

**VILLAGE OF DOWNERS GROVE**  
**REPORT FOR THE VILLAGE COUNCIL MEETING**  
**JULY 20, 2010 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Intergovernmental Agreement with DuPage County Fire Station #3 Bioswale and Rain Garden	✓ Resolution Ordinance Motion Discussion Only	Nan Newlon, P.E., Director of Public Works

**SYNOPSIS**

A resolution has been prepared authorizing an Intergovernmental Agreement between the Village of Downers Grove and DuPage County for acceptance of a Water Quality Improvement Grant in the amount of \$22,680.65.

**STRATEGIC PLAN ALIGNMENT**

The Five Year Plan and Goals identified *Top Quality Village Infrastructure and Facilities*.

**FISCAL IMPACT**

The adopted FY10 budget includes \$35,000 in the Stormwater Fund for Drainage Improvements at Fire Station #3 (DR-036).

**RECOMMENDATION**

Approval on the July 20 consent agenda.

**BACKGROUND**

The parking lot of Fire Station #3 collects runoff from a small upstream tributary area, which overflows between two homes downstream of the Station. This area has been a source of concern during heavy rain events. Staff has identified this location as an appropriate candidate for stormwater improvement techniques that are considered “best management practices,” such as bioswales and raingardens. In addition to removing pavement that is deteriorated and no longer needed, staff plans to revise the grading to better capture and channelize the runoff into a grassy bioswale. The bioswale will slow down the runoff and collect the “first flush” of oils and contaminants from the upstream pavement. A rain garden will also be incorporated into the design which will further help with contaminant removal and runoff rate reduction. These techniques for handling stormwater are encouraged by permitting agencies such as DuPage County and the IEPA. Grant funds, such as this grant from DuPage County are also available to assist with the implementation of these stormwater management projects. This Water Quality Grant from DuPage County is for 20% of the total project cost and is intended to be used in addition to a grant being sought by the Illinois Emergency Management Agency. If the Village is not awarded the second grant the scope of the project will be modified to remain within the funds available.

The planned bioswale and rain garden project at this location is intended to be used as a pilot project that can then be advertised to local residents and business owners as an efficient way to improve the drainage and water quality within their own properties.

**ATTACHMENTS**

Capital Project Sheet DR-036  
 DuPage County Intergovernmental Agreement

R E S O L U T I O N

SMP-024-10

INTERGOVERNMENTAL AGREEMENT BETWEEN COUNTY OF DUPAGE, ILLINOIS  
AND THE VILLAGE OF DOWNERS GROVE FOR THE FIRE STATION NUMBER  
THREE BIOSWALE AND RAIN GARDEN WATER QUALITY PROJECT

WHEREAS, VILLAGE of DOWNERS GROVE ("VILLAGE") and the County of DuPage ("COUNTY") are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act" and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois; and

WHEREAS, the purposes of the "Intergovernmental Cooperation Act" and Article 7 of the Constitution of the State of Illinois include fostering cooperation among government bodies; and

WHEREAS, the Illinois General Assembly has granted the COUNTY authority to take action to control flooding and to enter into agreements for the purposes of stormwater management and flood control (Illinois Compiled Statutes, Chapter 55 paragraphs 5/5-1062 and 5/5-15001 et. seq.); and

WHEREAS, the COUNTY has adopted the DuPage County Stormwater Management Plan which recognizes the reduction of stormwater runoff and improving water quality as an integral part of the proper management of storm and flood waters; and

WHEREAS, the VILLAGE has developed a Conceptual Design Report for a Bioswale and Rain Garden Water Quality Improvement Project at the Downers Grove Fire Station Number Three located at 3900 Highland Avenue("PROJECT"); and

WHEREAS, the COUNTY and the VILLAGE have determined that the construction of the PROJECT will benefit local citizens by improving the water quality and the reduction of stormwater runoff into the East Branch DuPage River Watershed; and

