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DuPage County  
ROBERT J. SCHILLERSTROM  
COUNTY BOARD CHAIRMAN

FACSIMILE (630) 407-6901

(630) 407-6900

**DIVISION OF TRANSPORTATION**

March 30, 2009

Mr. David Huliseberg  
Village Manager  
Village of Lombard  
255 E. Wilson Avenue  
Lombard, IL 60148

Attn: Mr. Carl Goldsmith, Director of Public Works

Re: Intergovernmental Agreement

CH 47/Illinois Prairie Path  
Bridge over the East Branch of the DuPage River  
Section 99-00313-03-BT

Dear Mr. Huliseberg:

Enclosed for your consideration is an intergovernmental agreement with DuPage County per my March 20<sup>th</sup> letter to you regarding access to the construction site for the above referenced project.

If this agreement is acceptable, please have both originals signed and returned to Agnes Dolan at the address below. A fully executed original will be returned to you after approval by the County Board.

Thank you for your cooperation and support of this intergovernmental effort. If there are any questions or you need any additional information in your review of this agreement, please feel free to contact me at 630.407.6900.

Very truly yours,

*John P. Kos*  
John P. Kos, P.E.

Director of Transportation and Operations

JPK:ad; Enc.

C. Snyder, DOT

K. Kuper/A. Hasler, DOT

A. Dolan, DOT

D. Fagan, EDP

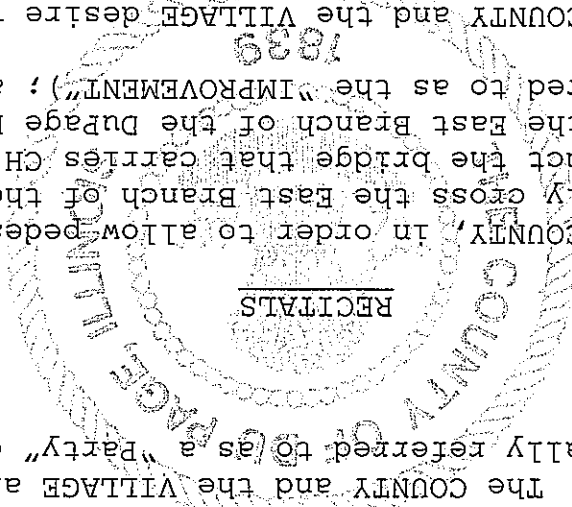
WHEREAS, the COUNTY by virtue of its power set forth in "Counties Code" (55 ILCS 5/1-1001 et seq.) and "Illinois Highway Code" (605 ILCS 5/1-101 et seq.) and the VILLAGE by virtue of its power set forth in the Municipal Code (65 ILCS 1/1-1 et seq.) are authorized to enter into this AGREEMENT; and

WHEREAS, the VILLAGE is agreeable to the COUNTY'S request for access subject to certain conditions; and

WHEREAS, access options to the IMPROVEMENT site are limited and the COUNTY desires the use of the VILLAGE'S access road which serves the Glenbard Waste Treatment Facility between Hill Avenue and the Illinois Prairie Path (hereinafter referred to as the "ACCESS ROAD") as generally depicted in Exhibit A attached hereto and incorporated herein in order to construct said IMPROVEMENT; and

WHEREAS, the COUNTY and the VILLAGE desire to cooperate in an effort to construct the IMPROVEMENT because of the immediate benefit of the IMPROVEMENT to the residents of DuPage County and the Village of Lombard; and

WHEREAS, the COUNTY, in order to allow pedestrians and bicyclists to safely cross the East Branch of the DuPage River desire to reconstruct the bridge that carries CH 47/Illinois Prairie Path over the East Branch of the DuPage River (hereinafter referred to as the "IMPROVEMENT"); and



This Intergovernmental Agreement (hereinafter referred to as "AGREEMENT") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, 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 Village of Lombard, (hereinafter referred to as the "VILLAGE"), a municipal corporation with offices at 255 East Wilson Avenue, Lombard, Illinois. The COUNTY and the VILLAGE are hereinafter sometimes individually referred to as a "Party" or together as the "Parties."

INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
THE COUNTY OF DU PAGE AND THE VILLAGE OF LOMBARD  
CH 47/ILLINOIS PRAIRIE PATH  
REPLACEMENT OF THE BRIDGE OVER THE EAST BRANCH  
OF THE DU PAGE RIVER  
SECTION 99-00313-03-BT

3.1. The COUNTY and the VILLAGE agree to cooperate in and make every effort to cause the construction of the IMPROVEMENT.

3.2. The COUNTY and VILLAGE representatives, as referenced hereinafter, shall inspect the ACCESS ROAD prior to the start of the IMPROVEMENT to establish the condition of the ACCESS ROAD prior to construction of the IMPROVEMENT.

3.0 RESPONSIBILITIES - JOINT

2.1. The scope of the IMPROVEMENT shall include but is not limited to the reconstruction of the bridge that carries CH 47/Illinois Prairie Path over the East Branch of the DuPage River and other appurtenant work.

2.0 SCOPE

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 inserts for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

1.0 INCORPORATION.

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 the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.).

NOW, THEREFORE, in consideration of the foregoing 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:

4.0 RESPONSIBILITIES OF THE COUNTY

4.1. The COUNTY shall act as the lead agency and be responsible for completing all preliminary and design engineering, awarding of contract(s), permit processing, utility coordination, construction engineering and construction of the IMPROVEMENT.

4.2. The COUNTY shall administer the contract for the construction of the IMPROVEMENT and agrees to administer the IMPROVEMENT in the best interests of both parties.

4.3. The COUNTY and/or its contractor(s) shall be permitted to use the ACCESS ROAD to construct the IMPROVEMENT at no cost to the COUNTY. The COUNTY and/or its contractor(s) shall, upon completion of the IMPROVEMENT, restore the ACCESS ROAD to a like-kind condition as established prior to the start of construction of the IMPROVEMENT and the COUNTY shall bear all costs necessary for the restoration of the ACCESS ROAD.

4.4. The COUNTY agrees that the restoration of the ACCESS ROAD shall be subject to approval in writing or via e-mail by the VILLAGE which approval shall not be unreasonably withheld.

4.5. The COUNTY has previously named the VILLAGE as an additional insurer for construction of the IMPROVEMENT as evidenced by a copy of the Certificate of Insurance attached in Exhibit B and incorporated herein.

5.0 RESPONSIBILITIES OF THE VILLAGE

5.1. The VILLAGE agrees to allow the COUNTY and/or its contractor(s) use of the ACCESS ROAD as generally depicted in Exhibit A (attached) to construct the IMPROVEMENT at no cost to the COUNTY except as referenced hereinabove.

6.0 MAINTENANCE

6.1. The COUNTY and the VILLAGE agree that existing maintenance responsibilities of the IMPROVEMENT and/or ACCESS ROAD shall not be altered by this AGREEMENT.

7.0 INDEMNIFICATION

7.1. The COUNTY shall, to the extent permitted by law, indemnify, hold harmless and defend the VILLAGE, 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. The COUNTY does not hereby waive any defenses or immunity available to it with respect to third parties.

7.1.1. The COUNTY and the VILLAGE acknowledge that the COUNTY has made no representations, assurances or guarantees regarding the COUNTY'S or any successor's authority and legal capacity to indemnify the VILLAGE 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 VILLAGE, or any person or entity claiming a right through VILLAGE, 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 effect the validity and enforceability of the remainder of this AGREEMENT or the Parties rights and obligations provided for therein.

7.2. The VILLAGE shall, to the extent permitted by law, 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 VILLAGE'S negligent or willful acts, errors or omissions in its performance under this AGREEMENT. The VILLAGE does not hereby waive any defenses or immunity available to it with respect to third parties.

and COUNTY'S indemnification under Section 7.0 hereof insurance coverage herein provided. The VILLAGE'S

7.5. Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any

7.4. Nothing contained herein shall be construed as prohibiting the VILLAGE, 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 VILLAGE'S participation in its defense shall not remove COUNTY'S duty to indemnify, defend, and hold the VILLAGE harmless, as set forth above.

7.3. 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, under this paragraph or paragraph 7.1, 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 VILLAGE'S duty to indemnify, defend, and hold the COUNTY harmless, as set forth above.

