

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE  
OF DOWNERS GROVE AND THE COUNTY OF DUPAGE  
FOR THE SOUTHERN DUPAGE COUNTY  
REGIONAL TRAIL - 59<sup>TH</sup> STREET BIKEWAY**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois,  
as follows:

1. That the form and substance of a certain Intergovernmental Agreement (the “Agreement”),  
between the Village of Downers Grove (the “Village”) and the County of DuPage (the “County ”), for the  
Southern DuPage County Regional Trail - 59<sup>th</sup> Street Bikeway, as set forth in the form of the Agreement  
submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed  
for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form  
approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall  
deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and  
directed to take such further action as they may deem necessary or appropriate to perform all obligations and  
commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are  
hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided  
by law.

\_\_\_\_\_  
Mayor

Passed:

Attest: \_\_\_\_\_  
Village Clerk

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE COUNTY OF DU PAGE AND VILLAGE OF DOWNERS GROVE  
FOR THE SOUTHERN DU PAGE COUNTY REGIONAL TRAIL  
59<sup>TH</sup> STREET BIKEWAY  
SECTION 07-00001-09-BT

This intergovernmental agreement ("AGREEMENT") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, between the County of DuPage (the "COUNTY"), a body corporate and politic, with offices at 421 North County Farm Road, Wheaton, Illinois 60187 and the Village of Downers Grove (the "VILLAGE"), with offices at Civic Center, Downers Grove, Illinois 60515.

RECITALS

WHEREAS, the COUNTY and the VILLAGE are public agencies within the meaning of Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.; and

WHEREAS, Article VII, Section 10, of the 1970 Constitution of the State of Illinois encourages and provides for units of local government to contract and otherwise associate with each other to exercise, combine or transfer any power or function; and

WHEREAS, the COUNTY by virtue of its power set forth in the Counties Code, 55 ILCS 5/1001 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 COUNTY and VILLAGE desire to implement the recommendations of the 1996 DuPage County Regional Bikeway Plan to develop a regional facility that will provide a safe bikeway for transportation, healthy exercise and recreation by linking together municipal bikeway systems, major forest preserves, and communities in southern DuPage County; and

WHEREAS, the COUNTY undertook the 2001 Southern DuPage County Regional Trail Feasibility Study ("STUDY") to identify a potential route for a new regional trail which will connect Aurora-Naperville on the west to Burr Ridge-Hinsdale on the east; and

WHEREAS, the results of the STUDY were shared with all communities and transportation agencies in the project area and support was expressed by the VILLAGE for the COUNTY to pursue implementation of this new regional trail; and

WHEREAS, the STUDY identified a component known as the 59<sup>th</sup> Street Bikeway) for construction of a bicycle route (the "PROJECT"); and

WHEREAS, the portion of the PROJECT along Jefferson Avenue from Springside Avenue to Dunham Road, is under the jurisdiction and maintenance responsibility of the VILLAGE; and

WHEREAS, the COUNTY and the VILLAGE desire to enter into this AGREEMENT prior to construction of the PROJECT.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties agree that:

1.0 RECITALS INCORPORATED

1.1 The foregoing recitals are incorporated herein by reference as though fully set forth.

2.0 SCOPE OF WORK

2.1 The PROJECT includes improvements along Jefferson Avenue from Springside Avenue to Plymouth Street and will consist of widening and resurfacing the existing roadway for a shared-use bicycle route, including striping and signage, and bikeway "logo" signage on other VILLAGE segments of the Southern DuPage County Regional Trail for which no physical improvements, other than signing, are required. A Location Map is attached hereto and incorporated herein by reference.

3.0 RESPONSIBILITIES OF THE COUNTY

3.1 The COUNTY shall be responsible for all preliminary and design engineering, right-of-way acquisition (if necessary), solicitation and award of bids, permit processing, utility coordination, construction engineering and construction of the PROJECT in accordance with the Construction Plans and Specifications for County Section 07-00001-09-BT which are incorporated herein by reference.

3.2 The COUNTY shall submit the Plans and Specifications for the PROJECT to the VILLAGE for review and approval. The VILLAGE shall provide review comments within fourteen (14) days of receipt of the Plans and Specifications. The COUNTY will correct any errors and address other reasonable comments prior to the resubmittal of Plans and Specifications to the VILLAGE for approval. Approval of the Plans and Specifications shall not be unreasonably withheld by the VILLAGE and shall be provided within fourteen (14) days of resubmittal by the COUNTY. The COUNTY shall advise the VILLAGE of a projected construction start date and shall give notice to the VILLAGE at least seven (7) days in advance of construction within the VILLAGE and shall further cooperate with the VILLAGE regarding construction related issues affecting VILLAGE residents, including, but not limited to road closures.

3.3 The total PROJECT cost will be the sole responsibility of the COUNTY.

#### 4.0 RESPONSIBILITIES OF THE VILLAGE

4.1 The VILLAGE hereby grants to the COUNTY, its employees, contractors and agents a right-of-entry for ingress and egress onto, over, under and above the VILLAGE property within the PROJECT limits for purposes of constructing the PROJECT.

4.2 Upon completion of the PROJECT, the right-of-entry shall terminate and the VILLAGE shall be responsible for maintenance of the PROJECT. The VILLAGE'S responsibility for maintaining the improvements on that portion of the PROJECT located within the VILLAGE'S jurisdiction, as shown on Exhibit A, shall not exceed the general responsibility that the VILLAGE has for maintaining its streets.