WHEREAS, the VILLAGE has requested COUNTY participation in cost sharing the PROJECT through the COUNTY'S Water Quality Grant Program in an amount not to exceed twenty two thousand six hundred eighty dollars and sixty five cents (\$22,680.65); and

WHEREAS, the VILLAGE shall pay all PROJECT expenses up front and will be reimbursed for qualified expenses per the attached AGREEMENT; and

WHEREAS, the VILLAGE shall share all data collected from the PROJECT for a minimum of three years after construction completion for the purposes of fostering community education regarding the PROJECT and similar future projects; and

WHEREAS, the Stormwater Management Planning Committee of the DuPage County Board has reviewed and recommended approval of the attached AGREEMENT at the specified amount.

NOW, THEREFORE, BE IT RESOLVED by the DuPage County Board that the attached AGREEMENT between the COUNTY and the VILLAGE is hereby accepted and approved in an amount not to exceed twenty two thousand six hundred eighty dollars and sixty five cents (\$22,680.65) and that the Chairman of the DuPage County Board is hereby authorized and directed to execute the AGREEMENT on behalf of the COUNTY.

BE IT FURTHER RESOLVED that the DuPage County Clerk be directed to transmit certified copies of this Resolution and the attached AGREEMENT to Enza Petrarca, Village Attorney, VILLAGE OF DOWNERS GROVE, 801 Burlington Avenue, Downers Grove, Illinois 60515; and Anthony Hayman/State's Attorney's Office.

Enacted and approved this \_\_\_\_ day of July 2010 at Wheaton, Illinois.

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

ATTEST:

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

INTERGOVERNMENTAL AGREEMENT BETWEEN COUNTY OF DUPAGE, ILLINOIS  
AND THE VILLAGE OF DOWNERS GROVE, FOR THE FIRE STATION NUMBER  
THREE BIOSWALE AND RAIN GARDEN WATER QUALITY PROJECT

This INTERGOVERNMENTAL AGREEMENT is made this \_\_\_ day of July, 2010 between the County of DuPage, a body politic and corporate, with offices at 421 North County Farm Road, Wheaton, Illinois (hereinafter referred to as the COUNTY) and the VILLAGE OF DOWNERS GROVE, a body politic and corporate, with offices at 801 Burlington Avenue, Downers Grove, Illinois 60515(hereinafter referred to as the VILLAGE).

R E C I T A L S

WHEREAS, VILLAGE OF DOWNERS GROVE("VILLAGE") and the County of DuPage ("COUNTY") are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act" and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois; and

WHEREAS, the purposes of the "Intergovernmental Cooperation Act" and Article 7 of the Constitution of the State of Illinois include fostering cooperation among government bodies; and

WHEREAS, the Illinois General Assembly has granted the COUNTY authority to take action to control flooding and to enter into agreements for the purposes of stormwater management and flood control (Illinois Compiled Statutes, Chapter 55 paragraphs 5/5-1062 and 5/5-15001 et. seq.); and

WHEREAS, the COUNTY has adopted the DuPage County Stormwater Management Plan which recognizes the reduction of stormwater runoff and improving water quality as an integral part of the proper management of storm and flood waters; and

WHEREAS, the VILLAGE has developed a Conceptual Design Report for a Bioswale and Rain Garden Water Quality Improvement Project at the Downers Grove Fire Station Number Three located at 3900 Highland Avenue("PROJECT"); and

WHEREAS, the COUNTY and the VILLAGE have determined that the construction of the PROJECT will benefit local citizens by improving the water quality and reduction of stormwater runoff into Lacey Creek tributary to the East Branch DuPage River Watershed; and

WHEREAS, the VILLAGE has requested COUNTY participation in cost sharing the PROJECT through the COUNTY'S Water Quality Grant Program in an amount not to exceed twenty two thousand six hundred eighty dollars and sixty five cents (\$22,680.65); and

WHEREAS, the VILLAGE has agreed to pay all PROJECT expenses up front and provide any PROJECT monitoring data for a period of three (3) years after completion of construction; and

WHEREAS, the COUNTY has agreed to reimburse qualified expenses as provided in Paragraph 3.0 of this AGREEMENT.

