

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE
OF ORLAND PARK, COOK AND WILL COUNTIES, ILLINOIS,
AND THE VILLAGE OF ORLAND HILLS, COOK COUNTY, ILLINOIS,
PROVIDING FOR THE RECONSTRUCTION/REHABILITATION OF
88TH AVENUE FROM 159TH STREET SOUTH TO 171ST STREET**

This Intergovernmental Agreement (“Agreement”) is made and entered into this _____ day of May, 2010, by and between the Village of Orland Park, Cook and Will Counties, Illinois, an Illinois home rule municipal corporation (“Orland Park”) and the Village of Orland Hills, Cook County, Illinois, an Illinois municipal corporation (“Orland Hills”) (the “Parties”);

WHEREAS, the parties hereto are units of local government and the Constitution of the State of Illinois, 1970, Article VII, Section 10, authorizes units of local government to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and

WHEREAS, Chapter 5, Illinois Compiled Statutes, Act 220, Section 1, et seq., entitled the “Intergovernmental Cooperation Act,” provides that any power or powers, privileges or authority exercised or which may be exercised by a unit of local government may be exercised jointly with another unit of local government; and

WHEREAS, both Orland Park and Orland Hills recognize that 88th Avenue between 159th Street South to 171st Street is in disrepair and presents a danger to persons and vehicles traveling on the said public right-of-way; and

WHEREAS Orland Park and Orland Hills share, at different locations along 88th Avenue, jurisdiction over said right-of-way, and the traveling public will benefit by Orland Park and Orland Hills cooperating and sharing resources to repair and rehabilitate the said 88th Avenue.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, IT IS AGREED AS FOLLOWS:

1. The above and foregoing preambles are incorporated herein and constitute a part of this Agreement.
2. 88th Avenue, from the intersection of 88th Avenue and 159th Street at the north, to 88th Avenue and 171st Street at the south, is in need of a permanent roadway improvement, herein defined as a reconstruct, mill and overlay project (the “Project”), but the Project does not include any drainage, lighting, or right-of-way improvement. The Project will be constructed in accordance with the plans prepared by Christopher B. Burke Engineering, Ltd. under Project No. 10-00068-00-PV.
3. The Village of Orland Park shall serve as the Lead Agency for the Project, and Orland Hills shall reimburse Orland Park for the Project costs incurred and paid by Orland Park upon the receipt of an invoice to Orland Hills detailing said Project costs.

4. The Project will include costs associated with Phase I, Phase II and Phase III Professional and Geotechnical services, construction costs, and costs associated with pavement marking and Project close out, and that the scope and costs associated with the Project are hereby agreed to and are projected to be approximately \$1,200,000.

5. The Parties anticipate that barring unforeseen circumstances beyond the reasonable control of the Parties, work on the Project will commence on _____, 2010 and will be completed by _____, 20__ and the Parties agree to cooperate with each other to ensure the timely initiation and completion of the Project.

6. The corporate limits for Orland Park and Orland Hills define the jurisdictional maintenance and financial responsibility limits (“Limits”) for the Project, and that the Limits are consistent with border agreements that may exist which define such municipal corporate limits, and that nothing herein contradictory to said border agreements shall alter said border agreements as they may exist now or in the future.

7. Limits for the Project are split. The Limits on 88th Avenue for Orland Hills are from the southern right of way limit for 159th Street intersection to mid-point of the 163rd Street intersection, and the Limits for Orland Park are from mid-point of the 163rd Street intersection to the northern right of way limit for 171st Street intersection.

8. Based upon these Limits, Orland Hills has responsibility for one-third (33.3%) of the Project Costs (“Costs”), and Orland Park has responsibility for two-thirds (66.7%) of the Costs, with said Costs split and shared on this defined percentage basis applicable to the overall Project. Costs will be limited to professional services, and others that are agreed upon prior to being incurred by the Project.

9. Where Costs are measurable unit costs associated with specific locations, those Costs will be assigned to the respective party based on the Limits set forth above.

