

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
MAY 6, 2014 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Agreement with District 58 for Repairs and/or Maintenance of Public Improvements	✓ Resolution Ordinance Motion Discussion Only	Nan Newlon, P.E. Director of Public Works

SYNOPSIS

A resolution has been prepared authorizing approval of an agreement with Downers Grove School District 58 that would allow the Village and the District to work together on the repair and/or maintenance of paved surfaces that are used for parking lots, play grounds, and walkways.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 identified *Exceptional Municipal Services* and *Steward of Financial and Environmental Sustainability*.

FISCAL IMPACT

The agreement includes a provision for the District to reimburse the Village for any costs related to improvements on District property.

RECOMMENDATION

Approval on the May 6, 2014 consent agenda.

BACKGROUND

Both the Village of Downers Grove and District 58 periodically perform maintenance (patching, resurfacing, crack sealing, etc.) and reconstruction of roadways and other paved public improvements. The District and the Village desire to cooperate in an effort to coordinate the timing of their maintenance and reconstruction activities to create efficiencies and reduce costs. As such, the Village and the District have negotiated the subject agreement. District 58 has already approved the agreement.

The key terms of the agreements are as follows:

Duration: Five years from the execution of the agreement, and renewable for another five years.

District 58 will:

- Provide the Village with sketches and budgets for work being proposed in the coming fiscal year.
- Review and approve the plans and specifications to ensure that District requirements are being met.
- Provide construction oversight on all District owned portions of the improvements.
- Reimburse the Village for any costs associated with the work, not including staff time. Both the District and the Village shall independently be responsible for their own staff resources.
- Release the Village from any and all liability with regard to the design of improvements on District property.

The Village will:

- Provide technical support to the District with regard to proposed improvements.
- Procure any professional services necessary for the preparation of plans and specifications.
- Provide plans, specifications and cost estimates to the District for approval.

- Advertise the project for bids and contract with the lowest responsible bidder.
- Provide construction oversight on all Village owned portions of the improvements.
- Invoice the District regularly for their share of the cost of professional services and construction.

Other key terms:

- Either party may terminate the agreement for any reason at any time upon delivery of written notice to the other party at least thirty (30) days before the intended termination date. However, if a project subject to this agreement is ongoing the parties may not terminate until the completion of said project.

ATTACHMENTS

Resolution

Agreement

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT BETWEEN THE BOARD OF EDUCATION OF
DOWNERS GROVE SCHOOL DISTRICT 58 AND THE VILLAGE OF DOWNERS GROVE
FOR REPAIRS AND/OR MAINTENANCE OF PUBLIC IMPROVEMENTS**

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

Section 1. That the form and substance of a certain Intergovernmental Agreement (the “Agreement”), between the Village of Downers Grove (the “Village”) and the Board of Education of Downers Grove School District No. 58 (the “District”) for repairs and/or maintenance of certain public improvements, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

Section 2. That the Mayor 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 Village Manager shall deem necessary.

Section 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.

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

Section 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

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE BOARD OF
EDUCATION OF DOWNERS GROVE SCHOOL DISTRICT NO. 58 AND THE
VILLAGE OF DOWNERS GROVE
FOR REPAIRS AND/OR MAINTENANCE OF PUBLIC IMPROVEMENTS**

THIS INTERGOVERNMENTAL AGREEMENT is entered into by and between THE BOARD OF EDUCATION OF DOWNERS GROVE SCHOOL DISTRICT NO. 58, with offices at 1860 63rd Street, Downers Grove, Illinois (hereinafter referred to as “the District”), and the VILLAGE OF DOWNERS GROVE, ILLINOIS, an Illinois municipal corporation, (hereinafter referred to as the “Village”), concerning the construction of certain public improvements as described herein.

WHEREAS, Article VII, Section 10, of the Illinois Constitution of 1970 encourages and provides for units of local government to contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* further authorizes intergovernmental cooperation; and

WHEREAS, the Village and the District are “units of local government” as defined by Article VII, Section 1, of the Constitution of the State of Illinois and are authorized to contract and agree with one another on matters of mutual concern; and

WHEREAS, the District owns certain properties that the District desires to improve; and

WHEREAS, the Village periodically performs maintenance (patching, resurfacing, crack sealing, etc.) and reconstruction of its roadways and other paved public improvements; and

WHEREAS, the District and the Village desire to cooperate in an effort to coordinate the timing of their maintenance and reconstruction activities in order to create efficiencies and reduce costs.