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 AND CONSTRUCTION.**

- 1.1 All recitals set forth above are incorporated herein and made a 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 PROJECT DESCRIPTION.**

- 2.1 The PROJECT is the design, construction, maintenance, and monitoring of a one hundred seventy five (175) foot long bioswale and an adjoining one thousand (1,000) square foot rain garden at the Downers Grove Fire Station Number Three, 3900 Highland Avenue, Downers Grove, IL. 60515. An existing forty foot (40) wide by two hundred fifteen (215) foot long asphalt strip will be removed and redesigned by replacing the asphalt strip with a bioswale and rain garden set. A variety of native plants will be planted in the rain garden and bioswale areas. The project will create a diverse biological habitat, while filtering pollutants such as suspended solids, metals, oils, and nutrients on site prior

to entering the stormwater sewer system. As per the Villages planting plan, a swale seed mix will be used to filter contaminants from lawns and the pavement. In addition a wetland and low profile seed mix will also be incorporated into the soil. The low profile prairie seed mix will establish a wildflower community to the naturalized area. The Village will also produce educational signage highlighting the benefits of the new water quality improvements to educate visitors and staff at the fire station in accordance with Village Ordinance.

- 2.2 The PROJECT shall be developed essentially in accord with the *Conceptual Design Report* (DuPage County Stormwater Management Water Quality Improvement Program Conceptual Design Report for the Village of Downers Grove Fire Station Number Three) located at 3900 Highland Avenue, as prepared by the Village of Downers Grove, dated November 10, 2009, submitted by the VILLAGE which document is incorporated herein by reference but is not attached hereto due to space limitations.

**3.0 FUNDING.**

- 3.1 The total Water Quality related PROJECT costs are estimated to be one hundred thirteen thousand four hundred three dollars and twenty five cents (\$113,403.25). The cost share is as follows, unless otherwise agreed to in writing as provided in Paragraph 3.2 below:

VILLAGE OF DOWNERS GROVE	80.0 %	\$ 90,722.60
COUNTY OF DUPAGE	20.0%	\$ 22,680.65

- 3.2 The VILLAGE shall be responsible for bearing any cost overruns or expenses in excess of the funding listed in Paragraph 3.1, regardless of the cause, unless the VILLAGE and COUNTY agree to apportion such extra costs before they are incurred.
- 3.3 This agreement shall in no way obligate the Village to construct this Project if the Village in its sole discretion determines that it is no

longer in the Village's best interest to proceed with this Project. However, in the event the PROJECT is not substantially completed (excepting post-construction monitoring) by November 30<sup>th</sup>, 2011, the VILLAGE shall promptly reimburse the County any monies paid by the COUNTY to the VILLAGE pursuant to this AGREEMENT.

- 3.4 The VILLAGE may only seek COUNTY reimbursement for allowable PROJECT expenses. Allowable PROJECT expenses incurred and paid by the VILLAGE in relation to the PROJECT and shall include third-party professional services (architectural, construction management, etc.), construction (labor and materials), bid advertising, permit fees, etc. Notwithstanding the foregoing, allowable expenses shall not include VILLAGE administrative costs, overhead, payroll, land acquisition, legal or accounting services.

