Resolution of the County Board
of
Kankakee County, Illinois

RE: AUTHORIZING THE COUNTY BOARD CHAIRMAN TO SIGN A SETTLEMENT AGREEMENT WITH ENBRIDGE ENERGY L.P. AND RELEASE THE SURETY BONDS ASSOCIATED WITH A ROAD USE AGREEMENT

WHEREAS, the County executed a road use agreement by passing resolution #2014-11-12-174 with Enbridge Energy, L.P. and the agreement was signed on November 20, 2014; and,

WHEREAS, as part of that agreement Enbridge was required post two (2) surety bonds which were numbered K09096310 and K09096425; and,

WHEREAS, Enbridge was required to restore any roads used during their permitted project; and,

WHEREAS, Enbridge has restored all County roads to the County Engineer’s satisfaction and has requested the County release their posted surety bonds; and,

WHEREAS, the County Engineer, in consultation with the State’s Attorney’s Office, recommends the surety bonds be released and the attached settlement agreement be signed by the County Board Chairman or his designee; and,

WHEREAS, the Executive Committee at its regularly scheduled meeting of March 27, 2018 upon review discussion and consideration, agrees with the County Engineer and recommends to the full County Board that the attached settlement agreement be signed by the County Board Chairman or his designee.

NOW, THEREFORE BE IT RESOLVED that the two surety bonds, numbered K09096310 and K09096425, which were correctly filed as part of the agreement authorized by resolution #2014-11-12-174 are released and the County Board Chairman or his designee is authorized to sign the attached settlement agreement with Enbridge Energy L.P.

PASSED and adopted this 10th day of April, 2018.

Andrew H. Wheeler, County Board Chairman

ATTEST:
Dan Hendrickson, County Clerk
SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Release") is entered into this ____ day of February, 2018 by and between Enbridge Energy, Limited Partnership ("Enbridge") and Kankakee County Illinois ("County").

WHEREAS, Enbridge and County entered into that certain Road Use Agreement dated November 20, 2014 ("Agreement") attached hereto as Exhibit A;

WHEREAS, Enbridge provided two (2) surety bonds to the County numbered K09096310 and K09096425 attached hereto as Exhibit B;

WHEREAS, pursuant to the Agreement, Enbridge and its contractors and subcontractors were permitted to use certain roads governed by the County and were authorized to cross certain roads with the pipeline under permit #14-037 (attached hereto as Exhibit C) in connection with the construction of Enbridge’s Line 78 Project ("Project");

WHEREAS, Enbridge agreed to restore any roads used in connection with the Project;

WHEREAS, Enbridge has not received any further claims from the County regarding road repairs nor are there any outstanding claims related to the Agreement or the Project as of the date of this Release;

WHEREAS, County and Enbridge intend this Release to provide for the full settlement and discharge of all claims either party might have against the other relating to, arising out of the Project and the use by Enbridge of the roads under the Agreement, based on the terms and conditions set forth in this Release.

NOW, THEREFORE, County and Enbridge agree as follows:

1. Release and Discharge.

A. Subject to and in consideration of the terms set forth below, County, its past, present and future officers, directors, employees, agents, assigns, independent contractors, subcontractors, and other successors in interest, individually and in their representative capacities, do hereby release and forever discharge Enbridge, its affiliated and subsidiary corporations, past, present and future officers, directors, employees, agents, assigns, independent contractors, subcontractors and other successors in interest, individually and in their representative capacities, of any and all claims, liens, demands, rights, liabilities and causes of action of whatsoever kind or nature for compensation and/or punitive damages, costs, attorneys’ fees and any other legal or equitable remedies which County may currently have, or should have reasonably been able to identify, inspect, prevent or predict, against Enbridge, its affiliated and subsidiary corporations, past, present and future officers, directors, employees, agents, assigns, independent contractors, subcontractors and other successors in interest, individually and in their representative capacities, arising out of, by reason of, or in any way related to the Project and the use of the roads under the Agreement.
B. Subject to and in consideration of the terms set forth below, Enbridge, its affiliated and subsidiary corporations, past, present and future officers, directors, employees, agents, assigns, independent contractors, subcontractors and other successors in interest, individually and in their representative capacities, do hereby release and forever discharge County, its past, present and future officers, directors, employees, agents, assigns, independent contractors, subcontractors, and other successors in interest, individually and in their representative capacities, of any and all claims, liens, demands, rights, liabilities and causes of action of whatsoever kind or nature for compensation and/or punitive damages, costs, attorneys’ fees or any other legal or equitable remedies which Enbridge may now or hereafter have against County, its affiliated and subsidiary corporations, past, present and future officers, directors, employees, agents, assigns, independent contractors, subcontractors and other successors in interest, individually and in their representative capacities, arising out of, by reason of, or in any way related to the Project and the use of the roads under the Agreement.

2. Outstanding Claims. County represents and warrants that it is not aware of any claim or lien or threatened claim or lien by its subcontractors, vendors or suppliers related in any way to the Project and the Agreement or the use of the roads by Enbridge under the Agreement. County hereby agrees to indemnify, defend and hold Enbridge harmless against any and all claims, liens or threats of claims or liens from its subcontractors, vendors or suppliers relating in any way to the Agreement, the Project or the use of the roads by Enbridge under the Agreement.

3. Release of Bonds. County hereby releases the bonds referenced herein and agrees to return the bonds to Enbridge within thirty (30) days of the County’s execution of this Agreement.

4. Signatories. The parties hereby represent and warrant that those signing this Release on its/their behalf are all the individuals or entities necessary to effectuate its terms and conditions and the signatories have full authority to sign and to bind the County.

5. Representation of Comprehension of Document. County and Enbridge acknowledge that they have read and understand this Release; they have had the opportunity to seek the advice and counsel from attorneys of their own choosing; and that the individual signing on behalf of each has full right and authority to enter into and execute this Release on behalf of that party.

6. Construction. Any dispute arising under this Release shall be resolved under Illinois Law, and any lawsuit regarding this Release shall be venued in the State in which the County is organized. The prevailing party in any action commenced to enforce the terms of this Release, or in defense of any such action, shall recover, in addition to any other damages, his/her/its reasonable attorneys’ fees incurred in any such action.
7. **Binding Effect and Integration.** This Release represents the entire agreement between the parties, is intended to integrate fully all terms of settlement between the parties and supersedes all prior negotiations, representations or agreements between the parties, either written or oral. This Release may be amended only by written instrument designated as an amendment hereto and executed by the signatories or their successors.

8. **Execution of the Release.** This Release may be executed in separate counterparts, each of which is deemed to be an original and all, when taken together, constitute one in the same Agreement. Facsimile signatures shall be effective to bind each of the parties. Each party, however, agrees to provide the other with original signatures on the Agreement at the earliest reasonable time after facsimile signatures have been transmitted.

9. **Severability.** If any provision of this Release shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Release shall not be impaired thereby.

[signatures on next page]
Executed by Kankakee County:

[Signature]
Chairman, County Board of Kankakee County, Illinois

ATTEST:

By [Signature]
Clerk, County Board of Kankakee County, Illinois,

Approved by Kankakee County Engineer:

[Signature]
County Engineer, Kankakee County, Illinois

ATTEST:

By [Signature]
Clerk, County Board of Kankakee County, Illinois

Executed by Enbridge Energy, Limited Partnership
By Enbridge Pipelines (Lakehead) L.L.C.
Its General Partner

By: [Signature]
John McKay, Authorized Agent