



DuPage Water Commission

600 E. Butterfield Road, Elmhurst, IL 60126-4642
(630)834-0100 Fax: (630)834-0120

AGENDA

**ADMINISTRATION COMMITTEE
THURSDAY, APRIL 19, 2018
6:15 P.M.**

**600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126**

COMMITTEE MEMBERS

J. Healy- Chair
J. Broda
D. Novotny
R. Obarski
J. Zay

- I. Roll Call
- II. To approve the Minutes of the January 18, 2018 Regular Committee Meeting
- III. Ordinance No. O-5-18: An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning Improvements Relating to the Resurfacing of Greenbrook Boulevard
- IV. Discussion regarding incentives for senior staff to give advanced notice of retirement
- V. Other
- VI. Adjournment

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All visitors must present a valid drivers license or other government-issued photo identification, sign in at the reception area and wear a visitor badge while at the DuPage Pumping Station.

**MINUTES OF A RESCHEDULED MEETING OF THE
ADMINISTRATION COMMITTEE
OF THE DUPAGE WATER COMMISSION
HELD ON THURSDAY, JANUARY 18, 2018
600 EAST BUTTERFIELD ROAD
ELMHURST, ILLINOIS 60126**

Commissioner Healy called the meeting to order at 5:33 P.M.

Committee members in attendance: J. Broda, J. Healy, D. Novotny, R. Obarski

Committee members absent: None

Also in attendance: F. Frelka, Attorney Phil Luetkehans of Schirott, Luetkehans & Garner, LLC and J. Zay (arrived 5:37 P.M.)

Commissioner Broda moved to approve the Minutes of the December 14, 2017, Administration Committee meeting. Seconded by Commissioner Obarski and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Broda moved to recommend approval of Ordinance No. O-1-18: An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the Village of Roselle concerning the Installation of a Water Main in the Village of Roselle. Seconded by Commissioner Obarski and unanimously approved by a Voice Vote.

The proposed ordinance concerns the Bartlett Transmission Pipeline construction-related matters as they affect the Village of Roselle. Chairman Healy explained that the Administrative Committee had jurisdiction over the Roselle agreement, even though many aspects of the agreement appeared to be engineering-related, because the Committee is responsible for all inter-governmental agreements.

Commissioner Obarski questioned Attorney Luetkehans about indemnification provisions in the agreement. Attorney Luetkehans stated that under terms of a separate agreement with Bartlett, Bartlett agrees to indemnify the Commission in the event the Commission is required to indemnify Roselle. Commissioner Obarski raised an additional question about payments for the Bartlett pipeline project. All present were reminded by Chairman Healy that the Commission is responsible for all aspects of the construction contract and that Bartlett will reimburse the Commission for costs incurred per the terms of the agreement between the Commission and The Village of Bartlett.

The Committee also discussed that the contractor will provide a one-year guarantee of all work in the Village of Roselle. Furthermore, for a five-year period after expiration of the contractor's guarantee, the Commission will be responsible for "all damage or subsidence" caused by construction of the Bartlett pipeline. In any event, after construction and any guarantee period is over, the Commission, as owner of the pipeline, will be responsible for all pipeline repairs.

All voted aye. Motion carried.

With no further discussion, Commissioner Healy adjourned the meeting at 5:39 P.M.

DATE: April 12, 2018

REQUEST FOR BOARD ACTION

AGENDA SECTION Administration Committee	ORIGINATING DEPARTMENT General Manager's Office
ITEM An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning Improvements Relating to the Resurfacing of Greenbrook Boulevard Ordinance No. O-5-18	APPROVAL  
<p>Account Number: 01-60-711500</p> <p>An Agreement between the DuPage Water Commission and the County of DuPage which sets the terms and expectations related to the DuPage Water Commission installing a water main for the Bartlett Transmission Project. The County of DuPage removed and delayed the resurfacing of the county road (Greenbrook Boulevard) for this project and this agreement would cover the costs incurred by the County.</p>	
MOTION: To Adopt Ordinance No. O-5-18: An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning Improvements Relating to the Resurfacing of Greenbrook Boulevard	

DUPAGE WATER COMMISSION

ORDINANCE NO. O-5-18

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE DUPAGE WATER COMMISSION AND THE COUNTY OF DUPAGE CONCERNING IMPROVEMENTS RELATING TO THE RESURFACING OF GREENBROOK BOULEVARD