#### **4.0 VILLAGE'S RESPONSIBILITIES.**

- 4.1 The VILLAGE shall be responsible for the preparation of the plans, specifications, and bid documents for the PROJECT.
- 4.2 The VILLAGE shall be responsible for successful completion of all phases of the project, from design and construction through data collection and maintenance.
- 4.3 The VILLAGE shall be responsible for securing all local, county, state, and federal permits necessary for completion of the PROJECT.
- 4.4 The VILLAGE shall be responsible for submitting copies of all permit applications and related correspondence to the COUNTY in a timely manner to ensure sufficient review by the COUNTY.
- 4.5 The VILLAGE shall be responsible for obtaining all required land rights necessary for the completion of the PROJECT.
- 4.6 The VILLAGE shall not be reimbursed by the COUNTY for work undertaken prior to the signing of this

AGREEMENT, except for qualifying expenses directly related to the following: Preparation of the PROJECT'S plans, specifications and bid documents; PROJECT permitting; or preliminary work specifically set forth in the Conceptual Design Report.

- 4.7 The VILLAGE may enter into additional agreements to secure its portion of the local PROJECT costs.
- 4.8 The VILLAGE shall submit no more than one invoice per month to the COUNTY during the construction, maintenance, and monitoring phases of the PROJECT. Under no circumstances should the COUNTY be invoiced more than twenty percent (20%) of total incurred PROJECT costs up to the limits as established in Paragraph 3.1. The invoice shall show the quantities and cost per item and be summarized by PROJECT area.
- 4.9 The VILLAGE shall make direct payments to all parties providing services related to this PROJECT. This requirement will not affect the COUNTY'S obligation to reimburse the VILLAGE in the amounts herein agreed upon, nor shall this provision affect the VILLAGE'S obligation to repay the COUNTY in the event the PROJECT is not undertaken or completed, as established in paragraph 3.3.
- 4.10 The VILLAGE is responsible for monitoring all PROJECT work. The VILLAGE shall monitor the PROJECT area for no less than three (3) years after PROJECT completion and shall make any data collected from the PROJECT available to the COUNTY.
- 4.11 The COUNTY shall not be responsible for or have control over the design, construction, means, methods, techniques or procedures with respect to any work performed on the PROJECT areas. The VILLAGE'S contractors shall be solely responsible for the safety of all individuals performing work on the PROJECT areas. The VILLAGE shall take such measures as are necessary to ensure that its contractors maintain the PROJECT areas in a safe condition and install appropriate barricades and



warning signs, and the VILLAGE shall strictly enforce all applicable safety rules and regulations.

This provision is not intended to create any new burden or liability for the VILLAGE beyond the usual burdens and liabilities for a municipality in the construction of public improvements. This section is intended merely to relieve the COUNTY from such liabilities in this PROJECT.

## **5.0 COUNTY'S RESPONSIBILITIES.**

- 5.1 The COUNTY shall reserve the right to review the PROJECT'S plans and specifications, prior to the VILLAGE'S advertisement for contract services, together with any subsequent change orders, addendums, or revisions thereto, for the purpose of verifying that PROJECT components qualify for reimbursement through the COUNTY'S Water Quality Grant Program.
- 5.2 The COUNTY shall cost share in the PROJECT as follows:
  - 5.2.1 The COUNTY shall reimburse the VILLAGE for approved costs associated with the PROJECT at a fixed proportion of twenty percent (20%) of the PROJECT costs incurred as specified in paragraph 3.1.
  - 5.2.2 The total reimbursement amount shall not exceed twenty two thousand six hundred eighty dollars and sixty five cents (\$22,680.65).
  - 5.2.3 In the event PROJECT costs total less than one hundred thirteen thousand four hundred three dollars and twenty five cents (\$113,403.25), the COUNTY'S total reimbursement amount shall be not more than twenty percent (20%) of total PROJECT costs.
  - 5.2.4 The COUNTY shall not be obligated to pay invoices received after November 30, 2014, regardless of when the work was completed.

5.3 The COUNTY shall be allowed unlimited access to the PROJECT area and the use of all data collected as part of the PROJECT.

#### **6.0 GOVERNMENT REGULATIONS.**

6.1 The VILLAGE shall comply with all local, county, state and federal requirements now in force, or which may hereafter be in force, pertaining to the PROJECT.

