be provided in the related 2020 Refunding Supplemental Indenture.

The 2020 Refunding Bonds shall be executed by the manual or duly authorized facsimile signatures of the Chairman and the Secretary and the corporate seal of the Authority (or facsimile thereof) impressed or otherwise reproduced on them. The 2020 Refunding Bonds of a series shall be prepared in the form attached to the related 2020 Refunding Supplemental Indenture.

Any portion of the 2020 Refunding Bonds may be issued as bonds the interest on which is includible in the gross income of the owner thereof for federal income tax purposes if determined by the Chairman to be beneficial to the Authority.

4. *Redemption.* The 2020 Refunding Bonds of a series may be made subject to redemption prior to maturity at the option of the Authority, at such times and at redemption prices of par plus accrued interest, which redemption prices may also include a redemption premium for each 2020 Refunding Bond to be redeemed expressed (i) as a percentage, not to exceed two percent (2%) of the principal amount of the 2020 Refunding Bonds being redeemed, or (ii) as a formula designed to compensate the owner of each 2020 Refunding Bond to be redeemed based on prevailing market conditions on the date fixed for such redemption, commonly known as a “*make whole*” redemption, all as determined by the Chairman at the time of the sale of the 2020 Refunding Bonds and reflected in the related 2020 Refunding Supplemental Indenture.

5. *Sale of Bonds.* The Chairman is hereby authorized on behalf of the Authority to sell bonds issued by the Authority, including all or any portion of the 2020 Refunding Bonds, to an underwriting group (“Underwriters”) represented by one or more Senior Managing Underwriters (individually or collectively, “Senior

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Managing Underwriter”) selected from among underwriters pre-qualified by the Authority pursuant to its procurement process, “RFP#16-0155 for Bond Underwriting Services,” and Resolution No. 21288 adopted by the Board on June 22, 2017, during the term established by such procurement process, as such term may be renewed.

The 2020 Refunding Bonds shall be sold and delivered to the Underwriters subject to the terms and conditions of one or more Bond Purchase Agreements between the Authority and the Underwriters (“Bond Purchase Agreement”); provided that the aggregate purchase price shall be not less than 98.5 percent of the principal amount thereof to be issued, less any original issue discount, in marketing thereof and any accrued interest from their date to the date of delivery thereof. The Chairman is hereby authorized to execute, and the Secretary is hereby authorized to attest to, the Bond Purchase Agreement in substantially the form previously used in connection with the sale of revenue bonds of the Authority, with such revisions, insertions, completions and modifications therein as shall be approved by the Chairman and that are not inconsistent with the terms and provisions of this Resolution, such execution to constitute conclusive evidence of the Chairman’s approval and this Authority’s approval of such revisions, insertions, completions and modifications thereof.

6. *Preliminary Official Statement.* The preparation, use and distribution of a Preliminary Official Statement relating to the 2020 Refunding Bonds (“Preliminary Official Statement”) is hereby in all respects ratified, authorized and approved. The Preliminary Official Statement shall contain disclosure information substantially similar to that presented in such form used in connection with the sale and issuance of the obligations of the Authority, as applicable, and shall reflect the terms and provisions of the 2020 Refunding Bonds proposed to be issued, including the application of the proceeds thereof and shall describe accurately the current financial condition of the toll highways maintained by the Authority and the parties to the financing. The proposed use by the Underwriters of an Official

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Statement (in substantially the form of the Preliminary Official Statement but with appropriate variations, omissions and insertions to reflect the final terms of the 2020 Refunding Bonds being sold) is hereby approved. The Chairman is authorized and directed to execute the Official Statement on behalf of the Authority and execution thereof shall constitute conclusive evidence of the Chairman's approval and this Authority's approval of any changes to the form of Preliminary Official Statement authorized herein.

7. *Application of Proceeds.* The proceeds from the sale of any series of the 2020 Refunding Bonds shall be applied as determined by the Chairman and the Chief Financial Officer of the Authority as follows:

- (i) the sum representing the accrued interest received, if any, shall be used to pay the first interest becoming due on the 2020 Refunding Bonds sold;
- (ii) to the refunding of such Refunding Candidates selected by the Chief Financial Officer to be refunded prior to their respective maturities at a price of par plus accrued interest thereon, up to and including their applicable redemption dates, which proceeds shall be deposited into an account to be held by the Trustee pursuant to the terms of the related 2020 Refunding Supplemental Indenture or one or more escrow agreements (each a "Refunding Escrow Agreement"), and the Chairman is hereby authorized to execute, and the Secretary is hereby authorized to attest to and deliver, each Refunding Escrow Agreement in such form as the officer so executing shall deem appropriate to effect the Refunding. Such Refunding Escrow Agreements may include agreements entered into between the Authority and providers of securities under which providers agree to purchase from or sell to the Authority specified securities on specific dates at predetermined prices, all as established at the time of execution of any such agreement;

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- (iii) to make any required deposit to the Debt Reserve Account held under the Master Indenture;
- (iv) to pay expenses related to the issuance of such 2020 Refunding Bonds, including, without limitation, fees of counsel, rating agencies, financial advisors, trustee, escrow agents, verification agents, and Underwriters; and
- (v) to such other purposes that are not inconsistent with the terms and provisions of this Resolution as shall be set forth in the 2020 Refunding Supplemental Indenture authorizing such 2020 Refunding Bonds.

8. *Tax-Exemption and Non-Arbitrage.* The Authorized Officers are hereby authorized to take any other actions and to execute any other documents and certificates necessary to assure that 2020 Refunding Bonds, to the extent issued on a tax-exempt basis, do not constitute “arbitrage bonds” under the Internal Revenue Code of 1986, as amended, and to effectuate the issuance and delivery of such 2020 Refunding Bonds, including but not limited to the execution and delivery by one or more of the Authorized Officers of a Tax Regulatory Agreement in a form to be approved by bond counsel and by counsel for the Authority.

9. *Continuing Disclosure.* The Chairman is authorized to execute and deliver a Continuing Disclosure Agreement evidencing the Authority’s agreement to comply with the requirements of Section (b)(5) of Rule 15c2-12, adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as applicable to the 2020 Refunding Bonds, in substantially the form previously used by the Authority in connection with the issuance of revenue bonds, with such insertions, completions and modifications therein as shall be approved by the Chairman and that are not inconsistent with the terms and provisions of this Resolution, such execution to constitute conclusive evidence of the Chairman’s approval and this Authority’s approval of such insertions, completions and modifications thereof.

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10. *Authorized Acts.* Each of the Chairman, the Executive Director, the Secretary, the Assistant Secretary, the Chief Financial Officer, the General Counsel and the Chief Engineering Officer of the Authority (each, an “Authorized Officer”) are hereby authorized and directed to do all such acts and things and to execute and deliver all such other documents, agreements and certificates and perform such other acts as may be necessary or desirable in connection with the issuance of the 2020 Refunding Bonds and the execution and delivery of each 2020 Refunding Supplemental Indenture, Bond Purchase Agreement, Refunding Escrow Agreement, Official Statement and Continuing Disclosure Agreement, including the giving of all notices of redemption required in connection with the Refunding.

11. *Ratification.* All acts and undertakings of the officials or officers of the Authority that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the 2020 Refunding Bonds and the accomplishment of the Refunding are in all respects approved and confirmed.

12. *Costs of Issuance.* The Chief Financial Officer of the Authority is authorized to pay the costs of issuance of the 2020 Refunding Bonds including, without limitation, printing costs, transcript costs, consultants’ and attorneys’ fees, rating agency fees, trustee fees, fees of an escrow agent and escrow verification agent, and all other reasonable and necessary upfront and annual fees and costs of the Authority incurred in connection with the issuance of the 2020 Refunding Bonds and the accomplishment of the Refunding.

13. *Approval of Attorney General.* Notwithstanding anything herein to the contrary, the Authority’s approval of each 2020 Refunding Supplemental Indenture, Bond Purchase Agreement, Refunding Escrow Agreement, and Continuing Disclosure Agreement is subject to the further approval as to form and constitutionality by the Attorney General of the State of those agreements, as well as any other agreements authorized herein.



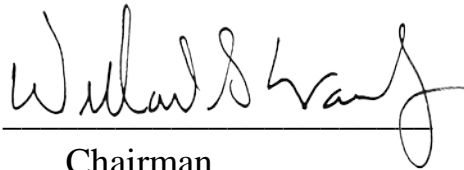
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14. *Severability.* The provisions of this Resolution are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the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

15. *Repealer, Effective Date and Expiration Date.* All Resolutions or parts of Resolutions in conflict herewith are, to the extent of such conflict, hereby repealed. This Resolution is effective as of its date and will expire on December 31, 2021.

Approved by:

  
Chairman

RESOLUTION NO. 22030  
AMENDING RESOLUTION NO. 21519

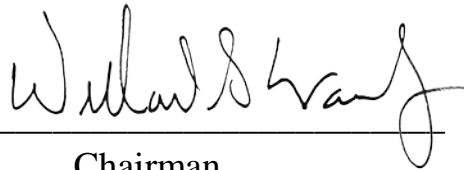
**Background**

The Toll Highway Act authorizes The Illinois State Toll Highway Authority (“Tollway”) to settle administrative fines and/or penalties arising from toll violations. *See* 605 ILCS 10/10(a-5). On April 28, 2016, the Tollway passed Resolution No. 21010 setting forth Toll Violation Payment and Settlement Guidelines (“Guidelines”). The Tollway, in consultation with the Attorney General, has determined that it is in the best interest of the Tollway, after taking into account the factors listed in Section 10(a-5) of the Toll Highway Act, to renew and continue the Guidelines by extending the expiration date. No other modifications are made.

**Resolution**

The expiration date of the Toll Violation Payment and Settlement Guidelines, which are posted on the Tollway’s website, is hereby retroactively amended and extended to May 1, 2022. The Tollway is directed to update its posted Guidelines to reflect the May 1, 2022 expiration date.

Approved by:



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Chairman

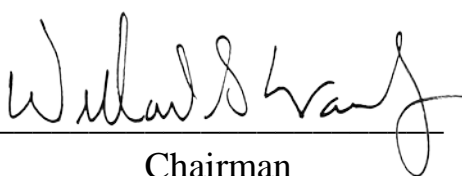
## RESOLUTION NO. 22031

**Background**

The Illinois State Toll Highway Authority (“Tollway”) has previously purchased Printing and Mailing Services from Transitions, N.F.P. (d.b.a. The Printer’s Mark), a State Use Vendor (“Contract No. 17-0127”). It is in the best interest of the Tollway to purchase additional Printing and Mailing Services from Transitions, N.F.P. (d.b.a. The Printer’s Mark) by renewing Contract No. 17-0127 and increasing the upper limit of compensation by an amount not to exceed \$7,700,000.00. The Tollway is currently working with the State Use Committee on the State Use Program process for this procurement, and a contract will be entered only after all predicate steps are successfully completed.

**Resolution**

The renewal and associated increase to the upper limit of compensation of Contract No. 17-0127 for additional Printing and Mailing Services from Transitions, N.F.P. (d.b.a. The Printer’s Mark) is approved in an amount not to exceed \$7,700,000.00 (increasing the upper limit from \$8,200,000.00 to \$15,900,000.00), subject to successful satisfaction of all legal and regulatory requirements necessary to enter into a State Use Program renewal contract for the procurement. The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer. The Chief of Contract Services is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:   
Chairman

## RESOLUTION NO. 22032

**Background**

The Illinois State Toll Highway Authority (“Tollway”) has previously purchased Maintenance, Repair and Operations (“MRO”) Catalog Products through the Central Management Services (“CMS”) master contract with W.W. Grainger, Inc. (“Contract No. 15-0091”). It is in the best interest of the Tollway to continue to utilize this CMS master contract and increase the upper limit of compensation of Tollway Contract No. 15-0091 by an amount not to exceed \$585,000.00 for the purchase of additional MRO Catalog Products. These goods and/or services are being obtained pursuant to 44 Ill. Adm. Code 1.1040.