NOW, THEREFORE, in consideration of the above stated preambles and the mutual covenants and promises hereinafter contained, the District and the Village formally covenant, agree, and bind themselves as follows to wit:

1. The above recitals are hereby incorporated into this Agreement as if fully set forth in this paragraph 1.

2. This Agreement is intended to govern any maintenance, repair or reconstruction of public improvement projects wherein the parties mutually agree to coordinate their efforts (hereinafter referred to as "any Project") over the next five (5) years. As such, the term of this Agreement shall be for a period of five (5) years from the date of execution of the last party hereto and may be renewed for successive five (5) year periods upon mutual written agreement of the parties.

3. For any Project, the Village shall be responsible for the public advertisement for calls for bids or requests for proposals, the selection of firms/contractors and awarding of contracts (surveying, geotechnical, material testing, design or construction) in compliance with the applicable procurement requirements, and managing the contracts. All construction will be in conformance with the Project drawings and specifications, which shall be mutually agreed upon by the Village and the District. It is understood that the District will not be a party to any construction contract and will have no obligation to any contractors. Notwithstanding the above, the Village shall not award a contract for any work to be performed on District property without first obtaining the written consent of the District. The Village shall ensure that the Project documents provide for the assignment of the contractor agreement for the portions of the work to

be performed for the District and the Village shall assign such portion of the contract to the District upon written request; however, the assignment of the contract to the District shall neither release the Village from its obligation to pay the contractor for such work nor release the District from paying the Village for such work.

4. The District shall have the opportunity to review, provide input and approve all engineering plans, specifications, and construction contracts that pertain to work to be performed on District property. It is understood that the Village does not specialize in work related to educational facilities, and therefore the District's review and approval of plans, specifications and the construction contracts shall release the Village from any and all liability with regard to the design and construction of improvements on District property. The Village shall provide copies of any engineering plans, specifications and contracts to the District and the District agrees it will review such plans, specifications and contracts within seven (7) days of its receipt of same. If the District fails to review such plans, specifications or contracts within this seven (7) day time frame or provide input to the Village in writing, such plans, specifications or contracts shall be deemed accepted by the District.

5. In the event the District decides to have the Village's engineer prepare, approve or sign engineering plans on its behalf, the District shall waive and release any claim it may have against the engineer and the Village and shall indemnify and hold harmless the engineer and the Village from any and all liability, losses or damages as a result of claims, demands, suits, actions or proceedings of any kind or nature in any way resulting from or arising out of the engineer's preparation, review or approval of the engineering plans or any other act of the engineer performed under this Agreement or for any negligent action on the part of the District under this Agreement.

6. The Village shall require all contractors to name the District, its individual Board members, agents, officers and employees, as additional insureds on all insurance policies, except the worker's compensation policy and any professional liability policy.

7. The Village agrees to administer any Project in the best interest of both parties and to consult with, and keep advised, officials of the District regarding the progress of the work. Notwithstanding, the District shall have a representative on-site, as appropriate given the stage of the work during the construction phase, for its properties/improvements, and shall be solely responsible for contractor oversight for work on District property. The Village shall not execute any change orders relating to the District's portion of the Project without the District's prior written consent.

8. The District shall reimburse the Village for the District's portion of any District approved work, including but not limited to surveying, geotechnical investigations, design, material testing, and construction, one hundred percent (100%) of the total costs for work related to its improvements within thirty (30) days of receipt of an invoice. The Village shall provide copies of the pay applications to the District for the District's approval prior to making any payments to the contractor; such approval shall not be unreasonably withheld by the District.

9. Upon completion of any Project the Village shall not have any responsibility for the maintenance, upkeep and repair of District property and/or improvements.

10. This Agreement represents the entire agreement between the parties. No oral changes or modifications of this Agreement shall be permitted or allowed. Changes or modifications to this Agreement shall be made only in writing and upon necessary and proper signature of the District and the Village.

11. In the event that any provisions of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereto.

12. This Agreement shall be binding upon and inure to the benefits of the parties hereto, their successors and assigns.

13. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Illinois. The forum for any legal disputes between the Village and the District shall be DuPage County, Illinois.

14. Either party may terminate this Agreement for any reason at any time upon delivery of thirty (30) days written notice to the other party except if any Project is ongoing this Agreement may not be terminated until final completion of any such Project. Such notice shall be either personally delivered or sent by certified mail, return receipt requested.

**THE BOARD OF EDUCATION OF
DOWNERS GROVE SCHOOL
DISTRICT NO. 58**

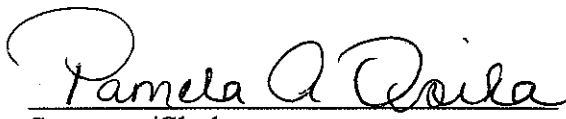
VILLAGE OF DOWNERS GROVE

By: 
Its: President

By: _____
Its: Mayor

ATTEST:

ATTEST:


Secretary/Clerk

Village Clerk

Date: April 28, 2014

Date: _____, 2014