#### **7.0 INDEMNIFICATION.**

7.1 The VILLAGE shall indemnify, hold harmless and defend the COUNTY or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, 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 performance under this AGREEMENT to the fullest extent the VILLAGE is so authorized under the law; provided, however, that the VILLAGE shall not be obligated to indemnify, hold harmless and defend the COUNTY for any negligent or intentional wrongful acts or omissions by COUNTY officials, employees, agents, contractors or personnel.

7.2 The VILLAGE shall require each consultant and contractor responsible for the design, construction, maintenance, or monitoring of the PROJECT to name the VILLAGE and COUNTY as an additional insured party on said vendor's liability insurance policy. Further, the VILLAGE shall require that its consultants and contractors indemnify, defend and hold harmless the VILLAGE and COUNTY, its officers, employees and elected officials from and against any claims, liability or judgments resulting from, or caused by, the negligence or willful conduct of such consultant and, or contractor.

**8.0 AMENDMENT OR MODIFICATION OF THIS AGREEMENT.**

8.1 The parties may modify or amend terms of this AGREEMENT only by a written document duly approved and executed by both parties, excluding term extensions as provided for in the following provision.

8.2 Notwithstanding Paragraph 8.1, above, the term for performing this AGREEMENT may be extended by any suitable County designated form, signed by both parties without formal amendment pursuant to Paragraph 8.1, above.

**9.0 TERM OF THIS AGREEMENT.**

9.1 The term of this AGREEMENT shall begin on the date the AGREEMENT is fully executed, and shall continue in full force and effect until the earlier of the following occurs:

9.1.1 November 30, 2014 or to a new date agreed upon by the parties.

9.1.2 The completion by the VILLAGE and COUNTY of their respective obligations under this AGREEMENT, in the event such completion occurs before November 30, 2014.

**10.0 ENTIRE AGREEMENT.**

10.1 This AGREEMENT, including matters incorporated herein, contains the entire AGREEMENT between parties.

10.2 There are no other covenants, warranties, representations, promises, conditions or understandings; either oral or written, other than those contained herein.

10.3 This AGREEMENT may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

10.4 In event of a conflict between the terms or conditions or this AGREEMENT and any term or condition found in any exhibit or attachment, the terms and conditions of this AGREEMENT shall prevail.

**11.0 SEVERABILITY.**

11.1 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.

**12.0 GOVERNING LAW.**

12.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.

12.2 The venue 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.

**13.0 NOTICES.**

13.1 Any required notice shall be sent to the following addresses and parties:

Naniel Newlon, Public Works Director  
Village of Downers Grove  
501 Walnut Avenue  
Downers Grove, Illinois 60515  
(630)434-5461

Veronica Valladolid, Civil Engineer  
DuPage County Stormwater Management Division  
421 North County Farm Road  
Wheaton, Illinois 60187  
(630)407-6719

**14.0 WAIVER OF/FAILURE TO ENFORCE BREACH.**

14.1 The parties agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this AGREEMENT with respect to a different breach.

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

COUNTY OF DUPAGE

VILLAGE OF DOWNERS GROVE

\_\_\_\_\_  
Robert J. Schillerstrom,  
Chairman

\_\_\_\_\_  
Ron Sandack,  
Mayor

ATTEST:

ATTEST:

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

\_\_\_\_\_  
April Holden,  
Village Clerk

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

**INTERGOVERNMENTAL AGREEMENT BETWEEN COUNTY OF DUPAGE, ILLINOIS AND  
THE VILLAGE OF DOWNERS GROVE, FOR THE FIRE STATION NUMBER THREE  
BIOSWALE AND RAIN GARDEN WATER QUALITY PROJECT**

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 **AAgreement@**), between the Village of Downers Grove (the **AVillage@**) and the County of DuPage (the **ACounty@**), for a stormwater management and flood control project at Fire Station #3, 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

# 2010-2014 Capital Project Sheet

Project # **DR-036**

## Project Description Drainage Improvements at F.S. Number 3

Project summary, justification and alignment to Strategic Plan

This project includes removal of some pavement and the creation of a storm water management facility, potentially including a rain garden, to reduce the intensity of flow off of the property toward the north.