7.2.1. The COUNTY and the VILLAGE acknowledge that the VILLAGE has made no representations, assurances or guarantees regarding the VILLAGE'S or any successor's authority and legal capacity to indemnify the COUNTY as provided for in this AGREEMENT. In the event a court of competent jurisdiction holds that the VILLAGE, 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 the State of Illinois governing VILLAGE'S or any successor's or assign's indemnification authority, such occurrence(s) shall not effect the validity and enforceability of the remainder of this AGREEMENT or the parties rights and obligations provided for therein.

10.1. 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, to the

10.0 NOTICES

9.1. This AGREEMENT represents the entire AGREEMENT between the Parties with respect to the IMPROVEMENT and the ACCESS ROAD, and supersedes all previous communications or understandings whether oral or written.

9.0 ENTIRE AGREEMENT

8.4. 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.

8.3. 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 construction of the IMPROVEMENT and use of the ACCESS ROAD. Each representative shall have authority, on behalf of such Party, to receive notices and make inspections relating to the terms covered in this AGREEMENT. Representatives shall be readily available to the other Party.

8.2. In the event of a dispute between the COUNTY and VILLAGE representatives in carrying out the terms of this AGREEMENT, the County Engineer of the COUNTY and the Village Manager of the VILLAGE shall meet and resolve the issue. OF DU PRO...

8.1. It is understood and agreed by the Parties hereto that no changes to existing maintenance and/or jurisdiction are proposed as a part of this AGREEMENT.

8.0 GENERAL

shall terminate when the IMPROVEMENT and restoration of the ACCESS ROAD are complete and the COUNTY and VILLAGE assume its maintenance responsibilities as set forth in Section 6.1 above.

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

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

**13.0 GOVERNING LAW**

12.1. This AGREEMENT shall be binding upon and inure to the benefit of the Parties hereto and their representative successors and assigns.

**12.0 ASSIGNMENT**

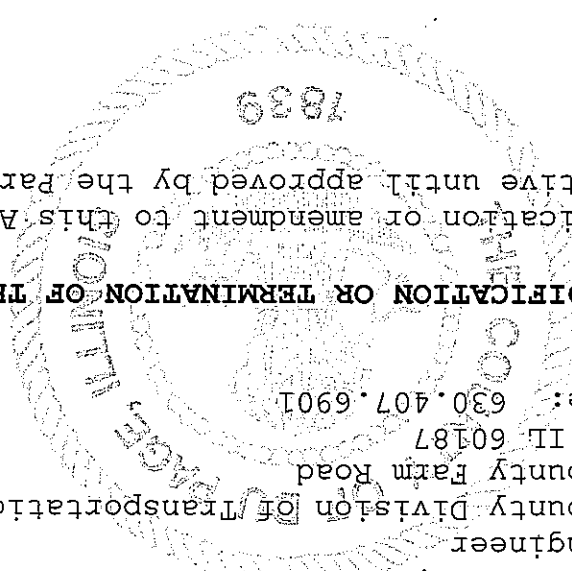
11.1. No modification or amendment to this AGREEMENT shall be effective until approved by the Parties in writing.

**11.0 AMENDMENT, MODIFICATION OR TERMINATION OF THIS AGREEMENT**

If to the COUNTY:  
 Charles Tokarski, P.E.  
 County Engineer  
 DuPage County Division of Transportation  
 421 N. County Farm Road  
 Wheaton, IL 60187  
 Facsimile: 630.407.6901

If to the VILLAGE:  
 Village Manager  
 David A. Hulseberg  
 Village of Lombard  
 255 East Wilson Avenue  
 Lombard, IL 60148  
 Facsimile: 630.620.8222

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.