**Resolution**

Utilization of the CMS master contract and the associated increase to the upper limit of compensation of Contract No. 15-0091 for the purchase of additional MRO Catalog Products from W.W. Grainger, Inc. is approved in an amount not to exceed \$585,000.00 (increasing the upper limit from \$2,000,000.00 to \$2,585,000.00). The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer. The Chief of Contract Services is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:

  
Chairman

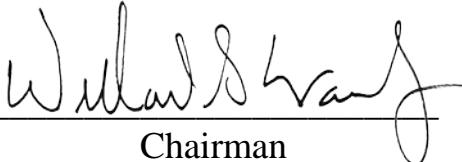
## RESOLUTION NO. 22033

**Background**

The Illinois State Toll Highway Authority (“Tollway”) is interested in procuring Unisys System Replacement, Upgrade, Support, Maintenance and Services as a Sole Source Contract (No. 20-0008) with Unisys Corporation for an upper limit of compensation not to exceed \$885,720.22. The Tollway is authorized to procure these goods and/or services pursuant to Section 20-25 of the Illinois Procurement Code, 30 ILCS 500/20-25, which requires advance public notice of at least two weeks. The Tollway is currently working with the State’s Chief Procurement Officer for General Services on the Sole Source process for this procurement, and a contract will be entered only after all predicate steps are successfully completed.

**Resolution**

The sole source quote from Unisys Corporation for the purchase of Unisys System Replacement, Upgrade, Support, Maintenance and Services is accepted. Contract No. 20-0008 is approved in an amount not to exceed \$885,720.22, subject to successful satisfaction of all legal and regulatory requirements necessary to enter into a Sole Source Contract for the procurement. The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer. The Chief of Contract Services is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:   
Chairman

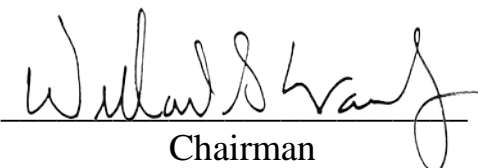
## RESOLUTION NO. 22034

**Background**

The Illinois State Toll Highway Authority (“Tollway”) is interested in procuring Microsoft Software, Maintenance, Support and Services through the Illinois Department of Innovation & Technology (“DoIT”) master contract with CDW Government LLC, Tollway Contract No. 20-0052, for an upper limit of compensation not to exceed \$2,470,506.65. These goods and/or services are being obtained pursuant to 44 Ill. Adm. Code 1.1040.

**Resolution**

Utilization of the DoIT master contract for the purchase of Microsoft Software, Maintenance, Support and Services from CDW Government LLC is approved in an amount not to exceed \$2,470,506.65. The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer. The Chief of Contract Services is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:   
Chairman

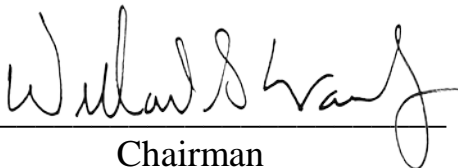
## RESOLUTION NO. 22035

**Background**

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 21222 approved on February 23, 2017, entered into Contract No. RR-16-9195 with Western Remac, Inc. for Sign Panel Fabrication and Installation Upon Request, Systemwide. It is in the best interest of the Tollway to secure an increased quantity of Portable Changeable Message Signs (PCMS) to inform patrons of the need to pay electronically at various Toll Plazas. Therefore, in accordance with the Tollway’s Board approved process for approving change orders and extra work orders (individually, “Change Order” or “Extra Work Order”), which is set forth in Resolution Nos. 16832, 17250 and 19806, the Tollway recommends approval of a Change Order increasing the upper limit of Contract No. RR-16-9195 in an amount not to exceed \$500,000.00.

**Resolution**

A Change Order in the amount of \$500,000.00 and a commensurate increase in the upper limit of compensation on Contract No. RR-16-9195 (increasing the upper limit from \$1,642,063.00 to \$2,142,063.00) is approved. The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer, and the Chief Financial Officer is authorized to issue and deliver warrants in payment thereof.

Approved by:   
Chairman


## RESOLUTION NO. 22036

**Background**

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 21509 approved on March 29, 2018, entered into Contract No. RR-16-4256 with Plote Construction, Inc. / Dunnet Bay Construction Co. for Roadway and Bridge Rehabilitation and Widening on the Veterans Memorial Tollway (I-355) from Mile Post 23.3 (Butterfield Road) to Mile Post 29.8 (Army Trail Road). It is in the best interest of the Tollway to increase the upper limit of Contract No. RR-16-4256, by an amount not to exceed \$587,600.00, to upgrade bridge joints at 14 bridges. Therefore, in accordance with the Tollway’s Board approved process for approving change orders and extra work orders (individually, “Change Order” or “Extra Work Order”), which is set forth in Resolution Nos. 16832, 17250 and 19806, the Tollway recommends approval of an Extra Work Order increasing the upper limit of Contract No. RR-16-4256 in an amount not to exceed \$587,600.00.

**Resolution**

An Extra Work Order in the amount of \$587,600.00 and a commensurate increase in the upper limit of compensation on Contract No. RR-16-4256 (increasing the upper limit from \$58,032,942.02 to \$58,620,542.02) is approved. The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer, and the Chief Financial Officer is authorized to issue and deliver warrants in payment thereof.

Approved by:   
Chairman



## RESOLUTION NO. 22037

**Background**

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 21842 approved on July 18, 2019, entered into Contract No. I-18-4428 with Walsh Construction Company II, LLC for Bridge Reconstruction, on the Tri-State Tollway (I-294) at Mile Post 26.6 (Burlington Northern Santa Fe Railway). It is in the best interest of the Tollway to increase the upper limit of Contract No. I-18-4428, by an amount not to exceed \$2,000,000.00 to obtain additional asphalt patching on the Central Tri-State Corridor. Therefore, in accordance with the Tollway’s Board approved process for approving change orders and extra work orders (individually, “Change Order” or “Extra Work Order”), which is set forth in Resolution Nos. 16832, 17250 and 19806, the Tollway recommends approval of an Extra Work Order increasing the upper limit of Contract No. I-18-4428 in an amount not to exceed \$2,000,000.00.

**Resolution**

An Extra Work Order in the amount of \$2,000,000.00 and a commensurate increase in the upper limit of compensation on Contract No. I-18-4428 (increasing the upper limit from \$78,213,196.98 to \$80,213,196.98) is approved. The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer, and the Chief Financial Officer is authorized to issue and deliver warrants in payment thereof.

Approved by: William S. Kravitz  
Chairman


## RESOLUTION NO. 22038

**Background**

The Illinois State Toll Highway Authority (“Tollway”), pursuant to Resolution No. 21783 approved on April 18, 2019, entered into Contract No. I-18-4430 with F.H. Paschen, S.N. Nielsen & Associates, LLC for Roadway and Bridge Reconstruction on the Tri-State Tollway (I-294) from Mile Post 20.7 to Mile Post 22.3 (Mile Long Bridge). It is in the best interest of the Tollway to increase the upper limit of Contract No. I-18-4430, by an amount not to exceed \$1,000,000.00 to obtain additional asphalt patching on the Central Tri-State Corridor. Therefore, in accordance with the Tollway’s Board approved process for approving change orders and extra work orders (individually, “Change Order” or “Extra Work Order”), which is set forth in Resolution Nos. 16832, 17250 and 19806, the Tollway recommends approval of an Extra Work Order increasing the upper limit of Contract No. I-18-4430 in an amount not to exceed \$1,000,000.00.

**Resolution**

An Extra Work Order in the amount of \$1,000,000.00 and a commensurate increase in the upper limit of compensation on Contract No. I-18-4430 (increasing the upper limit from \$184,686,675.33 to \$185,686,675.33) is approved. The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer, and the Chief Financial Officer is authorized to issue and deliver warrants in payment thereof.

Approved by:   
Chairman

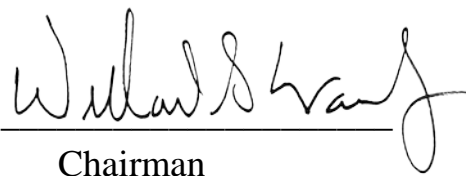
## RESOLUTION NO. 22039

**Background**

The Illinois State Toll Highway Authority (“Tollway”) is reconstructing and replacing the Stearns School Road Bridge over I-94. It is the best interest of the Tollway to enter into an Intergovernmental Agreement (“Agreement”) with the County of Lake (“County”) and the Village of Gurnee (“Village”) to document (i) the County’s request to have certain upgrades performed on the replacement Bridge, (ii) the County’s reimbursement/cost participation and future maintenance responsibilities relative to the Bridge, (iii) the Village’s request to relocate a shared use path and add a sidewalk to the replacement Bridge, and (iv) the Village’s reimbursement/cost participation and future maintenance responsibilities relative to the Bridge. The estimated reimbursement for the cost of maintenance and additional work requested by the County is \$4,392,807.00, and the estimated reimbursement for the cost of additional work requested by the Village is \$1,091,865.00. This Agreement also identifies future ownership of the Bridge and the maintenance responsibilities of the Tollway.

**Resolution**

The Chief Engineering Officer and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between The Illinois State Tollway Highway Authority, the County of Lake, and the Village of Gurnee in substantially the form attached to this Resolution. The Chairman/Chief Executive Officer of the Tollway, subject to the approval of the Chief Financial Officer, is authorized to execute said agreement, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:   
Chairman

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY,  
THE COUNTY OF LAKE AND THE VILLAGE OF GURNEE**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, 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 COUNTY OF LAKE, a body corporate and politic of the State of Illinois, hereinafter called the "COUNTY", and the VILLAGE OF GURNEE, a municipal corporation of the State of Illinois, hereinafter called the "VILLAGE". The ILLINOIS TOLLWAY, the COUNTY, and the VILLAGE are each hereinafter sometimes individually referred to as "PARTY", and are 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 Tri-State Tollway (I-94/I-294) (hereinafter sometimes referred to as "Toll Highway"), and its crossroad bridges including Stearns School Road Bridge (Mile Post 7.5), (and included in ILLINOIS TOLLWAY contract(s) including but not limited to Construction Contract # RR-18-4382, (hereinafter referred to as the "PROJECT")), by making the following improvements:

Removal of the existing bridge carrying Stearns School Road over the Toll Highway, and reconstruction as a 280 feet long bridge over the Toll Highway, including maintaining the location of the existing shared use path along the north side of the bridge, adding a new sidewalk along the south side of the bridge and approach roadways.

WHEREAS, in an Intergovernmental Agreement fully executed November 22, 1999 between the COUNTY and the ILLINOIS TOLLWAY, maintenance responsibilities for Stearns School Road Bridge over the Toll Highway were defined; and

WHEREAS, pursuant to the terms of the November 22, 1999 Intergovernmental Agreement between the ILLINOIS TOLLWAY and the COUNTY, the COUNTY maintains the complete deck and wearing surface of the bridge, above the top of the bridge beams, including parapets, railings, fencing, drainage scuppers, curbs and sidewalks, retaining walls, the approaches to the bridge structures, as well as the curbs, gutters, shoulders, slopes and embankments adjacent to the travel lanes of Stearns School Road, and normal appurtenances within Stearns School Road right-of-way that are inaccessible to the ILLINOIS TOLLWAY by reason of access control fencing; all COUNTY roadway grassed and vegetated areas, and embankments within the right-of-way of Stearns School Road; all guardrail within COUNTY roadway right-of-way parallel to Stearns School Road; all approach embankments and all drainage facilities on COUNTY right-of-way except drainage structures exclusively conveying ILLINOIS TOLLWAY drainage; and all

signs installed within Stearns School Road right-of-way intended to direct, warn, or guide traffic on Stearns School Road; and

WHEREAS, in an Intergovernmental Agreement fully executed May 15, 2000 between the COUNTY and the VILLAGE, ownership and maintenance responsibilities for Stearns School Road bike path were defined; and

WHEREAS, pursuant to the terms of the May 15, 2000 Intergovernmental Agreement between the COUNTY and the VILLAGE, the VILLAGE repairs, replaces, maintains and is solely responsible, with no reimbursement from the COUNTY, for all costs associated with the existence, use, maintenance and operation of the existing bike path located along the north side of Stearns School Road, and agreed to pay one hundred percent (100%) of all costs, with no reimbursement from the COUNTY, for the removal and/or relocation of said bike path that may be required due to the construction of any improvements to Stearns School Road; and

WHEREAS, the COUNTY's published report, "Policy on Infrastructure Guidelines for Non-motorized Travel Investments", hereinafter referred to as "COUNTY NON-MOTORIZED POLICY", as may be amended, set forth a standardized cost-sharing arrangement between the COUNTY and municipalities for new non-motorized facilities within improvement projects.