Cost Summary	New Maintenance Replacement			FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	Future Years	TOTAL
Professional Services										-
Land Acquisition										-
Infrastructure	X			35,000						35,000
Building										-
Machinery/Equipment										-
Other/Miscellaneous										-
<b>TOTAL COST</b>				35,000	-	-	-	-	-	35,000

Funding Source(s)										
243-Stormwater Fund	▼		35,000							35,000
	▼									-
	▼									-
	▼									-
<b>TOTAL FUNDING SOURCES</b>			35,000		-	-	-	-	-	35,000

**Project status and completed work**

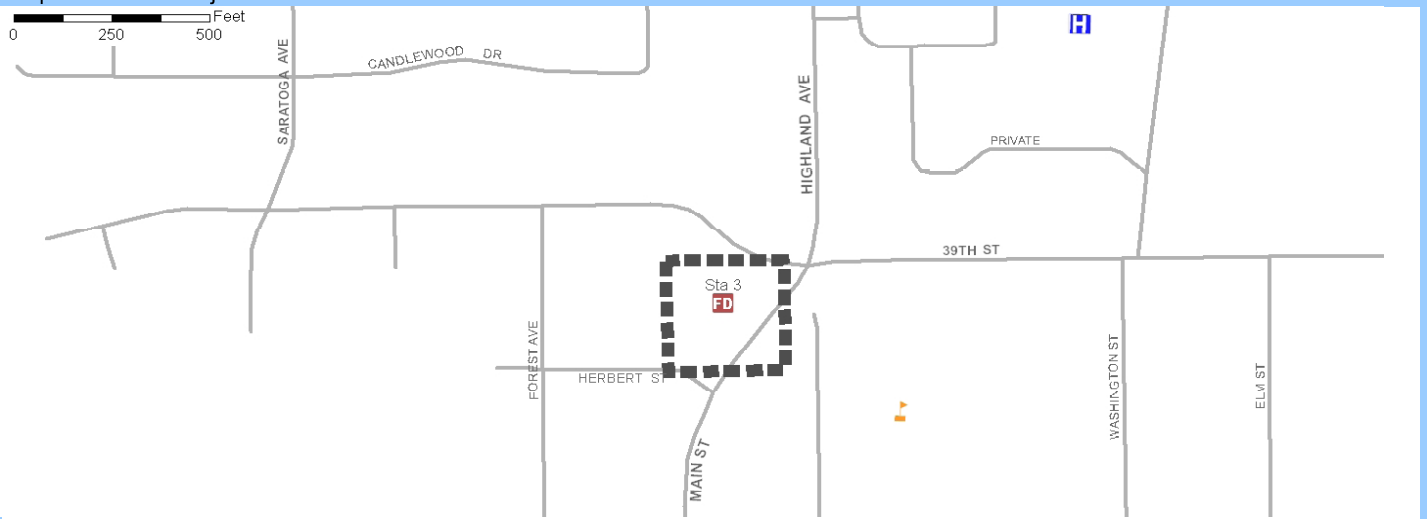
No work has started.

**Grants (funded or applied for) related to the project.**

Funding as a pilot project is currently being sought from the County and a conservation group. Approximately \$50,000 in grant funding is anticipated in addition to the \$35,000 shown above.

Impact-annual operating expenses	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	Future Yrs	TOTAL
Projected Operating Expense Impact:							-

**Map/Pictures of Project**



Internal staff information:

Priority Score	High	Priority Setting Factor:	Maintenance	Project Manager:	Michael. D. Millette	
Priority Status:	High	F-88	Program:	347	Department:	Public Works