Gary A. King  
County Clerk

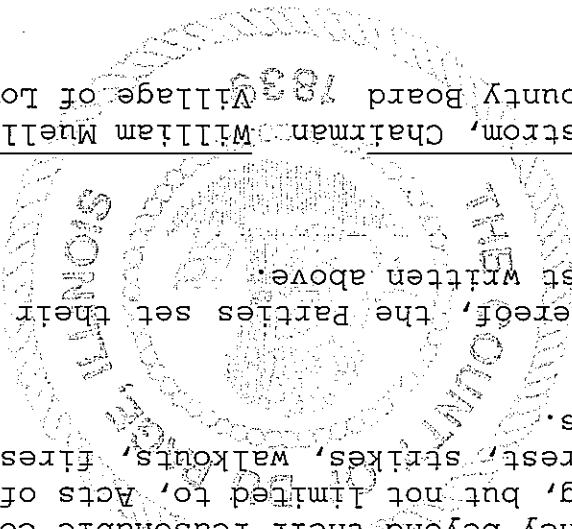
Brightte O'Brien  
Acting Village Clerk

ATTEST:

ATTEST:

Robert J. Schillerstrom, Chairman, William Mueller, President  
Chairman, DuPage County Board 1839  
Village of Lombard

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



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

**15.0 FORCE MAJEURE**

14.1 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.

**14.0 SEVERABILITY**

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 03/24/09  
 OP ID JB  
 DCONS-1

PRODUCER  
 Columbia Agency  
 www.columbiagency.com  
 1005 Taraway Road  
 New Lenox IL 60451  
 Phone: 815-485-4100

INSURERS AFFORDING COVERAGE  
 NAIC #  
 INSURER A: Ace American Ins Co  
 INSURER B: Illinois National  
 INSURER C: Travelers Property Cas  
 INSURER D:  
 INSURER E:

INSURED  
 D Construction, Inc.  
 1488 S Broadway  
 Coal City IL 60416

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A X	GENERAL LIABILITY	OGLG20314230	04/05/08	04/05/09	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS-COMP/OP AGG \$2,000,000 Emp Ben \$1,000,000
A X	AUTOMOBILE LIABILITY	CALH08412856	04/05/08	04/05/09	COMBINED SINGLE LIMIT (EA ACCIDENT) \$1,000,000 BODILY INJURY (per person) BODILY INJURY (per accident) PROPERTY DAMAGE (per accident)
B	EXCESS/UMBRELLA LIABILITY	BE7251555	04/05/08	04/05/09	EACH OCCURRENCE \$20,000,000 AGGREGATE \$20,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WLR44512063	04/05/08	04/05/09	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY OFFICER/MEMBER EXCLUDED? ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (If yes, describe under SPECIAL PROVISIONS below)
C	EQUIPMENT FLOATER	Q76608242B035	04/05/08	04/05/09	OTHER LEASED/ RENTED \$500,000 E.L. DISEASE - POLICY LIMIT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. EACH ACCIDENT \$1,000,000

IT IS AGREED THAT THOSE LISTED ON THE ATTACHED ARE ADDED AS ADDITIONAL INSURED ON THE GENERAL AND AUTOMOBILE LIABILITY ON A PRIMARY/NONCONTRIBUTORY BASIS IF REQUIRED BY WRITTEN CONTRACT WITH RESPECTS TO CONTRACT NO. 63069, DUPAGE COUNTY, SECTION 99-00313-03-BT, ROUTE CH47 (ILLINOIS PRAIRIE PATH), PROJECT ACHPP-HBP-0242(003), DISTRICT 1 CONSTRUCTION FUNDS