WHEREAS, the COUNTY has requested the ILLINOIS TOLLWAY include in its PROJECT the widening of Stearns School Road from two (2) to three (3) lanes, deck grinding, the addition of approach pavement east and west of the bridge, the addition of architectural fencing on the outside parapets on the north side and south side of the bridge, the addition of railing on the inside parapet on the north side of the bridge, hereinafter referred to as "COUNTY IMPROVEMENTS", subject to reimbursement by the COUNTY to the ILLINOIS TOLLWAY; and

WHEREAS, the VILLAGE has requested the ILLINOIS TOLLWAY include in its PROJECT the construction of pedestrian accommodations including the relocation of the existing shared use path on the north side of the bridge, and the addition of sidewalk on the south side of the bridge, hereinafter referred to as "VILLAGE IMPROVEMENTS", subject to reimbursement by the VILLAGE to the ILLINOIS TOLLWAY; and

WHEREAS, the ILLINOIS TOLLWAY, the COUNTY, and the VILLAGE by this AGREEMENT, 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 COUNTY by virtue of its powers as set forth in the Counties Code 55 ILCS 5/1-1001 *et seq.* and the Illinois Highway Code 605 ILCS 5/5-101 is authorized to enter into this AGREEMENT; and

WHEREAS, the VILLAGE by virtue of its powers as set forth in the “Illinois Municipal Code” 65 ILCS 5/1-1-1 *et seq.* is authorized to enter into this AGREEMENT; and

WHEREAS, an intergovernmental agreement is appropriate and this 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 preambles and the mutual covenants contained herein, the PARTIES agree as follows:

## **I. ENGINEERING**

- A. The ILLINOIS TOLLWAY agrees to perform preliminary and final design engineering, obtain necessary surveys, land acquisition, and prepare the final plans and specifications for the PROJECT, subject to reimbursement by the COUNTY, and the VILLAGE as hereinafter stipulated.
- B. The final approved plans and specifications for the PROJECT, prepared by STV, Inc. with a submission date of 03/27/2020, shall be promptly delivered to the COUNTY, and the VILLAGE by the ILLINOIS TOLLWAY. Said plans, by reference herein, become a part hereof.
- C. The COUNTY, and the VILLAGE shall review the PROJECT plans and specifications which impact the COUNTY's highways, the COUNTY IMPROVEMENTS, or the VILLAGE IMPROVEMENTS within fifteen (15) calendar days of receipt thereof. If the ILLINOIS TOLLWAY does not receive comments or objections from the COUNTY and/or the VILLAGE within this time period, the lack of response shall be deemed approval by the COUNTY and/or the VILLAGE of the plans and specifications. Approval by the COUNTY and the VILLAGE shall mean the COUNTY and the VILLAGE agree with all specifications in the plans, including alignment and location of the PROJECT improvements which impact the COUNTY's highways, the COUNTY IMPROVEMENTS or the VILLAGE IMPROVEMENTS. In the event of disapproval, the COUNTY and/or the VILLAGE 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.E of this AGREEMENT.

- E. The ILLINOIS TOLLWAY agrees to assume overall PROJECT responsibility, including assuring that all permits and approvals (including but not necessarily limited to U.S. Army Corps of Engineers, Illinois Department of Transportation, Illinois Department of Natural Resources, Department of Environmental Concerns and Division of Highways, Illinois Environmental Protection Agency, etc.) and joint participation and/or force account agreements, as may be required by the PROJECT, are secured by the PARTIES in support of general PROJECT schedules and deadlines. The PARTIES agree to cooperate, insofar as their individual jurisdictional authorities allow, with the timely acquisition and clearance of said permits and agreements and in complying with all applicable Federal, State, and local regulations and requirements pertaining to work proposed for the PROJECT.
- F. In conjunction with the PROJECT, upon review and satisfaction of federal, state and local statutes, rules, regulations and ordinances, the COUNTY and the VILLAGE shall grant and consent to any and all permits, rights of access (ingress and egress), temporary use of its property and right of way to the ILLINOIS TOLLWAY, without charge to the ILLINOIS TOLLWAY by the COUNTY and the VILLAGE. Any permit for right of access, temporary use shall not be unreasonably withheld by the COUNTY and the VILLAGE.

## **II. RIGHT OF WAY**

- A. The ILLINOIS TOLLWAY shall lead all right-of-way negotiations, perform any and all necessary survey work, and appraisal(s), and prepare all parcel plats and legal descriptions for all right of way (both permanent and temporary) necessary for the construction of the PROJECT pursuant to the plans and specifications.
- B. If during the construction of the PROJECT it becomes necessary for the ILLINOIS TOLLWAY to enter upon and temporarily use lands owned by another 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. Temporary use of the aforesaid lands shall require restoration by the user thereof to a condition equal to that which existed prior to said use.
- C. The ILLINOIS TOLLWAY agrees that upon completion of construction of the PROJECT, and subject to ILLINOIS TOLLWAY Excess Right-of-Way Policy, the ILLINOIS TOLLWAY will convey fee simple title to Parcels TW-13-A-19-001, and TW-13-A-19-002 to the COUNTY for future COUNTY roadway use.
- D. The COUNTY agrees that approximately 1069 square feet of the west end, and approximately 51 square feet of the east end of the Stearns School Road bridge abutments and wing walls (hereinafter referred to "ENCROACHMENTS", will be built upon COUNTY right-of-way, and that fee simple conveyance of Parcels TW-

13-A-001, and TW-13-A-19-002 serves as adequate compensation to the COUNTY for ENCROACHMENTS.

- E. The ILLINOIS TOLLWAY shall submit to the COUNTY, for the COUNTY's approval, an executed form, LOCAL AGENCY ACCEPTANCE ON A COUNTY HIGHWAY (hereinafter LOCAL AGENCY ACCEPTANCE FORM) by March 1, 2021 for the ENCROACHMENTS within COUNTY highway right-of-way, the approval of which shall not be unnecessarily withheld by the COUNTY.
- F. Absent an emergency situation, the ILLINOIS TOLLWAY shall operate and maintain the ENCROACHMENTS in accordance with the LOCAL AGENCY ACCEPTANCE FORM and perform its maintenance on the ENCROACHMENTS within the COUNTY highway right-of-way during non-peak traffic times, namely on weekdays, between 9:00 am and 3:00 pm, and in accordance with current LCDOT Traffic Control Standards.
- G. Upon completion of the IMPROVEMENT, and approval of the LOCAL AGENCY ACCEPTANCE FORM by the COUNTY, the ILLINOIS TOLLWAY shall continue to own and maintain, or cause to be maintained, the ENCROACHMENTS without reimbursement by the COUNTY. The COUNTY will have no obligation to operate or maintain said ENCROACHMENTS.

### **III. UTILITY RELOCATION**

- A. The ILLINOIS TOLLWAY agrees to provide the COUNTY, as soon as they are identified, the locations (existing and proposed) of public and/or private utility facilities within existing COUNTY rights of way which require adjustment or relocation as part of the PROJECT. As part of its PROJECT engineering responsibilities, the ILLINOIS TOLLWAY shall identify adjustments to or relocations of the aforementioned existing utilities.
- B. The ILLINOIS TOLLWAY agrees to make all reasonable efforts to minimize the number of utility adjustments or relocations in the design of PROJECT improvements.
- C. At all locations where utilities are located on COUNTY rights of way that must be adjusted or relocated due to PROJECT work proposed by the ILLINOIS TOLLWAY, the COUNTY 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 COUNTY for any and all out of pocket costs and expenses the COUNTY may incur in causing the aforementioned utility or utilities to be adjusted.



#### **IV. CONSTRUCTION**

- A. The ILLINOIS TOLLWAY shall advertise and receive bids, provide construction engineering inspections and cause the PROJECT to be constructed in accordance with the PROJECT plans and specifications.
- B. The ILLINOIS TOLLWAY shall require its contractors working on or within the COUNTY's right of way (as "right of way" is defined by the Illinois Highway Code) to indemnify the COUNTY in compliance with Article 107.26 of the Illinois Tollway Supplemental Specifications.
- C. The ILLINOIS TOLLWAY shall require that its contractor(s), subcontractors and subrecipients shall not discriminate on the basis of race, color, national origin, or sex in the performance of the PROJECT's contracts or any contract that is part of the PROJECT.
- D. The ILLINOIS TOLLWAY shall require that the COUNTY, the VILLAGE, their agents, officers and employees be included as additional named insured on the General Liability insurance the ILLINOIS TOLLWAY requires of its contractor(s).
- E. After award of the construction contract(s), any proposed deviation from the PROJECT plans and specifications that affect the COUNTY or the VILLAGE shall be submitted to the COUNTY, and the VILLAGE for approval prior to commencing work on such proposed deviation. The COUNTY, and the VILLAGE shall review the proposed deviation and indicate approval or disapproval thereof in writing. If the proposed deviation to the plans and specifications is not acceptable, the COUNTY, and/or the VILLAGE shall detail in writing its specific objections. If the ILLINOIS TOLLWAY receives no written response from the COUNTY, or the VILLAGE within fifteen (15) calendar days after delivery to the COUNTY, and/or the VILLAGE of the proposed deviation, the proposed deviation shall be deemed approved by the COUNTY, and/or the VILLAGE.
- F. After award of the construction contract(s), assuming there are no proposed deviations from the PROJECT plans and specifications that affect the COUNTY, and/or the VILLAGE, the ILLINOIS TOLLWAY shall provide no less than five (5) calendar days written notice to the COUNTY, and/or the VILLAGE prior to commencement of work on the PROJECT.
- G. The COUNTY, and the VILLAGE, and its authorized agents shall have all reasonable rights of inspection (including pre-final and final inspection) during the progress of work included in the PROJECT that affects the COUNTY's highway system, the COUNTY IMPROVEMENTS, and the VILLAGE IMPROVEMENTS. The COUNTY, and the VILLAGE shall assign personnel to perform inspections on behalf of the COUNTY, and the VILLAGE of all work included in the PROJECT that affects the COUNTY's highway system, the

COUNTY IMPROVEMENTS, and the VILLAGE IMPROVEMENTS, 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.

- H. Notices required to be delivered by either PARTY pursuant to this AGREEMENT shall be delivered as indicated in Section IX of this AGREEMENT.
- I. The ILLINOIS TOLLWAY shall give notice to the COUNTY and the VILLAGE upon completion of 70% and 100% of all PROJECT construction contracts for PROJECT improvements to be subsequently maintained by the COUNTY, and/or the VILLAGE, and the COUNTY, and/or the VILLAGE shall make an inspection thereof not later than -fourteen (14) calendar days after notice thereof. If the COUNTY or the VILLAGE do 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, the PROJECT shall be deemed accepted by the COUNTY, and/or the VILLAGE. At the request of the COUNTY and/or the VILLAGE, 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 COUNTY's and/or the VILLAGE'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 Engineering Officer of the ILLINOIS TOLLWAY. Deficiencies thus identified shall be subject to joint re-inspection upon completion of the corrective work. The COUNTY and/or the VILLAGE shall perform such joint re-inspections within seven (7) calendar days after receiving notice from the ILLINOIS TOLLWAY that the deficiencies have been remedied.
- J. The ILLINOIS TOLLWAY shall have the right, in its sole judgment and discretion, to cancel or alter any or all portions of the PROJECT's 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. Upon any such cancellation, the COUNTY or the VILLAGE shall have no obligation to pay any cost or expense for any cancelled work. The COUNTY, and the VILLAGE shall otherwise be obligated to pay its share of the actual cost and expense of any such altered portion of the PROJECT work that is to be subsequently maintained the COUNTY, or the VILLAGE.
- K. The PARTIES mutually acknowledge the importance of the PROJECT, and will make best efforts to facilitate completion of the PROJECT no later than November 30, 2024.