WHEREAS, the DuPage Water Commission (the "Commission") was formed and exists pursuant to the Water Commission Act of 1985 (70 ILCS 3720/1 *et seq.*) and Division 11 of Article 135 of the Illinois Municipal Code (65 ILCS 5/11-135-1 *et seq.*) (collectively the "Act") for the purpose of financing, constructing, and operating a water supply system to serve its Charter Customers and other customers in DuPage County with a common source of supply of water from Lake Michigan; and

WHEREAS, the Commission is designing, and intends to construct, a water transmission main and appurtenances, generally known as the Bartlett Transmission Project, to serve the Village of Bartlett (hereinafter "BTP"); and

WHEREAS, the route of the Commission's BTP 30" diameter water transmission main (hereinafter the "Main") extends along Greenbrook Boulevard from County Farm Road to US 20 (the "Route"); and

WHEREAS, Greenbrook Boulevard along the Route is owned and maintained by the County of DuPage (the "County"); and

WHEREAS, the Commission and the County have negotiated an Intergovernmental Agreement regarding the installation of the Main along the Route; and

WHEREAS, pursuant to Section 10 of Article VII of the Illinois Constitution of 1970, the provisions of the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) and other applicable authority, the Commission and the County are authorized to enter into the Intergovernmental Agreement; and

WHEREAS, the Commission and the County have each determined that it is in their respective best interests to enter into the Intergovernmental Agreement.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The foregoing recitals are hereby incorporated herein as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: An Intergovernmental Agreement Between the DuPage Water Commission and the County of DuPage regarding installation of the Main along the Route, in substantially the form attached hereto as Exhibit A, is hereby approved.

SECTION THREE: The Chairman of the DuPage Water Commission shall be and hereby is authorized to and directed to execute the Intergovernmental Agreement in substantially the form attached hereto as Exhibit A.

SECTION FOUR: Upon execution by the Chairman, the Intergovernmental Agreement, and all other things provided for therein, shall be deemed accepted by the DuPage Water Commission without further act.

SECTION FIVE: This Ordinance shall be in full force and effect from and after its adoption by a majority affirmative vote of all the Commissioners including the affirmative vote of at least 1/3 of the Commissioners appointed by the County Board Chairman and 40 percent of the Commissioners appointed by the Mayors.

Ordinance No. O-5-18

AYES:

NAYS:

ABSENT:

ADOPTED this _____ day of _____, 2018

Chairman

ATTEST:

Clerk

INTERGOVERNMENTAL AGREEMENT BETWEEN THE
COUNTY OF DU PAGE AND THE DU PAGE WATER COMMISSION
FOR
IMPROVEMENTS RELATING TO THE RESURFACING OF
CH 29/GREENBROOK BOULEVARD
FROM COUNTY FARM ROAD TO US 20 (LAKE STREET)
SECTION NO.: 18-00285-02-RS

This Intergovernmental Agreement (hereinafter referred to as "AGREEMENT") is entered into this _____ day of _____, 2018, between the County of DuPage (hereinafter referred to as the "COUNTY"), a body corporate and politic, with offices at 421 North County Farm Road, Wheaton, Illinois and the DuPage Water Commission (hereinafter referred to as the "COMMISSION"), a unit of local government created and existing pursuant to the Water Commission Act of 1985, 70 ILCS 3720/0.01 et seq. and Division of 125 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 et seq., with offices at 600 East Butterfield Road, Elmhurst, Illinois. The COUNTY and the COMMISSION are hereinafter sometimes individually referred to as a "party" or together as the "parties."

RECITALS

WHEREAS, the COUNTY in order to facilitate the free flow of traffic and to ensure the safety of the public previously prepared pre-final plans for a combined County Farm Road/Greenbrook Boulevard project (hereinafter referred to as the "Combined Project"; and

WHEREAS, prior to contract letting, the COUNTY learned that the COMMISSION was going to install new watermain along Greenbrook Boulevard (hereinafter referred to as "WATERMAIN") in the spring of 2018 by approved permit through the COUNTY; and

WHEREAS, the COUNTY deleted the Greenbrook Boulevard work from the Combined Project contract plans due to the WATERMAIN; and

WHEREAS, the COMMISSION has agreed to reimburse the COUNTY for expenses that the COUNTY will incur or has already incurred as a result of the WATERMAIN along Greenbrook Boulevard as well as other requirements as referenced hereinafter; and

WHEREAS, the COUNTY will, following completion of the WATERMAIN, advertise, let and award a contract for the Greenbrook Boulevard resurfacing project through the Illinois Department of Transportation (hereinafter referred to as PROJECT); and

