

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ILLINOIS,  
THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY,  
THE COUNTY OF DUPAGE AND THE CITY OF CHICAGO  
CONCERNING ROADWAY IMPROVEMENTS  
IN THE VICINITY OF THE WESTERN BOUNDARY OF  
CHICAGO O'HARE INTERNATIONAL AIRPORT**

**THIS INTERGOVERNMENTAL AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2004 A.D., by and between the **STATE OF ILLINOIS**, acting by and through its **DEPARTMENT OF TRANSPORTATION** (“DEPARTMENT”), the **ILLINOIS STATE TOLL HIGHWAY AUTHORITY**, an instrumentality and administrative agency of the State of Illinois (“ISTHA”), the **COUNTY OF DUPAGE**, Illinois, a body corporate and politic (“COUNTY”), and the **CITY OF CHICAGO**, Illinois, a municipal corporation acting by and through the O’Hare Modernization Program office (“CITY”), (collectively, the “Parties”).

**RECITALS**

**WHEREAS**, The DEPARTMENT, ISTHA, COUNTY and CITY are public agencies within the meaning of such term in the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*); and

**WHEREAS**, the purpose of the Intergovernmental Cooperation Act and Article VII, Section 10 of the 1970 Constitution of the State of Illinois includes fostering cooperation among units of local governments; and

**WHEREAS**, CITY owns and operates Chicago O’Hare International Airport (“O’Hare”); and

**WHEREAS**, CITY is implementing the O’Hare Modernization Program (“OMP”); and

**WHEREAS**, the improvements proposed under the OMP will include, among other things, the addition of a new runway, the relocation of three runways and the extension of two

runways, the creation of a new western terminal and parking facilities, and the connection of the western terminal facility to the existing terminal core by an automated people mover system; and

**WHEREAS**, the OMP improvements will provide numerous benefits, including the reduction of weather related delays at the Airport by an estimated 95% and overall delays by an estimated 79% (which will have the effect of providing savings to consumers of an estimated \$380 million per year) and the projected creation of 195,000 jobs and an additional \$18 billion a year in economic activity; and

**WHEREAS**, in Section 5(a)(5) of the O'Hare Modernization Act, Public Act 93-450 ("OMA"), the Illinois General Assembly finds and determines:

"Public roadway access through the existing western boundary of O'Hare to passenger terminal and parking facilities located inside the boundary of O'Hare and reasonably accessible to that western access is an essential element of the O'Hare Modernization Program. That western access to O'Hare is needed to realize the full economic opportunities created by the O'Hare Modernization Program and to improve ground transportation in the O'Hare area. It is important to the State that the western access be constructed not later than the time existing runway 14R-32L is removed from service." 620 ILCS 65/5(a)(5);

and

**WHEREAS**, the Chicago Area Transportation Study ("CATS") Regional Transportation Plan includes (i) a highway connection between Interstate Highway 90 and Interstate Highway 294 in the general vicinity of the western side of O'Hare ("Bypass"), and (ii) completion of the Elgin-O'Hare Expressway ("Elgin-O'Hare") from its existing terminus west of Illinois 53 to O'Hare, generally in the alignment of Thorndale Avenue (together with the Bypass, the "State Highway Plans"); and

**WHEREAS**, the Airport Layout Plan ("ALP") submitted by CITY to the Federal

Aviation Administration (“FAA”) shows public roadway access through the existing western boundary of O’Hare and related facilities as described in the OMA; all documents submitted by CITY to the FAA with respect to the ALP have shown these facilities; and the ALP also shows a corridor on the western side of O’Hare free of airport development to permit the construction of the Bypass (*see* attached Exhibit A: map of Future Airport Layout Plan, sheet 3 of 50 in CITY’s FAA submittal); and

**NOW, THEREFORE**, the Parties agree to cooperate in order to achieve the stated objectives of the OMA, and the State Highway Plans and the ALP as hereinafter provided.

**SECTION 1. Bypass Corridor.** The CITY agrees that it will not construct permanent facilities in the 300-foot corridor immediately east of the existing western boundary of O’Hare if such facilities would materially interfere with the construction of the Bypass (including interchanges at the Elgin-O’Hare/Thorndale and Irving Park Road) unless required by the FAA. The CITY agrees that the Bypass may be constructed in such corridor if it is located and constructed consistent with safety and efficiency of air transportation as determined by the FAA. The DEPARTMENT and ISTHA, as their interests may appear and as applicable highway design criteria will allow, agree to minimize the design and construction footprint of the Bypass if it is constructed in the corridor. Prior to the commencement of any construction of the Bypass on O’Hare property, other than utility relocation, the Parties will establish a mutually agreeable formula for consideration to be provided to the CITY for right-of-way and easements granted by the CITY for the Bypass.

**SECTION 2. Western Access to O’Hare.** CITY agrees to develop western access to O’Hare as described in Section 5(a)(5) of the OMA in accordance with, and if, the ALP showing

such facilities is finally approved by the FAA and airport funds for such purpose are legally available to CITY. The CITY agrees that it will not remove, or seek to remove, such facilities from the ALP unless required by the FAA. The Parties understand and agree that such facilities will not be constructed before runway 14R-32L is removed from service, which cannot occur until proposed runway 10R-28L (as shown on the ALP) is completed and commissioned by the FAA for commercial aircraft service. However, planning and design of the Bypass and Elgin-O'Hare may begin before 14R-32L is removed from service.

**SECTION 3. Development of Bypass and Elgin-O'Hare.** The DEPARTMENT and ISTHA, as their interests may appear, agree to be solely responsible for design, construction, environmental review and financing of the Bypass and the Elgin-O'Hare. Subject to the conditions set forth in the preceding sentence, CITY agrees to cooperate with the DEPARTMENT and ISTHA in design, construction, and the environmental review and in assisting the DEPARTMENT and ISTHA in their efforts to seek financing and land acquisition/right-of-way for these projects. The Parties understand and agree that the Bypass and the Elgin-O'Hare are independent of the O'Hare Modernization Program ("OMP") and that the OMP, including the facilities described in Section 5(a)(5) of the OMA, can be constructed and operated as shown on the ALP whether or not the Bypass and the Elgin-O'Hare are constructed. CITY intends to implement the OMP whether or not the Bypass or the Elgin-O'Hare are constructed. The Parties understand and agree that funds derived from any source from ownership, operation or use of O'Hare will not be used to fund the Bypass and the Elgin-O'Hare.

**SECTION 4. ALP Approval.** The DEPARTMENT, ISTHA and COUNTY agree to cooperate with CITY, the FAA and all other federal, state and local agencies in the regulatory and environmental review process for approval of the ALP, and to support its approval.

**SECTION 5. Obligations.** Obligations of the DEPARTMENT, the CITY, and the COUNTY will cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or Federal Funding source fails to appropriate or otherwise make available funds for this contract.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

**COUNTY OF DUPAGE**

Attest:

\_\_\_\_\_  
County Clerk  
(SEAL)

By: \_\_\_\_\_  
Chairman, DuPage County Board

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

**CITY OF CHICAGO**

By: \_\_\_\_\_

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

**STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_

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

**ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

By: \_\_\_\_\_

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

Approved as to form and constitutionality

By: \_\_\_\_\_  
Illinois Attorney General

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