- L. The ILLINOIS TOLLWAY shall require all PROJECT construction work performed on or within the COUNTY's right of way to conform to the then current edition of IDOT's Standard Specifications, Supplemental Specifications, Recurring Special Provisions as well as the COUNTY's standard drawings and special provisions included in the PROJECT.

## V. FINANCIAL

- A. The ILLINOIS TOLLWAY agrees to pay all PROJECT related engineering, right of way, construction engineering and construction costs, subject to reimbursement by the COUNTY, and the VILLAGE as hereinafter stipulated.
- B. The COUNTY, the VILLAGE, or the ILLINOIS TOLLWAY may request, after the construction contract(s) are let by the ILLINOIS TOLLWAY, that supplemental work that increases the total costs of the PROJECT or more costly substitute work be added to the construction contract(s). The ILLINOIS TOLLWAY will cause said supplemental work or such substitute work to be added to the construction contract(s), provided that said work will not delay construction of the individual part 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.
- C. As identified in "Exhibit A" attached, it is mutually agreed by the PARTIES that the estimated cost (including 5% contingency) to the COUNTY for core construction work for the PROJECT (rounded to the nearest dollar) is \$3,359,925.00; and the estimated cost to the COUNTY for appurtenant PROJECT work as shown is:
  - 1. \$411,441.00 for preliminary and design engineering costs; and,
  - 2. \$350,365.00 for construction engineering costs; and,
  - 3. \$175,438.00 for Supplement 1 engineering costs; and,
  - 4. \$27,238.00 for Supplement 2 engineering costs; and,
  - 5. \$64,800.00 for contractor's quality program costs; and,
  - 6. \$3,600.00 for erosion control measures costs

for a total estimated cost of \$4,392,807.00

- D. As identified in "Exhibit A" attached, it is mutually agreed by the PARTIES that the estimated cost (including 5% contingency) to the VILLAGE for core construction work for the PROJECT (rounded to the nearest dollar) is \$838,095.00; and the estimated cost to the VILLAGE for appurtenant PROJECT work as shown is:
  - 1. \$76,588.00 for preliminary and design engineering; and,
  - 2. \$97,324.00 for construction engineering; and,
  - 3. \$36,062.00 for Supplement 1 engineering costs; and,

4. \$24,796.00 for Supplement 2 engineering costs; and,
5. \$18,000.00 for contractor's quality program costs; and,
6. \$1,000.00 for erosion control measures costs

for a total estimated cost of \$1,091,865.00.

- E. It is further agreed that notwithstanding the estimated cost, the COUNTY, and the VILLAGE shall be responsible for the actual costs associated with the requested work described in the Recital section of this AGREEMENT.
- F. The PARTIES agree to the following payment terms: 35% due upon Notice to Proceed, 35% due upon substantial completion of construction, and the remainder, based on final actual costs due one (1) year after substantial completion of construction.

## **VI. MAINTENANCE – DEFINITIONS**

For purposes of this AGREEMENT:

- A. The term "local" means any PARTY to this AGREEMENT other than the ILLINOIS TOLLWAY. With respect to this AGREEMENT, it means the COUNTY, and the VILLAGE.
- B. The term "local road" refers to any highway, road or street under the jurisdiction of the COUNTY.
- 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, 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 when appropriate 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. The PARTIES generally agree that there are three types of bridge structures that intersect the ILLINOIS TOLLWAY rights of way. These bridge types are:
  - 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-94 Toll Highway within the limits of this PROJECT in its entirety and its portion of the bridge improvements as indicated below.
- B. The COUNTY shall continue its maintenance of the right of way of Stearns School Road. The County shall maintain PROJECT improvements, and COUNTY IMPROVEMENTS the ILLINOIS TOLLWAY is constructing as part of the PROJECT for the COUNTY at the COUNTY's request, in their entirety as indicated below.
- C. The VILLAGE shall maintain the VILLAGE IMPROVEMENTS the ILLINOIS TOLLWAY is constructing as part of the PROJECT for the VILLAGE at the VILLAGE's request, in their entirety as indicated below.
- D. The bridge improvements being constructed as part of the PROJECT under this AGREEMENT are of the following types (as previously described in Section VI, Paragraph J above) and involve the following highways:

Type of Bridge Structure	Affected Highway
Type 2	Stearns School Road

Type 2 - COUNTY Highway Right of Way over ILLINOIS TOLLWAY Right of Way

1. The COUNTY has all maintenance responsibility as to the following:
  - i. All existing COUNTY right of way highway and approaches to Stearns School Road, 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 Stearns School Road Bridge:
    - a. The wearing surface;
    - b. The deck below the wearing surface and above the structural beams;
    - c. Expansion joints at roadway, shared use path, and sidewalk;
    - d. Outer parapet walls, architectural railing on the outer parapet walls and architectural metal lettering on the outer parapet walls;
    - e. Inner parapet wall and railing separating the roadway from the shared use path on the north side of the bridge;
    - f. Guardrail;
    - g. Drainage facilities above structural beams and girders, and all drainage facilities carrying exclusively COUNTY drainage;
    - h. All lighting except underpass;
    - i. All COUNTY signals, relocated signal conduit, signs, and pavement markings;
    - j. Ice and snow removal shall be accomplished in such a manner as to not block or obstruct I-94.
2. The VILLAGE agrees to have ownership and maintenance responsibilities for the non-motorized VILLAGE IMPROVEMENTS as follows:
  - i. The shared use path on the north side of Stearns School Road from North Creek Drive to Dilleys Road;
  - ii. The sidewalk on the south side of Stearns School Road from North Creek Drive to Dilleys Road;
  - iii. Any railing required for the shared use path and sidewalk, excluding those on the bridge, which shall be maintained by the COUNTY;
  - iv. The VILLAGE further agrees to submit to the COUNTY, for the COUNTY's approval, an executed form, MUNICIPAL UTILITY/FACILITY ACCEPTANCE ON A COUNTY HIGHWAY (hereinafter MUNICIPAL ACCEPTANCE FORM) by March 1, 2021 for the VILLAGE IMPROVEMENTS within COUNTY highway right-of-way, the approval of which shall not be unreasonably withheld by the COUNTY.

3. The ILLINOIS TOLLWAY has all maintenance responsibility for all portions of the Stearns School Road Bridge not otherwise maintained by the COUNTY or the VILLAGE as set forth herein above, including but not limited to the following:
  - i. All parts of the grade separation structure, including but not limited to bearings, beams, girders, slope walls, abutments and piers;
  - ii. All fences along ILLINOIS TOLLWAY routes, except overpass fencing installed to separate pedestrians, bicycles and non-vehicular traffic from highway traffic;
  - iii. All bridge deck downspouts, from a clean-out installed directly below the scuppers to the outfall;
  - iv. All remaining drainage facilities installed for the purpose of carrying exclusively Toll Highway drainage;
  - v. Any underpass lighting.
- E. The PARTIES agree that the ILLINOIS TOLLWAY reserves the exclusive right to review and approve the following:
  1. Any and all signage affixed to the grade separation structure or placed on ILLINOIS TOLLWAY right of way;
  2. The permitting of any and all loads traversing a grade separation structure over the ILLINOIS TOLLWAY issued in accordance with 92 Illinois Administration Code 554, Subchapter f, Subpart F, Section 554.605 (Superload Moves).
  3. Any COUNTY highway intersection modifications that lead to ILLINOIS TOLLWAY owned facilities.
- F. The PARTIES agree that each PARTY shall perform such regular inspections, surveys and reviews as are reasonably necessary to fulfill their respective obligations under this AGREEMENT.

### **VIII. ADDITIONAL MAINTENANCE PROVISIONS**

- A. It is understood and agreed by the PARTIES that this AGREEMENT shall supersede any and all earlier agreements entered into by the PARTIES regarding maintenance of COUNTY highways and ILLINOIS TOLLWAY facilities within the limits of the PROJECT, including ownership and maintenance of the existing shared use path within the project limits.



- B. During construction, the COUNTY shall continue to maintain all portions of the PROJECT within the COUNTY's right of way that are not to be improved or maintained by the ILLINOIS TOLLWAY's construction contractor(s) pursuant to the PROJECT's 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 their construction contractor(s).
- C. All items of PROJECT construction which are stipulated in this AGREEMENT to be maintained by the COUNTY shall, upon completion of construction and final inspection, be the sole maintenance responsibility of the COUNTY. All items of PROJECT construction which are stipulated in this AGREEMENT to be maintained by the VILLAGE shall, upon completion of construction and final inspection, be the sole maintenance responsibility of the VILLAGE. All items of PROJECT 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 COUNTY 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 County of Lake (COUNTY), the Village of Gurnee (VILLAGE), and the Illinois State Toll Highway Authority (ILLINOIS TOLLWAY).
- B. It is understood and agreed by the PARTIES, that the ILLINOIS TOLLWAY shall have jurisdiction of I-94. The COUNTY shall retain jurisdiction of Stearns School Road, traversed or affected by I-94 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. Wherever in this AGREEMENT approval or review by the COUNTY, the VILLAGE, or the ILLINOIS TOLLWAY is provided for, said approval or review shall not be unreasonably delayed or withheld.
- D. Not later than fourteen (14) calendar days after execution of this AGREEMENT each PARTY shall designate in writing a representative who shall serve as the full time representative of the said PARTY during the carrying out of the execution of this AGREEMENT. Each representative shall have authority, on behalf of such PARTY, to make decisions relating to the work covered by this AGREEMENT. Representatives may be changed, from time to time, by subsequent written notice. Each representative shall be readily available to the other PARTY.

- E. In the event of a dispute between the COUNTY, or the VILLAGE, and the ILLINOIS TOLLWAY regarding the plans and specifications for the PROJECT, the construction of the PROJECT and/or in the carrying out of the terms of this AGREEMENT, the Chief Engineering Officer of the ILLINOIS TOLLWAY and the COUNTY's County Engineer, or the VILLAGE's Village Engineer shall meet and resolve the issue. In the event that they cannot mutually agree on the resolution of a dispute concerning the same as it relates to any issues involving the ILLINOIS TOLLWAY right of way or the maintenance responsibilities of the ILLINOIS TOLLWAY hereunder, the decision of the Chief Engineering Officer of the ILLINOIS TOLLWAY shall be final. In the event that the Chief Engineering Officer of the ILLINOIS TOLLWAY and the COUNTY's County Engineer cannot mutually agree on a resolution of any dispute concerning the same as it relates to issues on or involving solely COUNTY right of way, the decision of the COUNTY's County Engineer shall be final.
- F. The ILLINOIS TOLLWAY agrees that in the event any PROJECT work is performed by other than ILLINOIS TOLLWAY employees, the provisions of "An Act Regulating Wages of Laborers, Mechanics and other Workers Employed in Public Works by the State, a County or any Political Subdivision or by Anyone Under Contract for Public Works (820 ILCS 130/1) shall apply to the PROJECT.
- G. The ILLINOIS TOLLWAY agrees to comply with all applicable Executive Orders and Federal Highway Acts pursuant to the Equal Employment Opportunity and Non-discrimination regulations required by the U.S. Department of Transportation.
- 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. The COUNTY certifies that its correct Federal Tax Identification number is 36-6006600 and it is doing business as a governmental entity, whose mailing address for purposes of this AGREEMENT is: Lake County, IL, 18 North County Street, Waukegan, Illinois 60085.
- J. The VILLAGE certifies that its correct Federal Tax Identification number is 36-6008171 and it is doing business as a governmental entity, whose mailing address for purposes of this AGREEMENT is: The Village of Gurnee, 325 North O'Plaine Road, Gurnee, Illinois 60031
- J. This AGREEMENT may only be modified in writing; executed by duly authorized representatives of the PARTIES.
- K. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES and their respective successors and approved assigns. No party hereto may assign, transfer, sell, grant, convey, deed, cede or otherwise give over, in any manner or form, any of its duties, obligations and/or responsibilities as heretofore set forth in

this AGREEMENT without first obtaining the expressed written consent and permission of the other PARTIES, except as provided for in this AGREEMENT.