WHEREAS, the COUNTY and the COMMISSION desire to cooperate in the construction of the PROJECT/WATERMAIN because of the benefit of the PROJECT/WATERMAIN to the residents of DuPage County, the COMMISSION and the public; and

WHEREAS, the COUNTY by virtue of its power set forth in "Counties Code" (55 ILCS 5/1-1001 et seq.) and "Illinois Highway Code" (605 ILCS 5/1-101 et seq.) and the COMMISSION by virtue of its power set forth in Water Commission Act of 1985, 70 ILCS 3720/0.01 et seq. and Division of 125 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 et seq., are authorized to enter into this AGREEMENT; and

WHEREAS, a cooperative intergovernmental agreement is appropriate and such an agreement is authorized and encouraged by Article 7, Section 10 of the Illinois Constitution and Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.), and

NOW, THEREFORE, in consideration of the premises, the mutual covenants, terms, and conditions herein set forth, and the understandings of each party to the other, the parties do hereby mutually covenant, promise and agree as follows:

1.0 INCORPORATION.

- 1.1. All recitals set forth above are incorporated herein and made part thereof, the same constituting the factual basis for this AGREEMENT.
- 1.2. The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

2.0 SCOPE OF WATERMAIN

- 2.1. The scope of the WATERMAIN includes, but is not limited to, the installation of approximately 5000 feet of watermain along Greenbrook Boulevard from

Lake Street to County Farm Road and other appurtenant and necessary work.

3.0 SCOPE OF PROJECT

- 3.1 The scope of the PROJECT includes, but is not limited to, the resurfacing of Greenbrook Boulevard from County Farm Road to US 20 (Lake Street), patching, curb and gutter removal/replacement, drainage structure repairs and other appurtenant and necessary work.

4.0 RESPONSIBILITIES - JOINT

- 4.1. The COUNTY and COMMISSION agree to cooperate in and make every effort to cause the construction of the WATERMAIN/PROJECT.
- 4.2. The COUNTY and COMMISSION agree that the contract documents for the PROJECT will need to be revised as a result of the installation of the WATERMAIN.

5.0 RESPONSIBILITIES OF THE COUNTY

- 5.1. The COUNTY shall act as the lead agency and be responsible for completing all preliminary and design engineering, right-of-way acquisition, coordinating with the Illinois Department of Transportation (IDOT) for letting/awarding of construction contract, permit processing excluding any permits associated with the WATERMAIN, utility coordination, and construction engineering for the PROJECT.
- 5.2. Both the COUNTY and COMMISSION agree that the COUNTY shall administer the contract for the construction of the PROJECT. The COUNTY agrees to administer the PROJECT in the best interest of both parties and to consult with, and keep advised, officials of the COMMISSION regarding the progress of the PROJECT as it relates to the WATERMAIN.

6.0 RESPONSIBILITIES OF THE COMMISSION

- 6.1. The COMMISSION agrees to reimburse the COUNTY for the expenses as outlined in 7.0 hereinafter.
- 6.2. The COMMISSION agrees to abide by the permit issued by the County for the WATERMAIN.
- 6.3. The COMMISSION shall act as the lead agency and be responsible for completing all preliminary and design engineering, letting and award of construction contract, utility coordination and construction engineering for the WATERMAIN.

7.0 REIMBURSEMENT BY THE COMMISSION AND ADDITIONAL REQUIREMENTS

- 7.1 The COMMISSION agrees to the following reimbursements to the COUNTY:
 - a. Design engineering costs in the amount of \$4,000.00 to remove Greenbrook Boulevard from the Combined Project;
 - b. Actual third-party design engineering costs estimated in the amount of \$33,000.00 for preparation of plans, specifications, estimate of cost for the PROJECT (anticipated letting for the fall of 2018; however, the amount for actual third-party design engineering costs to be paid by the COMMISSION shall not exceed \$36,300); and
 - c. Reimburse the COUNTY \$5,000.00 for regular site visits/inspection of the WATERMAIN in progress to ensure compliance with the approved permit, including maintenance of traffic.
- 7.2 The COMMISSION agrees to the following requirements and commitments to the COUNTY:
 - a. Provide a five (5) year warranty for the WATERMAIN from date of acceptance by the COUNTY. The COMMISSION shall begin to repair and diligently work to complete the repairs to any defects (e.g. settlement of watermain trench/structures) within 30 days of being notified; however, to the extent that repairs are needed to maintain traffic safety, said repairs will be completed as expeditiously as possible;

