

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
SEPTEMBER 14, 2010 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Fifth Amendment to the Grant Agreement with Metra for the Belmont Grade Separation Project	✓ Resolution Ordinance Motion Discussion Only	Enza Petrarca Village Attorney

SYNOPSIS

A resolution has been prepared to authorize execution of a Fifth Amendment to the Grant Agreement for Eminent Domain Services for the Belmont Grade Separation Project with the Commuter Rail Division of the Regional Transportation Authority (Metra).

STRATEGIC PLAN ALIGNMENT

Five Year Plan and Goals for 2010-2014 identified *Top Quality Village Infrastructure and Facilities* and *Vibrant Major Commercial Corridors*.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval on the September 14, 2010 Consent Agenda.

BACKGROUND

As part of the Belmont grade separation project, the Village entered into grant agreement with Metra for eminent domain services in July of 2003. The agreement provides that Metra will reimburse the Village for the reasonable costs and expenses associated with eminent domain services related to the project. The original agreement was for a twenty-four (24) month period, ending July 2005. In 2005, the Village and Metra agreed to the first amendment to the original 2003 agreement. This first amendment extended the funding expenditures through June 30, 2007. The second amendment extended the funding expenditures through December 31, 2008 and additional grant funding of \$200,000 was secured, raising the total amount available for eminent domain services from \$600,000 to \$800,000. On January 20, 2009, the agreement was extended until December 31, 2009. In February, 2010, the fourth amendment extended funding expenditures until December 31, 2010. At this time, in the form of a fifth amendment, the funding expenditures would be extended until December 31, 2013.

ATTACHMENTS

Resolution
 Fifth Amendment Agreement between the Village and Metra

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION
OF A FIFTH AMENDMENT TO GRANT AGREEMENT FOR
EMINENT DOMAIN SERVICES FOR THE DOWNERS GROVE
GRADE SEPARATION PROJECT CONTRACT NO. K00419**

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 Fifth Amendment Agreement (the “Agreement”), between the Village of Downers Grove (the “Municipality”) and the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois Municipal Corporation (“CRD” or “Metra”), for eminent domain services in relation to the Downers Grove Grade Separation Project, 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

**FIFTH AMENDMENT TO GRANT AGREEMENT
FOR EMINENT DOMAIN SERVICES
FOR THE DOWNERS GROVE GRADE SEPARATION PROJECT
CONTRACT NO. K00419**

THIS FIFTH AMENDMENT, dated this _____ day of _____, 2010, shall amend and modify the Grant Agreement for Eminent Domain Services for the Downers Grove Grade Separation Project by and between the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("**CRD**" or "**Metra**") and the Village of Downers Grove, an Illinois municipal corporation, created under the laws of Illinois, ("**Municipality**") entered into July 1, 2003 ("**Agreement**") for eminent domain services for the Downers Grove Grade Separation Project. To the extent that a provision or provisions of the Agreement are in conflict with a provision or provisions of this Fifth Amendment, the provision or provisions of this Fifth Amendment shall take precedence and control. CRD and Municipality are hereinafter sometimes jointly referred to as the "**Parties**."

NOW THEREFORE, for and in consideration of the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency are hereby acknowledged by the Parties, CRD and Municipality agree to the following revisions to the Agreement:

1. Paragraph 8 is hereby deleted and replaced with the following paragraph:

"EXPENDITURE OF GRANT FUNDS. Municipality agrees that the Project Funding for this Project must be expended upon approved eminent domain services on or before December 31, 2013. Unless otherwise specified in writing by CRD, all unexpended Grant Funds will automatically revert to CRD on December 31, 2013."
2. Capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Agreement. The remaining terms, covenants, provisions and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Fifth Amendment as of the day and year first above written.

THE VILLAGE OF DOWNERS GROVE:

COMMUTER RAIL DIVISION OF THE
REGIONAL TRANSPORTATION
AUTHORITY:

By: _____

By: _____

Its: _____

Its: _____