- L. The failure by the ILLINOIS TOLLWAY, the COUNTY, or the VILLAGE to seek redress for violation of or to insist upon the strict performance of any condition or covenant of this AGREEMENT shall not constitute a waiver of any such breach or subsequent breach of such covenants, terms, conditions, rights and remedies. No provision of this AGREEMENT shall be deemed waived by the ILLINOIS TOLLWAY, the COUNTY, or the VILLAGE 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 Engineering Officer

To the COUNTY:                      Lake County Division of Transportation  
600 W. Winchester Road  
Libertyville, IL 60048  
Attn: County Engineer

To the VILLAGE:                      The Village of Gurnee  
325 North O'Plaine Road  
Gurnee, Illinois 60031  
Attn: Village Engineer

- O. The COUNTY, and the VILLAGE shall maintain books and records relating to the performance of this AGREEMENT. Books and records, including information stored in databases or other computer systems, shall be maintained by the COUNTY and the VILLAGE 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.

- P. The COUNTY and the VILLAGE also recognize that, pursuant to Section 8.5 of the Toll Highway Act (605 ILCS 10/8.5), the Inspector General of the Illinois State Toll Highway Authority (“OIG”) has the authority to conduct investigations into certain matters including but not limited to allegations of fraud, waste and abuse, and to conduct reviews. The COUNTY and/or the VILLAGE will fully cooperate in any OIG investigation or review and shall not bill the ILLINOIS TOLLWAY for such time. Cooperation includes providing access to all information and documentation related to the performance of this AGREEMENT, and disclosing and making available all personnel involved or connected with, or having knowledge of, the performance of this AGREEMENT.
  
- Q. The ILLINOIS TOLLWAY shall maintain for a minimum of five (5) years after the completion of the PROJECT, adequate books, records, and other supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with or pursuant to the terms of this AGREEMENT. All books, records, and supporting documents related to the PROJECT shall be available for review and audit by the COUNTY’s auditor, the VILLAGE’s auditor, the ILLINOIS TOLLWAY’s Inspector General and the ILLINOIS TOLLWAY agrees to cooperate fully with any audit conducted by the COUNTY’s auditor and/or the VILLAGE’s auditor and to provide full access to all relevant materials
  
- R. The preambles of this AGREEMENT are agreed to and incorporated into as a substantive part of this AGREEMENT.
  
- S. It is mutually agreed by and between the PARTIES hereto that nothing contained in this AGREEMENT is intended or shall be construed as, in any manner or form, creating or establishing a relationship of co-partners between the PARTIES hereto, or as constituting one PARTY hereto (including its elected officials, duly appointed officials, employees and agents), the agent, representative or employee of any other party hereto for any purpose or in any manner, whatsoever. The PARTIES are to be and shall remain independent of each other with respect to all services performed under this AGREEMENT.
  
- T. It is mutually agreed by and between the PARTIES hereto that this AGREEMENT shall not be construed, in any manner or form, to limit the power or authority of the COUNTY or the COUNTY’s County Engineer to maintain, operate, improve, construct, reconstruct, repair, manage, widen or expand COUNTY Highways as may be best determined, as provided by law.
  
- U. It is mutually agreed by and between the PARTIES hereto that each PARTY warrants and represents to the other PARTY and agrees that: (1) this AGREEMENT is executed by duly authorized agents or officers of such PARTY

and that all such agents and officers have executed the same in accordance with the lawful authority vested in them, pursuant to all applicable and substantive requirements; (2) this AGREEMENT is binding and valid and will be specifically enforceable against each PARTY; and (3) this AGREEMENT does not violate any presently existing provision of law nor any applicable order, writ, injunction or decree of any court or government department, commission, board, bureau, agency or instrumentality applicable to such PARTY.

- V. It is mutually agreed by and between the PARTIES hereto that this AGREEMENT shall be deemed to take effect upon full execution by the ILLINOIS TOLLWAY, but not prior to June 1, 2020
  
- W. It is mutually agreed by and between the PARTIES hereto that the provisions of this AGREEMENT are severable. If any provision, paragraph, section, subdivision, clause, phrase or word of this AGREEMENT is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this AGREEMENT.
  
- X. It is mutually agreed by and between the PARTIES hereto that the agreement of the PARTIES hereto is contained herein and that this AGREEMENT supersedes all oral agreements and negotiations between the PARTIES hereto relating to the subject matter hereof.

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

**THE COUNTY OF LAKE**

**RECOMMENDED FOR EXECUTION**

\_\_\_\_\_  
Shane E. Schneider, P.E.  
Lake County Director of Transportation/  
County Engineer

By: \_\_\_\_\_  
Sandy Hart  
Chair, Lake County Board

Attest: \_\_\_\_\_  
Robin M. O'Connor  
County Clerk

Date: \_\_\_\_\_

\_\_\_\_\_  
(Please Print Name)

**THE VILLAGE OF GURNEE**

By: \_\_\_\_\_  
Kristina Kovarik  
Mayor

Attest: \_\_\_\_\_  
Andy Harris  
Clerk

Date: \_\_\_\_\_

\_\_\_\_\_  
(Please Print Name)

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

By: \_\_\_\_\_  
Willard S. Evans, Jr.  
Chairman & Chief Executive Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Cathy R. Williams  
Chief Financial Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Kathleen R. Pasulka-Brown  
General Counsel

Date: \_\_\_\_\_

Approved as to Form and Constitutionality

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

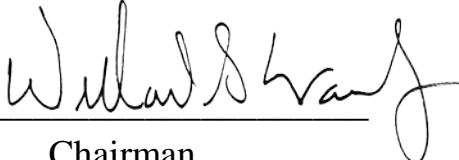
## RESOLUTION NO. 22040

**Background**

As part of the Elgin O'Hare Western Access Project ("Project"), the Illinois State Toll Highway Authority ("Tollway") is constructing an I-490 interchange with I-90, including northbound and southbound bridges over the Touhy Avenue Flood Control Reservoir ("Reservoir") operated by the Metropolitan Water Reclamation District of Greater Chicago ("MWRD"). It is in the best interest of the Tollway to enter into an Intergovernmental Agreement ("Agreement") with the MWRD and the City of Chicago Department of Aviation ("City") to document (i) the MWRD's conveyance of permanent and temporary easements for the construction and operation of I-490 bridge structures over the Reservoir, (ii) the MWRD's future operation and maintenance responsibilities therefor and (ii) compensation, in the amount of \$644,000.00, the Tollway will provide the MWRD. This Agreement also identifies future maintenance responsibilities within the Reservoir of the Tollway and City upon completion of the construction project.

**Resolution**

The Chief Engineering Officer and the General Counsel are authorized to negotiate and prepare an Intergovernmental Agreement between The Illinois State Tollway Highway Authority, the Metropolitan Water Reclamation District of Greater Chicago and the City of Chicago Department of Aviation in substantially the form attached to this Resolution. The Chairman/Chief Executive Officer of the Tollway, subject to the approval of the Chief Financial Officer, is authorized to execute said agreement, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:   
Chairman



**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY,  
THE CITY OF CHICAGO,  
AND  
THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER  
CHICAGO**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the “AGREEMENT”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, 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 CHICAGO, acting through its Department of Aviation, hereinafter called “CITY” and THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, of the State of Illinois, hereinafter called the “MWRD”, 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, has improved the Elgin O’Hare Expressway, extended the expressway from its eastern terminus at Rohlwing Road (Illinois Route 53) to Busse Road (Illinois Route 83) known in its entirety as Illinois Route 390, and intends to continue Illinois Route 390 from Illinois Route 83 to O’Hare International Airport, and construct the Western Access toll highway (to be known as I-490) connecting the Jane Addams Memorial Tollway (I-90) with the Tri-State Tollway (I-294) (hereinafter sometimes referred to as the Elgin O’Hare Western Access "EOWA"), and included in multiple ILLINOIS TOLLWAY construction contract(s); and

WHEREAS, certain construction contracts affect the CITY or MWRD facilities, this AGREEMENT includes the scope of improvements of ILLINOIS TOLLWAY Contract I-18-4705, I-490/I-90 System Interchange (hereinafter referred to as the "PROJECT"). The scope of work includes the construction of a full system interchange at I-90 and I-490, including new northbound and southbound I-490 bridge structures over the Touhy Avenue Flood Control Reservoir (hereinafter referred to as the “Touhy Avenue Reservoir”) and Higgins Creek. The PROJECT also includes drainage improvements, earthwork, construction of retaining walls, installation of Intelligent Transportation Systems (ITS) elements, signing, pavement markings, roadway lighting, landscaping, and all other work necessary to complete the PROJECT in accordance with the approved plans and specifications; and

WHEREAS, the PARTIES acknowledge that the Touhy Avenue Reservoir is an operationally integral part of the MWRD’s Kirie Water Treatment Plant operations located in the Lower Des Plaines Watershed; and

WHEREAS, the Touhy Avenue Reservoir was previously referred to as the O'Hare Treatment Plant Retention Reservoir before the CITY expanded Cell 2 and modified the existing pump station and control structure. The responsibilities for design, construction, operation and maintenance were documented as part of a separate Intergovernmental Agreement between MWRD and the CITY, executed August 27, 2001 attached hereto as ATTACHMENT 1; and

WHEREAS, MWRD currently operates and maintains Touhy Avenue Reservoir, in its entirety, as shown on EXHIBIT 1 attached hereto, which is impacted by the PROJECT. This two-cell reservoir is located on MWRD-owned right of way and CITY-owned right of way. The western cell (hereinafter referred to as "Cell 1") holds approximately 450 acre-feet of storage and is connected via two culverts to the eastern cell (hereinafter referred to as "Cell 2") that holds approximately 720 acre-feet of storage. The PROJECT's proposed I-490 bridge structures will cross over Cell 2. The existing Touhy Avenue Reservoir also includes a perimeter access road around Cell 2, a basin access road into Cell 2, a pump station, control structures within each cell, spillways, and all other appurtenances required to operate and maintain the facility; and

WHEREAS, the ILLINOIS TOLLWAY currently owns right of way along the northern edge of the Touhy Avenue Reservoir between Cell 1 and Cell 2, as shown on EXHIBIT 1 attached hereto. The ILLINOIS TOLLWAY right of way in this location includes a portion of the basin access road including box culverts over Higgins Creek, a control structure, a spillway, return pipes to Higgins Creek, fencing, signage and utilities, all of which are owned and maintained by MWRD; and

WHEREAS, the CITY is responsible for an Operation and Maintenance Manual (hereinafter referred to as the "Manual"), updated as required, for maintenance of the Touhy Avenue Reservoir that is utilized by MWRD. The CITY monitors the MWRD operations and maintenance of the reservoir in compliance with the Manual; and

WHEREAS, the ILLINOIS TOLLWAY agrees to remove temporary improvements required to be constructed at the Touhy Avenue Reservoir site and restore the site at the completion of construction of the PROJECT improvements. Temporary improvements include earthwork and construction of a new haul road. Earthwork activities will be performed in the northwest portion of Cell 2 to allow for construction of the northbound and southbound I-490 bridges. The temporary haul road will be constructed under the proposed bridge structures within Cell 2 and include a temporary bridge structure over Higgins Creek; and

WHEREAS, the ILLINOIS TOLLWAY agrees to maintain storage capacity of the Touhy Avenue Reservoir equal to the existing storage capacity (approximately 1,170 acre-feet) during construction of the PROJECT and agrees to provide the same storage capacity at the completion of PROJECT construction; and

WHEREAS, the ILLINOIS TOLLWAY agrees to compensate for any lost floodway storage in Higgins Creek as a result of the PROJECT. The PROJECT improvements require the construction of I-490 northbound and southbound bridge piers in the Higgins Creek Overflow Channel (shown on EXHIBIT 1), adjacent to the Touhy Avenue Reservoir. The ILLINOIS TOLLWAY will coordinate floodway modifications with the Illinois Department of Natural Resources – Office of Water Resources (hereinafter referred to as “IDNR-OWR”) as required; and

WHEREAS, the ILLINOIS TOLLWAY agrees to restore and stabilize areas of Touhy Avenue Reservoir Cell 2 affected by the PROJECT improvements; and

WHEREAS, the ILLINOIS TOLLWAY shall maintain the security of the Touhy Avenue Reservoir site in accordance with MWRD security requirements, keep the Touhy Avenue Reservoir accessible to the MWRD, and permit its operation with the least interference as possible at all times during construction of the PROJECT; and

WHEREAS, the CITY requests the ILLINOIS TOLLWAY remove two wetlands located on CITY property and adjacent to the Touhy Avenue Reservoir, as shown on EXHIBIT 1, as part of the PROJECT (hereinafter referred to as CITY WETLANDS). The CITY has performed mitigation for the CITY WETLANDS and holds appropriate permits to allow for their removal before January 2021; and

WHEREAS, the ILLINOIS TOLLWAY agrees to remove the CITY WETLANDS as part of the PROJECT, subject to the ILLINOIS TOLLWAY’s ability to remove them before January 2021; and

WHEREAS, the MWRD requests the ILLINOIS TOLLWAY include the restoration and stabilization of existing Higgins Creek along the perimeter of Cell 2 (hereinafter referred to as the “MWRD IMPROVEMENTS”) as part of an ILLINOIS TOLLWAY EOWA construction contract; and

WHEREAS, the ILLINOIS TOLLWAY agrees to include the MWRD IMPROVEMENTS as part of an ILLINOIS TOLLWAY EOWA construction contract; and

WHEREAS, the ILLINOIS TOLLWAY and CITY are party to a separate Intergovernmental Agreement executed April 24, 2017 (the “CITY EOWA IGA”), that defines their respective responsibilities for the EOWA Project; and

WHEREAS, the ILLINOIS TOLLWAY needs to acquire one (1) parcel of land (Parcel WA-3D-12-068) from the MWRD for purposes of constructing the PROJECT as shown on EXHIBIT 2 attached hereto; and

WHEREAS, the ILLINOIS TOLLWAY needs to acquire right of way from the CITY for purposes of constructing the PROJECT as shown on EXHIBIT 2 attached hereto and said acquisition is part of the separate CITY EOWA IGA. The right of way to be

acquired in fee by the ILLINOIS TOLLWAY from the CITY is described herein as “ILLINOIS TOLLWAY acquired right of way”; and

WHEREAS, the PARTIES agree that the ILLINOIS TOLLWAY requires access to the Touhy Avenue Reservoir after construction of the PROJECT for maintenance of the ILLINOIS TOLLWAY I-490 northbound and southbound bridge structures; and

WHEREAS, MWRD owns, operates and maintain utilities that provide power and communications to a pressure level sensor (hereinafter referred to as the “MWRD FACILITIES”) located in or about the area to be traversed by the PROJECT; and

WHEREAS, existing MWRD FACILITIES interfere with the construction of the PROJECT, and are therefore required to be removed, adjusted, reconstructed, protected or relocated to avoid such interference; 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 and MWRD IMPROVEMENTS 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 MWRD by virtue of its powers as set forth in the “Metropolitan Water Reclamation District Act” 70 ILCS 2605/3 *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 and MWRD IMPROVEMENTS, subject to reimbursement by MWRD 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 and MWRD for its review and comment at the following stages of plan preparation:

60% Complete

95% Complete (pre-final)

Final

- B. The final approved plans and specifications for the PROJECT and MWRD IMPROVEMENTS shall be promptly delivered via hard copy and DVD format to all PARTIES by the ILLINOIS TOLLWAY.
- C. The ILLINOIS TOLLWAY shall incorporate erosion and sediment control of the Touhy Avenue Reservoir in the design plans and specifications.
- D. All PARTIES shall review the plans and specifications which impact their respective facilities within thirty (30) calendar days of receipt thereof. If the ILLINOIS TOLLWAY does not receive comments or objections from any particular PARTY within this time period, or receive a request for an extension of time, which request shall be reasonably considered, the lack of response shall be deemed the PARTY's approval of the plans and specifications. Approval by the PARTIES shall mean the respective PARTIES agree with all specifications in the plans, including alignment and location of the PROJECT and MWRD IMPROVEMENTS which impact their maintained highways. In the event of disapproval, any PARTY shall detail in writing its objections to the proposed plans and return them to the ILLINOIS TOLLWAY for review and consideration.
- E. 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.
- F. The ILLINOIS TOLLWAY agrees to assume the overall PROJECT responsibility, including assuring that all permits (Illinois Department of Natural Resources, 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 improvements, 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 improvements and MWRD IMPROVEMENTS.

- G. The ILLINOIS TOLLWAY agrees to assume responsibility for coordinating with the United States Army Corps of Engineers (USACE) on modifications to Section 401/404 Clean Water Act Permit (LRC-2007-00802) and for submitting preliminary drainage, grading, landscaping, and erosion control plans at design milestones for submittal to the USACE to ensure compliance with the referenced Permit regarding wetland impacts, erosion and sediment control and water quality Best Management Practices (BMPs).
- H. The ILLINOIS TOLLWAY agrees that work in the revised regulatory floodway for Higgins Creek included as part of the PROJECT improvements and MWRD IMPROVEMENTS require a Floodway Construction Permit from the IDNR-OWR to be secured by the ILLINOIS TOLLWAY. As part of the revised floodway requirements, the floodway will be maintained in accordance with Part 3708.80 (A) (4) of Floodway Construction in Northeastern Illinois.
- I. All PARTIES shall grant and consent to any and all permits, rights of access (ingress and egress), and temporary use of its right of way within the PROJECT and MWRD IMPROVEMENTS limits to the ILLINOIS TOLLWAY and/or its agents, without charge of permit fees to the ILLINOIS TOLLWAY. Any permit for right of access and/or temporary use of any of the PARTIES' right of way shall not be unreasonably withheld by any PARTY.
- J. The CITY agrees to update the Manual in cooperation with the ILLINOIS TOLLWAY and MWRD to account for the changing conditions as a result of the PROJECT improvements and MWRD IMPROVEMENTS, as required. The ILLINOIS TOLLWAY and MWRD agree to cooperate with the CITY on said revisions.
- K. The ILLINOIS TOLLWAY agrees to include in the PROJECT final plans and specifications a milestone completion date for the removal of the CITY WETLANDS to be completed before January 2021.
- L. The PARTIES agree that the allowance of the removal of the CITY WETLANDS is covered as part of the Section 401/404 Clean Water Act Permit (XXX-XXX-XXXX) and the CITY is responsible for any associated coordination with USACE.

## **II. RIGHT OF WAY**

- A. The ILLINOIS TOLLWAY shall perform all survey work and prepare all parcel plats and legal descriptions for all right of way (both permanent and temporary) necessary for the construction of the PROJECT and MWRD IMPROVEMENTS pursuant to the plans and specifications.
- B. The ILLINOIS TOLLWAY will pursue right of way (both permanent and temporary) from MWRD and the CITY associated with the I-490 northbound and

southbound bridge structures over the Touhy Avenue Reservoir constructed as part of the PROJECT and MWRD IMPROVEMENTS.

- C. The acquisition or transfer of right of way between the CITY and the ILLINOIS TOLLWAY for the PROJECT and MWRD IMPROVEMENTS is defined as part of the separate CITY EOWA IGA.
- D. The MWRD has right of way easement rights for access to and operation of the Touhy Avenue Reservoir on CITY-owned right of way (as shown on EXHIBIT 1) that is not affected by the PROJECT.
- E. The MWRD agrees to convey the right of way of Parcel WA-3D-12-068 as both permanent easement and temporary easement, to the ILLINOIS TOLLWAY, as depicted on EXHIBIT 2 attached hereto, at the approved appraised market value of \$644,000.00.
- F. The MWRD right of way required for the PROJECT shall be transferred and conveyed to the ILLINOIS TOLLWAY by appropriate conveyance document free and clear of all unpermitted exceptions and or encumbrances.
- G. Parcel plats, all conveyance documents, and legal descriptions for right of way required for ILLINOIS TOLLWAY facilities shall conform to the Illinois State Toll Highway Authority format.
- H. The ILLINOIS TOLLWAY agrees upon completion of the PROJECT, that areas within acquired temporary easements be restored to an “as good as – or – better” than the condition prior to start of construction by the ILLINOIS TOLLWAY.
- I. To effectuate the transfers contemplated Section II. E., the ILLINOIS TOLLWAY shall provide the necessary documents, plats and legal descriptions to affect the transfer of right of way to the ILLINOIS TOLLWAY by the MWRD.
- J. Prior to any transfer of right of way owned by the MWRD, to advance the PROJECT and MWRD IMPROVEMENTS and not delay any schedules, the MWRD shall permit, consent to, authorize and grant to the ILLINOIS TOLLWAY all permits necessary to enter, access and use all right of way owned by MWRD that is required to construct the PROJECT and MWRD IMPROVEMENTS. In furtherance thereof, MWRD shall allow the ILLINOIS TOLLWAY, its employees, vendors, and/or its contractor(s) to use said right of way to complete the PROJECT and MWRD IMPROVEMENTS. MWRD shall issue the ILLINOIS TOLLWAY permits without charge and as maybe provided for herein to the ILLINOIS TOLLWAY. MWRD shall grant, permit and allow the ILLINOIS TOLLWAY unrestricted use, access, ingress, and egress for all construction, maintenance, and repair necessary as part of the PROJECT and MWRD IMPROVEMENTS so long as such access and use does not interfere with any of the MWRD’s facilities or operations without prior consent. In addition, the MWRD shall waive any

contractor's surety bonding requirements to the extent the MWRD has the authority to waive such bonding requirements. Approval of any permit shall not be unreasonably withheld by the MWRD.

- K. The CITY shall provide access to CITY owned property required for construction of the PROJECT and MWRD IMPROVEMENTS in accordance with the CITY EOWA IGA.
- L. All land conveyances pursuant to this AGREEMENT will be fully executed, tendered and accepted for recordation and all supporting documentation provided before issuance of final payments will be recognized pursuant to SECTION V. of this AGREEMENT.
- M. After construction of the PROJECT and MWRD IMPROVEMENTS, the ILLINOIS TOLLWAY will access the Touhy Avenue Reservoir for maintenance of the I-490 northbound and southbound bridge structures via the Cell 2 access roads as shown on EXHIBIT 3. The CITY agrees to provide the ILLINOIS TOLLWAY access to the Touhy Avenue Reservoir within CITY owned right of way post-construction of the PROJECT. The ILLINOIS TOLLWAY will access MWRD right of way via the Permanent Easement described in Section II. E.
- N. As part of the drainage improvements, the PROJECT includes construction of two outfalls to Higgins Creek that extend from ILLINOIS TOLLWAY acquired right of way to CITY property where they outlet to Higgins Creek as depicted on EXHIBITS 4A and 4B. The CITY agrees to allow the ILLINOIS TOLLWAY outfalls to be located on CITY property and to provide the ILLINOIS TOLLWAY access to maintain the outfalls as required.
- O. The ILLINOIS TOLLWAY agrees to allow the CITY and MWRD access to the Touhy Avenue Reservoir located within existing ILLINOIS TOLLWAY right of way and within ILLINOIS TOLLWAY acquired right of way, as shown on EXHIBIT 3, at no charge to the CITY or MWRD.

### **III. UTILITY RELOCATION**

- A. The ILLINOIS TOLLWAY agrees to provide the PARTIES, as soon as they are identified, the locations (existing and proposed) of public and/or private utility facilities within existing PARTY 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 to any PARTIES' facilities in the design of improvements.



- C. The ILLINOIS TOLLWAY agrees to make arrangements for and issue all permits for the PROJECT required adjustments to utility facilities located on existing ILLINOIS TOLLWAY rights of way, and on proposed ILLINOIS TOLLWAY rights of way which are outside areas of the PARTIES' jurisdiction, where improvements to ILLINOIS TOLLWAY facilities are proposed to be done as part of the PROJECT, at no expense to the PARTIES.
- D. The MWRD agrees to obtain from the ILLINOIS TOLLWAY an approved permit for MWRD FACILITIES relocated as part of the PROJECT and located on ILLINOIS TOLLWAY acquired right of way, and to abide by all conditions set forth therein.
- E. At all locations where utilities are located on MWRD rights of way and must be adjusted due to work proposed by the ILLINOIS TOLLWAY, the MWRD 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 MWRD for any and all out of pocket costs that may be incurred in causing the aforementioned utility or utilities to be adjusted.
- F. The ILLINOIS TOLLWAY will cause all utility companies to protect, adjust, relocate or remove utility facilities in conflict with the PROJECT, at no cost to the PARTIES.
- G. The PARTIES agree to accept applications for permits from utility companies to perform utility relocation work within the PROJECT and located on their right of way. All such applications for permits shall include an executed Utility Work Order approved by the ILLINOIS TOLLWAY.
- H. During the duration of the PROJECT, the PARTIES agree to issue utility 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 and/or coordination with the ILLINOIS TOLLWAY.