#### 5.0 JURISDICTION AND MAINTENANCE

5.1 Existing jurisdiction responsibilities of VILLAGE roads referenced herein are not changed by this AGREEMENT or PROJECT and the VILLAGE shall be

responsible for all maintenance of the completed improvements within the jurisdictional limits of the VILLAGE upon completion and acceptance of the PROJECT which maintenance shall include any signage erected as a result of the PROJECT. The COUNTY will provide replacement Southern DuPage County Regional Trail "logo" signs to the VILLAGE, upon request, for reinstallation/erection by the VILLAGE.

## 6.0 INDEMNIFICATION

6.1 The COUNTY shall, to the extent allowed 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 to the extent permitted by law. The COUNTY does not hereby waive any defenses or immunity available to it with respect to third parties.

6.1.1. The COUNTY and the VILLAGE 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 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.

6.2 The VILLAGE, to the extent allowed by law, and specifically excluding any design or construction elements, theories or causes of action, 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 VILLAGE'S negligent or willful acts, errors or omissions in its performance under this AGREEMENT to the extent permitted by law. The VILLAGE does not hereby waive any defenses or immunity available to it with respect to third parties.

- 6.3 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 AGREEMENT 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.
- 6.4 Nothing contained herein shall be construed as prohibiting the VILLAGE, its officials, directors, officers, agents and experts from defending 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.
- 6.5 Any indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage provided. The COUNTY'S indemnification of the VILLAGE shall terminate when the PROJECT is completed and the VILLAGE assumes its maintenance responsibilities as set forth in Section 5.1 above. The VILLAGE'S indemnification of the COUNTY shall terminate when the PROJECT is completed and the VILLAGE assumes its maintenance responsibilities as set forth in Section 4.2 above.

7.0 ENTIRE AGREEMENT

7.1 This represents the entire AGREEMENT between the parties with respect to the PROJECT, and supersedes all previous communication or understanding whether oral or written.

8.0 NOTICES

8.1 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, 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.

FOR THE VILLAGE

Michael Millette, P.E.  
Asst. Director of Public  
Works-Engineering  
Department of Public Works  
Village of Downers Grove  
5101 Walnut Avenue  
Downers Grove, IL 60515

FOR THE COUNTY

Charles F. Tokarski, P.E.  
County Engineer  
DuPage County  
Division of Transportation  
421 N. County Farm Road  
Wheaton, IL 60187

9.0 AMENDMENT, MODIFICATION OR TERMINATION OF THIS AGREEMENT

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

10.0 NON-ASSIGNMENT

10.1 This AGREEMENT shall not be assigned by either party without the written consent of the other party, whose consent shall not be unreasonably withheld.

11.0 GOVERNING LAW

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

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

12.0 FORCE MAJEURE

12.1 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.

Dated at Wheaton, Illinois this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Robert J. Schillerstrom, Chairman  
DuPage County Board

ATTEST:

\_\_\_\_\_  
Gary A. King, County Clerk

Dated at Downers Grove, Illinois this \_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Ronald Sandack, Mayor  
Village of Downers Grove

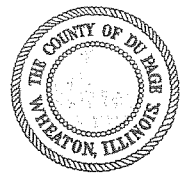
ATTEST:

\_\_\_\_\_  
April K. Holden, Village Clerk  
Village of Downers Grove





OFFICE COPY



DuPage County  
ROBERT J. SCHILLERSTROM  
COUNTY BOARD CHAIRMAN

**DIVISION OF TRANSPORTATION**

(630) 407-6900

FACSIMILE (630) 407-6901

September 4, 2007

Ms. Cara Pavlicek, Village Manager  
Village of Downers Grove  
801 Burlington Avenue  
Downers Grove, Illinois 60515

**Re: Southern DuPage County Regional Trail - 59<sup>th</sup> Street Bikeway Intergovernmental Agreement**

Dear Ms. Pavlicek:

\* Enclosed for your consideration is a revised intergovernmental agreement with DuPage County for construction of bikeway improvements needed to complete the Southern DuPage County Regional Trail – Main Stem. In order to complete construction of this improvement, we need an agreement which allows us to do work on areas under Village jurisdiction.

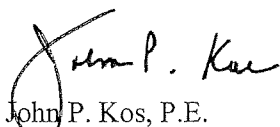
This revised agreement reflects the Village's request that the trail segment along Jefferson Street between Springside Avenue and Dunham Road be revised and shown as an on-street bicycle route. The agreement also allows for "logo" signage along the bikeway route east of Dunham Road. The trail route will proceed south along Dunham Road to 59<sup>th</sup> Street once Village improvements are completed on that section. In the interim, trail route signage only will be added on the previously shown route along Middaugh and along other roadways within the village.

Similar to our other Southern Trail segments, all construction and engineering costs for this project will be borne by the County.

If this agreement is acceptable to the Village, please have both copies signed and returned to Agnes Dolan of our office. A fully executed copy 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 407-6900.

Very truly yours,



John P. Kos, P.E.  
Director of Transportation and Operations

Enclosures (2)




Cc: C. Snyder, P. Krueger/DOT  
D. Fagan/EDP

# DOWNERS GROVE

Maple Grove Forest Preserve

Metra BNSF Railway

**LOCATION MAP**

- Project Limits 
- Signage Only 
- Future Signage 
- Interim Signage 