10. There had been security posted with Orland Park through a Letter of Credit (LOC) posted by the developers of the “Shops on 88th”, a development wholly within Orland Park. Funds totaling \$47,040 had been secured by the LOC associated with public improvements to roadways within Orland Hills that were included in the “Shops on 88th” development. It was the desire of Orland Hills that these funds be drawn upon by Orland Park for the completion of the incomplete public improvements associated with the Shops at 88th project, and applied to this project as a portion of the Orland Hills’ share of the local costs. The LOC had been issued by Wheatland Bank, which as of the date of this Agreement is under the control of the Federal Deposit Insurance Corporation (FDIC). Currently, the FDIC does not recognize the Shops at 88th LOC, and as such there are no funds to guarantee the completion of the public improvements by the developer of record. Should the developer of record resume development of the Shops at 88th project or should the project be undertaken by a new developer, Orland Park will coordinate the development public improvement security requirements for the project with the Village of Orland Hills.

The Village of Orland Hills expended \$1,452.00 for engineering work related to the FAU Designation of the Project and \$5,000.00 for full depth pavement cores for the Project. Orland Hills will be credited an additional \$3,226 for its share of the Project Costs which represents one-half of the said expense incurred by Orland Hills.

11. Both Parties shall hold harmless and indemnify, and name as additional insured, one another for claims pursuant to the Project, and that both hereby certify that liability insurance in limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate and in a form adequate to insure against injuries that may result to third parties as a consequence of either Party's actions has been secured for the Project. Said liability insurance policy, and the certificates shall contain a provision that the policy will not be canceled, modified or allowed to expire until at least thirty (30) days prior written notice has been given to the other Party, by certified mail, return receipt requested.

12. Both Parties shall indemnify, defend and hold harmless one another with respect to any loss, including but not limited to reasonable attorney's fees and costs and expenses of litigation and/or settlement or damage awards, resulting from any claim made against the other Party for personal injury and/or property damage arising out of the Party's actions under this Agreement, except to the extent of the willful and wanton misconduct of the Party. As used in this paragraph, the "Party" includes the officers, officials, employees and agents in their official and individual capacities.

13. This Agreement shall remain in effect until the completion of the Project, or until June 30, 2012, whichever is later.

14. The provisions which follow shall apply generally to the obligations of the Parties under this Agreement.

15. This Agreement may not be amended except pursuant to a written instrument signed by both Parties.

16. If any one or more of the provisions of this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, then this entire Agreement shall be null and void.

17. This Agreement is binding upon the successors of the Parties.

18. The waiver by either Party of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Agreement.

19. Each of the Parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform its respective obligations hereunder and that such obligations shall be binding upon such Party without the requirement of the approval or consent of any other person or entity in connection herewith.

20. This Agreement contains the entire understanding between the Parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein.

21. This Agreement creates no rights, title or interest in any person or entity whatsoever (whether under a third party beneficiary thereof or otherwise) other than the Parties.

22. This Agreement may be executed in counterparts. Facsimile signatures shall be sufficient.

23. Under no circumstances shall this Agreement be assigned by either Party or be construed as one of agency, partnership, joint venture or employment between the Parties. The Parties shall each be solely responsible for the conduct of their respective officers, employees and agents in connection with the performance of their obligations under this Agreement.

24. Any notice or demand required or permitted hereunder shall be in writing and shall be deemed duly served if mailed by prepaid registered or certified mail, return receipt requested or personally delivered with evidence of receipt, addressed as follows:

or to such address or such other parties as the Parties may from time to time designate by notice as provided herein. Notices shall be deemed effectively given as of the date which is two (2) business days following the date of postmarking by the U.S. Postal Service or as of the date of delivery, if hand or personally delivered.

25. This Agreement shall remain in full force and effect from the date hereof until it is terminated as provided for in this Agreement. Either party may terminate this Agreement upon delivery of a written notice to the other party at least 30 days before the intended termination date, which termination date must coincide with the end of a calendar month. Such notice shall be either personally delivered or sent by certified mail, return receipt requested.

26. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Illinois. In the event it is determined that this Agreement is inconsistent or in conflict with any resolution or ordinance of either of the parties, such resolution(s) or ordinance(s) shall be repealed or amended, as the case may be, to conform with the provisions of this Agreement.

IN WITNESS WHEREOF, Orland Park and Orland Hills have caused this Agreement to be executed by their duly designated officers the date and year set forth on page 1 hereof.

VILLAGE OF ORLAND PARK,
an Illinois municipal corporation

By: _____

Daniel J. McLaughlin,
Village President

Attest:

David P. Maher, Village Clerk

VILLAGE OF ORLAND HILLS
an Illinois municipal corporation

By: _____

Kyle R. Hastings, Mayor

Attest:

Mikki Burke, Village Clerk