#### **IV. CONSTRUCTION**

- A. The ILLINOIS TOLLWAY shall advertise and receive bids, provide construction engineering inspections for and cause the PROJECT and MWRD IMPROVEMENTS to be constructed in accordance with the PROJECT and MWRD IMPROVEMENTS plans and specifications.
- B. After award of the construction contract(s), any proposed deviations from the plans and specifications that affect any of the PARTIES shall be submitted to that PARTY for approval prior to commencing such work. The 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 thirty (30) calendar days after delivery to the PARTY of the proposed deviation, or does not receive a request for an extension of time, which request shall be reasonably considered, the proposed deviation shall be deemed approved.

- 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 thirty (30) calendar days written notice to the PARTIES prior to commencement of work on the PROJECT and MWRD IMPROVEMENTS.
- 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 and MWRD IMPROVEMENTS that affects their system. The PARTIES may assign personnel to perform inspections on behalf of all work included in the PROJECT that affects the respective PARTY'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. The PARTIES shall work cooperatively to address and resolve the review comments and objections. Notices required to be delivered by any 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 and MWRD IMPROVEMENTS construction contracts to be subsequently maintained by the respective PARTY, and the PARTIES shall make an inspection thereof not later than fifteen (15) calendar days after notice thereof. If the any PARTY does not perform a final inspection within twenty-one (21) calendar days after receiving notice of completion of 100% of all PROJECT and MWRD IMPROVEMENTS construction contracts or other inspection arrangements are not agreed to by the PARTIES hereto, the PROJECT and MWRD IMPROVEMENTS shall be deemed accepted by the PARTY. At the request of the respective 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 fifteen (15) 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 PARTY shall perform such joint re-inspections within ten (10) calendar days after receiving notice from the ILLINOIS TOLLWAY that the deficiencies have been remedied.

- G. The ILLINOIS TOLLWAY shall be responsible for the disposal of spoil from the Touhy Avenue Reservoir resulting from construction of the PROJECT and will ensure that associated soil disposal areas are adequately protected from soil erosion.
- H. The ILLINOIS TOLLWAY agrees to a one-time clean out the existing culverts connecting Cell 1 and Cell 2 in the Touhy Avenue Reservoir as part of the PROJECT improvements.
- I. The ILLINOIS TOLLWAY shall have the right, in its sole judgment and discretion, to cancel or alter any or all portions of the work, except as referenced in Section IV.B., 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 MWRD as further stipulated below.
- B. The MWRD agrees to convey property owned by the MWRD and necessary for the PROJECT in accordance with the approved plans and specifications. The MWRD shall transfer the property, designated as Parcel WA-3D-12-068 as shown on EXHIBIT 2, in accordance with Section II of this AGREEMENT. The compensation to be paid by the ILLINOIS TOLLWAY for the parcel is a total of \$644,000. This amount is subject to both PARTIES Board approval.
- C. It is mutually agreed by the PARTIES hereto that preliminary and design engineering costs for the MWRD IMPROVEMENTS shall be computed as 5% of the actual construction costs and construction engineering shall be computed as 10% of actual final construction costs.
- D. It is mutually agreed by the PARTIES hereto that the estimated cost for the MWRD IMPROVEMENTS is \$440,240.00 for construction costs, \$22,012.00 (5% of construction costs) for preliminary and design engineering, and \$44,024.00 (10% of construction costs) for construction engineering, for a total estimated cost of \$506,276.00.
- E. It is further agreed that notwithstanding the estimated cost, MWRD and the CITY shall be responsible for the 50% each of the actual costs associated with the MWRD IMPROVEMENTS described in the Recital section of this AGREEMENT.

- F. MWRD and the CITY each agree that upon award of the contract for the MWRD IMPROVEMENTS and receipt of an invoice from the ILLINOIS TOLLWAY, MWRD and the CITY each will pay to the ILLINOIS TOLLWAY, an amount equal to 50% of their obligation incurred under this AGREEMENT, based upon actual bid prices, and they will pay to said ILLINOIS TOLLWAY the remainder of its obligation in a lump sum, upon completion of the contract, based on actual final costs.
- G. Any PARTY 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 MWRD and the CITY.
- B. As used herein, the terms "maintenance" or "maintain" mean keeping the facility being maintained in good and sufficient repair and appearance. Such maintenance includes the full responsibility for the construction, removal, replacement of the maintained facility when needed, and unless specifically excluded in Section VII, MAINTENANCE - RESPONSIBILITIES, other activities as more specifically set forth in the following subparts of this Section VI. Maintenance includes but is not limited to:
  - 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 and piers, bridge girders/beams, bridge deck, 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.

11. The term "grade separation structure" refers to all structural elements between the abutments and below the wearing surface of a bridge carrying one roadway over another, unless otherwise specified.

- C. 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 or facility.
  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 maintenance responsibilities are as shown on "EXHIBIT 4A and 4B" and as detailed below.
- B. The ILLINOIS TOLLWAY agrees to maintain I-490 and I-90 in their entirety, including drainage, lighting, ramps, the retaining wall along northbound I-490 to eastbound I-90 ramp (Ramp X2), and the retaining wall along northbound I-490 to westbound I-90 (Ramp X4). The ILLINOIS TOLLWAY also agrees to maintain the existing outfall to Higgins Creek within ILLINOIS TOLLWAY right of way and the two proposed outfalls to Higgins Creek located within the Touhy Avenue Reservoir on CITY property.
- C. The MWRD agrees to operate, maintain and repair as necessary, and provide security for the Touhy Avenue Reservoir, its grounds and appurtenances, including but not limited to, the box culvert south of I-90, the pump station, spillways, control structures, and other valves, pumps, valves, electrical controls and all operating features of the Touhy Avenue Reservoir, in accordance with the Manual. The MWRD is also responsible for the access road around Cell 2 and the restoration and stabilization of existing Higgins Creek along the perimeter of Cell 2 (MWRD IMPROVEMENTS).
- D. The CITY agrees to provide oversight and inspections of the Touhy Avenue Reservoir in coordination with the MWRD.
- E. Any cost of extraordinary maintenance, that is repair or replacement of the Touhy Reservoir spillways, control structures, pump station shall be shared equally between the MWRD and the CITY.

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

Type of Bridge Structure	Affected Facility
Type 1	Northbound I-490 over Touhy Avenue Reservoir Cell 2 and Higgins Creek (Structure Number 1679)
Type 1	Southbound I-490 over Touhy Avenue Reservoir Cell 2 and Higgins Creek (Structure Number 1680)
Type 1 - ILLINOIS TOLLWAY Touhy Avenue Reservoir Cell 2 and Higgins Creek	

1. The MWRD has all maintenance responsibility as to the following:
  - a. All MWRD right of way, guardrail and other protective devices to shield access road traffic from the grade separation structure piers, including but not limited to the portions thereof underneath the grade separation structure;
  - b. All drainage facilities on MWRD right of way, except such facilities installed by the ILLINOIS TOLLWAY on MWRD property for the purpose of carrying exclusively Toll Highway drainage;
2. The ILLINOIS TOLLWAY has all maintenance responsibility as to all remaining portions of the grade separation structure, as set forth herein, including but not limited to the entire grade separation structure, drainage facilities, bridge slope walls and embankments and fences.

- G. The PARTIES agree to not store any materials, vehicles, or equipment under the ILLINOIS TOLLWAY bridge structures (Structure Numbers 1679 and 1680) within the Touhy Avenue Reservoir.

**VIII. ADDITIONAL MAINTENANCE PROVISIONS**

- A. During construction, the MWRD and/or the CITY shall continue to maintain all portions of the PROJECT and MWRD IMPROVEMENTS within their respective right of way that are not to be improved or maintained by the construction contractor(s) pursuant to the approved plans and specifications, and the ILLINOIS TOLLWAY shall continue to maintain all portions of the Toll Highway that are not required to be maintained by the construction contractor(s).
- B. All items of construction which are stipulated in this AGREEMENT to be maintained by the MWRD and/or the CITY shall, upon completion of construction

and final inspection, be the sole maintenance responsibility of the MWRD and/or 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.

## **IX. GENERAL PROVISIONS**

- A. It is understood and agreed that this is an AGREEMENT among the Metropolitan Water Reclamation District of Greater Chicago (MWRD), the City of Chicago (CITY) and the Illinois State Toll Highway Authority (ILLINOIS TOLLWAY).
- B. It is understood and agreed that this AGREEMENT constitutes the complete and exclusive statement of the agreement of the PARTIES relative to the subject matter hereof and supersedes all previous oral and written proposals, negotiations, representations or understandings concerning such subject matter.
- C. Wherever in this AGREEMENT, approval or review by any of the PARTIES is provided for, said approval or review shall not be unreasonably delayed or withheld.
- D. Not later than fourteen (14) calendar days after execution of this AGREEMENT each PARTY shall designate in writing a representative who shall serve as the full time representative of the said PARTY during the carrying out of the execution of this AGREEMENT. Each representative shall have authority, on behalf of such PARTY, to make decisions relating to the work covered by this AGREEMENT. Representatives may be changed, from time to time, by subsequent written notice. Each representative shall be readily available to the other PARTY.
- E. The descriptive headings of various sections of this AGREEMENT are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- F. In the event of a dispute between the PARTIES in the carrying out of the terms of this AGREEMENT, the Chief Engineering Officer of the ILLINOIS TOLLWAY, the Director of Engineering of the MWRD and the General Counsel of the CITY 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 or in the carrying out of the terms of this AGREEMENT, the decision of the Chief Engineering Officer of the ILLINOIS TOLLWAY shall be final as it relates to the ILLINOIS TOLLWAY's toll highway. The decision of the Director of Engineering of the MWRD shall be final as it relates to MWRD facilities or operations, as long as the MWRD's decision does not delay the PROJECT or cause a conflict with the ILLINOIS TOLLWAY's toll highway.
- G. In the event there is a conflict between the terms contained in this document and the attached Exhibit(s), the terms included in this document shall control.



- 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 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, the MWRD 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, the MWRD 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 Cook 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 MWRD:                      The Metropolitan Water Reclamation  
District of Greater Chicago  
100 East Erie Street  
Chicago, Illinois 60611-3154  
Attn: Director of Engineering
- To the CITY:                        Chicago Department of Aviation  
10510 West Zemke Road  
Chicago, Illinois 60666  
Attn: General Counsel
- N. The PARTIES agree to maintain books and records related to the performance of this AGREEMENT and necessary to support amounts charged to the ILLINOIS TOLLWAY and/or any of the PARTIES under the AGREEMENT for a minimum of three (3) years from the last action on the AGREEMENT. The PARTIES further

agree to cooperate fully with any audit and to make its books and records, and books and records within its custody or control available to the Illinois Attorney General, the Illinois Auditor General, the ILLINOIS TOLLWAY Inspector General, the ILLINOIS TOLLWAY Department of Internal Audit, the ILLINOIS TOLLWAY or any other governmental agency or agent thereof that is authorized to audit or inspect such books and records.

- O. The entry of the MWRD into this AGREEMENT, including but not limited to any financial commitments or work commitments imposed upon MWRD under this AGREEMENT are subject to the approval of the MWRD's Board of Commissioners.
- P. The introductory recitals included at the beginning of this AGREEMENT are agreed to and incorporated into this AGREEMENT.

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

**THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO**

By: \_\_\_\_\_  
\_\_\_\_\_  
(Please Print Name, Title)

Attest: \_\_\_\_\_  
\_\_\_\_\_  
(Please Print Name)

Date: \_\_\_\_\_

**THE CITY OF CHICAGO**

By: \_\_\_\_\_  
Jamie Rhee, Commissioner  
Chicago Department of Aviation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
General Counsel  
Chicago Department of Aviation

Date: \_\_\_\_\_

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

By: \_\_\_\_\_  
Willard S. Evans Jr.  
Chairman & Chief Executive Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Cathy R. Williams  
Chief Financial Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Kathleen Pasulka-Brown  
General Counsel

Date: \_\_\_\_\_

Approved as to Form and Constitutionality

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

DRAFT

RESOLUTION NO. 22041  
AMENDING RESOLUTION NO. 21949

**Background**

Resolutions 19584, 21606 and 21846 authorized acquisition of needed parcels and expenditures up to \$60,000,000.00 for any and all land acquisition fees, costs and expenditures necessary for Systemwide Projects, Project No. RR-18-4408 (“Project No. RR-18-4408”). Resolution 21949 and 21848, as preceded by Resolution 21698, identified specific parcels that were required for purposes of The Illinois State Toll Highway Authority (“Tollway”). Resolution 21949 must be further amended to identify and add additional parcels and provide the Tollway’s Land Acquisition unit the authority to acquire all parcels necessary for the Project No. RR-18-4408, including fee title, permanent easements, temporary easements and access control. Pursuant to *ISTHA v. DiBenedetto*, 275 Ill. App 3d 400, 405 (1st Dist. 1995), the Tollway is required to reasonably describe real property it may need to acquire by eminent domain. This Resolution, amending Resolution 21949, identifies additional parcels and satisfies this requirement.

**Resolution**

Acquisition is authorized for any and all needed real property and interests in real estate and includes, but is not limited to, the Identified Parcels listed on Exhibit A (“Identified Parcels”), which is attached hereto and incorporated herein by this reference. These acquisitions are necessary and convenient to secure all needed real property and interests in real estate for Project No. RR-18-4408. The Tollway’s Engineering Department, by and through its Land Acquisition Manager, together with authorized employees and agents, is authorized to acquire all necessary real estate interests associated with Project No. RR-18-4408, and per Resolutions 19584, 21606 and 21846, to spend sums up to an amount not to exceed \$60,000,000.00 to pay for any and all land acquisition fees and costs including, but not limited to (i) consideration, settlements, purchase price, fees, costs, closing costs, deposits to close in escrow, relocation expenses, relocation benefits, relocation costs, title work, title insurers, agents, owners, attorneys, appraisers,

RESOLUTION NO. 22041  
AMENDING RESOLUTION NO. 21949

**Resolution – Continued**

negotiators, surveyors and other experts retained for the purpose of acquiring all needed real estate and interests in real estate, (ii) payment of preliminary just compensation, final just compensation and damages, and (iii) any and all other acquisition costs, fees and expenses.

In the event all or part of the Identified Parcels cannot, with reasonable diligence, be purchased via negotiations, administrative documentation or settlement, the Land Acquisition Unit, upon the recommendation of the Land Acquisition Manager, the General Counsel and the Attorney General, is authorized and directed to acquire the same in the name of the Tollway by eminent domain.

The Chief Executive Officer, Executive Director, Chief Operating Officer and/or Land Acquisition Manager, subject to then existing Land Acquisition policies and procedures and approval of the General Counsel and consistent with applicable state and federal law, are authorized to negotiate and enter into any real estate contract for the acquisition or conveyance of all needed real estate for Project No. RR-18-4408, such contracts to be executed in accordance with applicable Tollway policy. The Land Acquisition Unit is authorized to continue to acquire and purchase property by and through escrow closings with its approved title insurance vendors, subject to then existing Land Acquisition policies and procedures and approval of the General Counsel, such contracts to be executed in accordance with applicable Tollway policy. The Chief Financial Officer is authorized to issue warrants from time to time to pay for any and all land acquisition fees and costs including, but not limited to (i) consideration, settlements, purchase price, fees, costs, closing costs, deposits to close in escrow, relocation expenses, relocation benefits, relocation costs, title work, title insurers, agents, owners, attorneys, appraisers, negotiators, surveyors and other experts retained for the purpose of acquiring all needed real estate and interests in real estate, (ii) payment of preliminary just compensation,

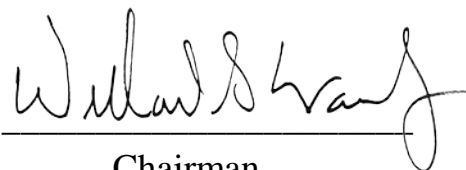
05/21/20

6.6/3

RESOLUTION NO. 22041  
AMENDING RESOLUTION NO. 21949

**Resolution – Continued**

final just compensation and damages, and (iii) any and all other acquisition costs, fees and expenses, necessary to acquire interests in all or part of all Identified Parcels needed for Project No. RR-18-4408, up to a sum not to exceed the aggregate sum of \$60,000,000.00.

Approved by:   
Chairman

05/21/20

6.6/3

RESOLUTION NO. 22041  
AMENDING RESOLUTION NO. 21949

**Resolution – Continued- Exhibit A**

**PROJECT NO.: RR-18-4408- IDENTIFICATION OF PARCELS**

**System-Wide Project**



EXHIBIT "A"  
Project RR-18-4408  
System-Wide

<b>PREVIOUSLY IDENTIFIED PARCELS</b>		
<b>Parcel</b>	<b>PIN NUMBER/OR DESCRIPTION</b>	<b>County</b>
NW-4A-18-001	16-26-200-008	McHenry
NW-4A-18-002	16-25-100-001, 16-26-100-014 16-26-200-004, 16-26-300-002 16-26-400-001, 16-26-400-003	McHenry
NW-4A-18-003	16-26-200-009	McHenry
NW-4A-18-004	16-23-400-005, 16-23-400-006	McHenry
NW-4A-18-005	16-23-300-001, 16-23-100-011	McHenry
NW-4A-18-006	16-26-100-009	McHenry
NW-4A-18-007	16-26-100-012, 16-26-100-022	McHenry
NW-4A-18-008	16-26-100-021, 16-26-100-023 16-26-100-024	McHenry
NW-6B-18-001	07-04-201-013, 07-04-201-014, 07-04-201-015 07-04-201-007, 07-04-201-008, 07-04-201-009 07-04-201-010, 07-04-201-011, 07-04-201-012	Cook
TW-13A-19-001	07-09-202-001, 07-09-409-003, 07-09-409-005	Lake
TW-13A-19-002	07-09-200-034	Lake

<b>NEWLY IDENTIFIED PARCELS</b>		
<b>Parcel</b>	<b>PIN NUMBER/OR DESCRIPTION</b>	<b>County</b>
E-1A-19-001	14-12-200-026	Kane

## RESOLUTION NO. 22042

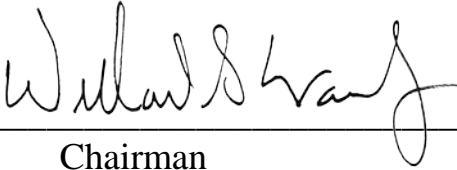
**Background**

In furtherance of The Illinois State Toll Highway Authority's ("Tollway") Elgin O'Hare Western Access project ("Project"), and in accordance with the November 29, 2018 memorandum of understanding between the Tollway and the Union Pacific Railroad ("UP"), it is necessary and in the best interest of the Tollway to enter into the "Elgin O'Hare Western Access Project – Property Transfer and Construction Master Agreement" ("Master Agreement") with UP.

Pursuant to the Master Agreement and a contract between the Tollway and Soo Line Railroad Company d/b/a Canadian Pacific, the Tollway will obtain the land and property rights it requires to, among other things, relocate and replace an existing UP bridge, construct a new elevated UP bridge and construct of a new, parallel elevated Tollway bridge. The Master Agreement specifically describes (i) the real property transfers that will take place between the Tollway and UP, (ii) the parties' various duties and obligations relative to each other and relative to the maintenance and repair of the new bridges, and (iii) the compensation UP will receive therefor from the Tollway.

**Resolution**

The Tollway's General Counsel is authorized to further negotiate and finalize the Elgin O'Hare Western Access Project – Property Transfer and Construction Master Agreement, and all related documents, in substantial accord with the form Master Agreement discussed in Executive Session. The Chairman/Chief Executive Officer of the Tollway, subject to the approval of the Chief Financial Officer, is authorized to execute said Master Agreement, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:   
Chairman

## RESOLUTION NO. 22043

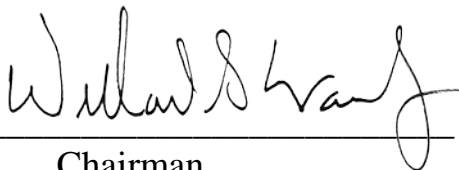
**Background**

In furtherance of The Illinois State Toll Highway Authority's ("Tollway") Elgin O'Hare Western Access project ("Project"), and in accordance with the June 7, 2018 letter of intent between the Tollway and Soo Line Railroad Company d/b/a Canadian Pacific ("CP"), it is necessary and in the best interest of the Tollway to enter into the "Definitive Agreement" with CP.

Pursuant to the Definitive Agreement and a contract between the Tollway and the Union Pacific Railroad, the Tollway will obtain the land and property rights it requires to, among other things, relocate and replace an existing UP bridge, construct a new elevated UP bridge and construct of a new, parallel elevated Tollway bridge. The Definitive Agreement specifically describes (i) the real property transfers that will take place between the Tollway and CP, (ii) the parties' various duties and obligations relative to each other and relative to the maintenance and repair of the new bridges, and (iii) the compensation CP will receive therefor from the Tollway.

**Resolution**

The Tollway's General Counsel is authorized to further negotiate and finalize the Definitive Agreement, and all related documents, in substantial accord with the form Definitive Agreement discussed in Executive Session. The Chairman/Chief Executive Officer of the Tollway, subject to the approval of the Chief Financial Officer, is authorized to execute said Definitive Agreement, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by:   
Chairman

## RESOLUTION NO. 22044

**Background**

The Illinois State Toll Highway Authority (“Tollway”) has previously purchased Technical Assistance for Developing Businesses from Chicago Minority Supplier Development Council, Inc., Griggs Mitchell & Alma of IL, LLC (d.b.a. GMA Construction Group), The Mexican American Chamber of Commerce of Illinois, Inc. (d.b.a. The Illinois Hispanic Chamber of Commerce, Inc.), Illinois State Black Chamber of Commerce, Inc., Inner-City Underwriting Agency, Inc. and Prairie State College (“Contract No. 16-0031”). It is in the best interest of the Tollway to purchase additional Technical Assistance for Developing Businesses by renewing Contract No. 16-0031 and increasing the upper limit of compensation to Chicago Minority Supplier Development Council, Inc., Griggs Mitchell & Alma of IL, LLC (d.b.a. GMA Construction Group), The Mexican American Chamber of Commerce of Illinois, Inc. (d.b.a. The Illinois Hispanic Chamber of Commerce, Inc.), Illinois State Black Chamber of Commerce, Inc., Inner-City Underwriting Agency, Inc. and Prairie State College by an aggregate amount not to exceed \$1,193,211.28.

**Resolution**

The renewal and associated increase to the upper limit of compensation of Contract No. 16-0031 for additional Technical Assistance for Developing Businesses from Chicago Minority Supplier Development Council, Inc., Griggs Mitchell & Alma of IL, LLC (d.b.a. GMA Construction Group), The Mexican American Chamber of Commerce of Illinois, Inc. (d.b.a. The Illinois Hispanic Chamber of Commerce, Inc.), Illinois State Black Chamber of Commerce, Inc., Inner-City Underwriting Agency, Inc. and Prairie State College is approved in an aggregate amount not to exceed \$1,193,211.28 (increasing the upper limit from \$6,467,491.25 to \$7,660,702.53).

RESOLUTION NO. 22044

**Resolution - continued**

The Chairman/Chief Executive Officer of the Tollway is authorized to execute the appropriate documents in connection therewith, subject to the approval of the General Counsel and the Chief Financial Officer. The Chief of Contract Services is authorized to issue the necessary purchase orders and contract purchase orders and any other necessary documents in connection therewith, and the Chief Financial Officer is authorized to issue warrants in payment thereof.

Approved by: William S. Kravitz  
Chairman