- b. Require an IDOT prequalified resident engineer to oversee the WATERMAIN and an IDOT prequalified materials engineer to inspect/test/perform quality assurance for any asphalt/concrete work;
- c. Invite the COUNTY to meetings concerning the WATERMAIN including pre-construction and progress meetings; and
- d. Prior to COUNTY beginning the PROJECT, the parties will hold a joint walk through to identify any deficient areas (e.g., settlement of trench/structures) as a result of the WATERMAIN and strategy to remediate. The COUNTY will perform said remediation as a part of the PROJECT with the COMMISSION's reimbursement of the actual costs plus an additional ten (10%) percent for construction engineering or the COMMISSION can arrange to have the remediation done at no cost to the COUNTY and in accordance with the County's Permitting Ordinance. Any costs incurred by the COUNTY due to PROJECT delays caused by deficiencies as a result of the WATERMAIN will be 100% reimbursable by the COMMISSION.

7.3 The COMMISSION agrees to reimburse the COUNTY for the costs referenced in 7.1 and 7.2 hereinabove as follows:

- a. \$4,000.00 for the re-design cost as referenced in 7.1.a. hereinabove and 50% of the estimated design engineering cost (\$16,500.00) as referenced in 7.1.b. hereinabove upon execution of this AGREEMENT and invoice submitted by the COUNTY to the COMMISSION.
- b. The balance of the actual design engineering costs as referenced in 7.1.b. hereinabove shall be reimbursed by the COMMISSION upon completion of the Plans, Specifications and Estimate for the PROJECT and invoice submitted by the COUNTY to the COMMISSION.
- c. Upon substantial completion of the PROJECT and based upon the documentation of final costs and quantities, the COUNTY shall invoice the COMMISSION for inspection costs of \$5,000.00 per 7.1.c., and the costs due per 7.2.d.
- d. All invoices submitted by the COUNTY to the COMMISSION shall be paid within sixty (60) days of receipt of said invoices.

8.0 MAINTENANCE

8.1. The COMMISSION shall be responsible for all maintenance of the WATERMAIN and the COUNTY shall be responsible for all maintenance of the PROJECT owned or under the jurisdiction of the COUNTY.

9.0 INDEMNIFICATION

9.1. The COUNTY shall to the extent permitted by law, indemnify, hold harmless and defend the COMMISSION, its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and action, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the COUNTY'S negligent or willful acts, errors or omissions in its performance under this AGREEMENT to the extent permitted by law. The COUNTY does not hereby waive any defenses or immunity available to it with respect to third parties.

9.1.1. The COUNTY and the COMMISSION acknowledge that the COUNTY has made no representations, assurances or guaranties regarding the COUNTY'S or any successor's or assign's authority and legal capacity to indemnify COMMISSION as provided for in this AGREEMENT. In the event a court of competent jurisdiction holds that the COUNTY, or any successor or assign, is deemed to lack the lawful authority or ability to indemnify, defend or hold harmless the COMMISSION, or any person or entity claiming a right through COMMISSION, or in the event of change in the laws of the State of Illinois governing COUNTY'S or any successor's or assign's indemnification authority, such occurrence(s) shall not affect the validity and enforceability of the remainder of this AGREEMENT or the parties rights and obligations provided for therein.

9.2. The COMMISSION shall indemnify, hold harmless and defend the COUNTY, its officials, officers,

employees, and agents from and against all liability, claims, suits, demands, proceedings and action, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the COMMISSION'S negligent or willful acts, errors or omissions in its performance under this AGREEMENT to the extent permitted by law. The COMMISSION does not hereby waive any defenses or immunity available to it with respect to third parties.

9.2.1. The COUNTY and the COMMISSION acknowledge that the COMMISSION has made no representations, assurances or guaranties regarding the COUNTY'S or any successors' or assigns' authority and legal capacity to indemnify COUNTY as provided for in this AGREEMENT. In the event a court of competent jurisdiction holds that the COUNTY, or any successor or assign, is deemed to lack the lawful authority or ability to indemnify, defend or hold harmless the COUNTY, or any person or entity claiming a right through COMMISSION, or in the event of change in the laws of the State of Illinois governing COMMISSION'S or any successor's or assign's indemnification authority, such occurrence(s) shall not affect the validity and enforceability of the remainder of this AGREEMENT or the parties rights and obligations provided for therein.

9.3. Nothing contained herein shall be construed as prohibiting the COUNTY, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, 55 ILCS 5/3-9005, any attorney representing the COUNTY, who is not already an Assistant State's Attorney, is to be appointed a Special Assistant State's Attorney, as provided in 55 ILCS 5/3-9008. The COUNTY'S participation in its defense shall not remove COMMISSION'S duty to indemnify, defend, and hold the COUNTY harmless, as set forth above.

- 9.4. Nothing contained herein shall be construed as prohibiting the COMMISSION, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. The COMMISSION'S participation in its defense shall not remove COUNTY'S duty to indemnify, defend, and hold the COMMISSION harmless, as set forth above.
- 9.5. Neither party waives, by these indemnity requirements, any defenses or protections under the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) or otherwise available to it, or to the other party, under the law.
- 9.6. Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided. The COMMISSION'S and COUNTY'S indemnification under Section 9.0 hereof shall terminate when the PROJECT is completed and the COMMISSION assumes its maintenance responsibilities as set forth in Section 8.1 hereof.

10.0 GENERAL

- 10.1. It is understood and agreed by the parties hereto that this AGREEMENT is intended to address the WATERMAIN/PROJECT and no changes to existing highways and appurtenances maintenance and/or jurisdiction are proposed.
- 10.2. Whenever in this AGREEMENT, approval or review of either the COUNTY or COMMISSION is provided for, said approval or review shall not be unreasonably delayed or withheld.
- 10.3. In the event of a dispute between the COUNTY and COMMISSION representatives in the preparation of the Plans and Specifications, or changes thereto, or in carrying out the terms of this AGREEMENT, the County Engineer of the COUNTY and the General Manager of the COMMISSION shall meet and resolve the issue.

10.4. No later than fourteen (14) days after the execution of this AGREEMENT, each party shall designate a representative to the other party who shall serve as the full time representative of said party during the carrying out of the construction of the PROJECT/WATERMAIN. Each representative shall have authority, on behalf of such party, to receive notices and make inspections relating to the work covered in this AGREEMENT. Representatives shall be readily available to the other party.

10.5. This AGREEMENT may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which shall be deemed one in the same instrument.

11.0 ENTIRE AGREEMENT

11.1. This AGREEMENT represents the entire AGREEMENT between the parties with respect to the PROJECT, and supersedes all previous communications or understandings whether oral or written.

12.0 NOTICES

12.1. Any notice required hereunder shall be deemed properly given to the party to be notified at the time it is personally delivered or mailed by certified mail, return receipt requested, postage prepaid, or sent by confirmed facsimile or email, to the party's address. The address of each party is as specified below; either party may change its address for receiving notices by giving notices thereof in compliance with the terms of this subsection.

DuPage Water Commission
800 East Butterfield Road
Elmhurst, IL 60126-4642
ATTN: John Spatz, General Manager
Phone: 630-834-0100
Facsimile: 630-834-0120
Email: spatz@dpwc.org

County of DuPage
Division of Transportation
421 N. County Farm Road
Wheaton, IL 60187
ATTN: Christopher C. Snyder, P.E.
Director of Transportation/County Engineer
Phone: 630.407.6900
Facsimile: 630.407.6901
Email: Christopher.snyder@dupageco.org

13.0 AMENDMENT, MODIFICATION OR TERMINATION OF THIS AGREEMENT

13.1. No modification or amendment to this AGREEMENT shall be effective until approved by the parties in writing.

14.0 ASSIGNMENT

14.1 This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

15.0 AUTHORITY TO EXECUTE/RELATIONSHIP

15.1. The parties hereto have read and reviewed the terms of this AGREEMENT and by their signature as affixed below represent that the signing party has the authority to execute this AGREEMENT and that the parties intend to be bound by the terms and conditions contained herein.

15.2. This AGREEMENT shall not be deemed or construed to create an employment, joint venture, partnership or other agency relationship between the parties.

16.0 GOVERNING LAW

16.1. This AGREEMENT shall be governed by the laws of the State of Illinois as to both interpretation and performance.

16.2. The forum for resolving any disputes concerning the parties' respective performance, or failure to perform, under this AGREEMENT, shall be the Judicial Circuit Court for DuPage County.

17.0 SEVERABILITY

17.1 In the event, any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the AGREEMENT. The remainder of this AGREEMENT shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.

18.0 FORCE MAJEURE

18.1 Neither party shall be liable for any delay or non-performance of their obligations caused by any contingency beyond their control including but not limited to Acts of God, war, civil unrest, strikes, walkouts, fires or natural disasters.

IN WITNESS whereof, the parties set their hands and seals as of the date first written above.

COUNTY OF DU PAGE

DU PAGE WATER COMMISSION

Daniel J. Cronin, Chairman
DuPage County Board

James Zay, Chairman

ATTEST:

Paul Hinds
County Clerk