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

ILLINOIS DEPARTMENT OF TRANSPORTATION  
 2300 S DIRKSEN PARKWAY  
 SPRINGFIELD IL 62764

ACORD 25 (2001/08)  
 © ACORD CORPORATION 1


**IMPORTANT**

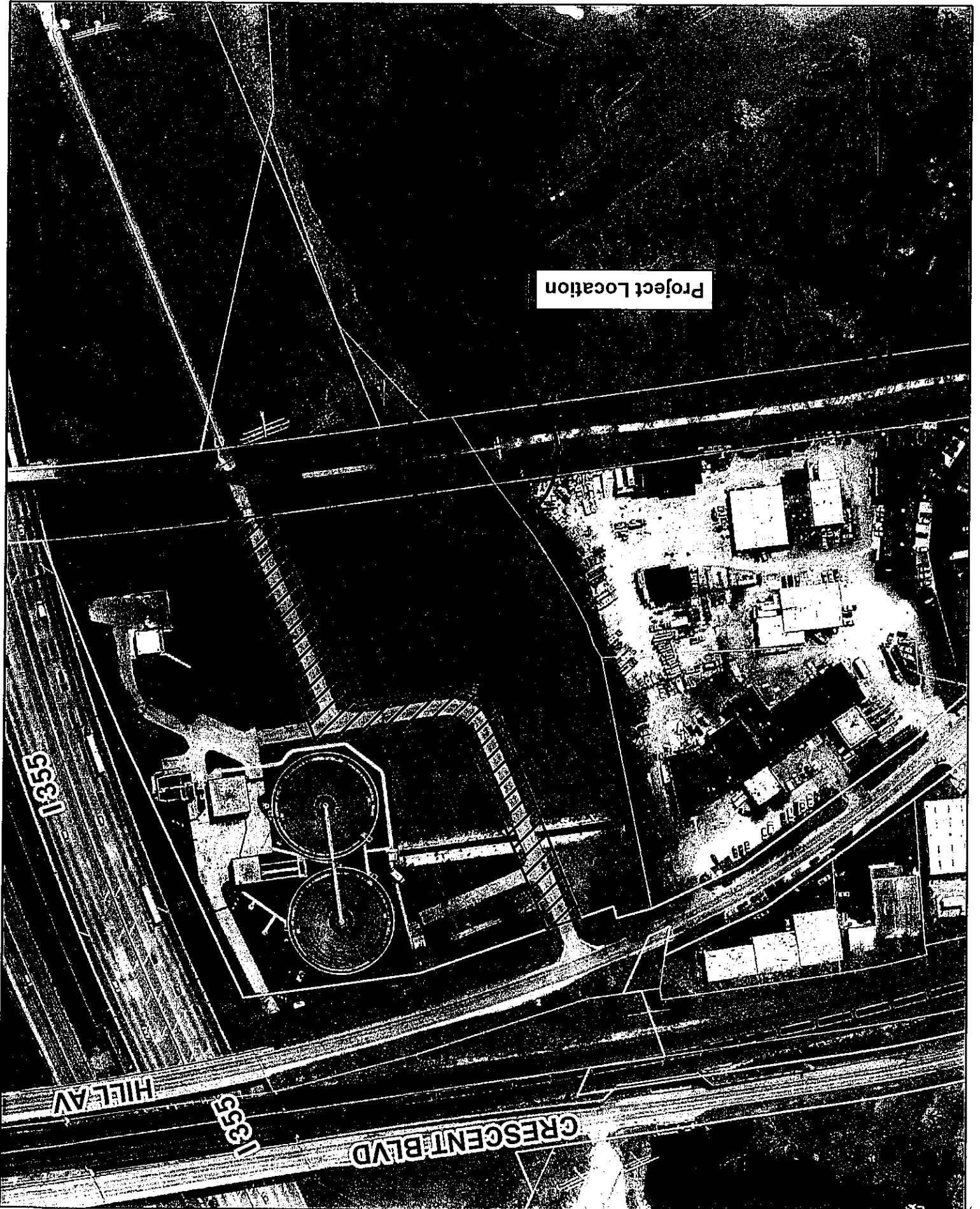
If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Access Road 



1355

HILL AV

1355

CRESCENT BLVD

NAMED INSURED: D. CONSTRUCTION, INC.  
 CERTIFICATE HOLDER: ILLINOIS DEPARTMENT OF TRANSPORTATION  
 PROJECT: CONTRACT NO. 63069, DUPAGE COUNTY, SECTION 99-00313-03-B1, ROUTE  
 647 (ILLINOIS PRAIRIE PATH), PROJECT ACHP-HBP-0242(003), DISTRICT 1  
 CONSTRUCTION FUNDS  
 ADDITIONAL INSURED: ILLINOIS DEPARTMENT OF TRANSPORTATION, ITS OFFICERS,  
 AND EMPLOYEES, DUPAGE COUNTY, DIVISION OF TRANSPORTATION,  
 CHRISTIAN ROGE & ASSOCIATES, INC., ROMAN BARETT, AND GLENHARD WASTE WATER  
 AUTHORITY AND THE VILLAGE OF LOMBARD  
 UMBRELLA LIABILITY IS A FOLLOW FORM OVER THE PRIMARY COVERAGES.  
 COVERAGE AND LIMITS CONFORM TO THE MINIMUM REQUIRED BY ARTICLE 107.27 OF  
 THE STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION.