

VILLAGE OF DOWNERS GROVE
Report for the Village
10/16/2018

SUBJECT:	SUBMITTED BY:
IGA with Sanitary District, Assignment of Easements, Assignment of road leases to the Sanitary District relating to sanitary sewer facilities	Enza Petrarca Village Attorney

SYNOPSIS

Resolutions have been prepared to authorize execution of the following:

- Intergovernmental Agreement with the Downers Grove Sanitary District for the conveyance of the Northwest Territory and South Service Area sanitary sewer systems;
- Assignment of Easements to the Sanitary District for sanitary sewer purposes;
- Consent of ComEd to Assignment of Road Lease by the Village to the Sanitary District;
- Assignment of University of Illinois Agreement by the Village to the Sanitary District.

STRATEGIC PLAN ALIGNMENT

The goals for 2017-2019 identify *Steward of Financial, Environmental and Neighborhood Sustainability* and *Top Quality Infrastructure*.

FISCAL IMPACT

The Village currently pays approximately \$133.00 per year to ComEd for the use of its road to access the Northwest Territory lift station. Upon conveyance of the systems to the Sanitary District, the Village will no longer have this expense.

RECOMMENDATION

Approval on the October 16, 2018 consent agenda.

BACKGROUND

In the 1960's, the Village agreed to construct sanitary sewers and lift stations on property generally north of I-88 and west of Finley Road (the Northwest Territory) and generally south of 63rd Street, east of I-355, north of 75th Street and west of Main Street (South Service Area) to facilitate development and annexation. The Village financed the cost of the improvements in the Northwest Territory through the issuance of revenue bonds. As a condition of these bonds it was necessary that the Village retain ownership of all the financed improvements. The Village financed the South Service Area improvements with available funds, but still retained ownership of these facilities. Although owned by the Village, the Sanitary District agreed to maintain and operate the facilities in both areas.

As part of the extension of facilities in the Northwest Territory, a lift station was constructed on property which was purchased by the Village. The Village owns this lift station. This property lacked access to a

public road. To gain access, the Village entered into lease agreements with both the University of Illinois and Commonwealth Edison, intervening property owners, for a gravel access road.

All expenses have been recouped and bonds have been paid off. The Sanitary District is requesting to have the property, lift station and all sanitary sewer facilities conveyed to it. It is unnecessary for the Village to retain ownership of any sanitary sewer facilities as the District currently operates and maintains the facilities. Additionally, the Village will assign its interests in the road access agreements to the Sanitary District. The University of Illinois agreement has language allowing this assignment, but a Consent of Landlord needs to be executed for the ComEd agreement.

ATTACHMENTS

Resolutions

Intergovernmental Agreement

Assignment of Easements

Consent of ComEd to Assignment

Assignment of University of Illinois agreement

RESOLUTION NO. _____**A RESOLUTION AUTHORIZING AN ASSIGNMENT AND ASSUMPTION AGREEMENT
BETWEEN THE DOWNERS GROVE SANITARY DISTRICT AND THE
VILLAGE OF DOWNERS GROVE RELATING
TO A UNIVERSITY OF ILLINOIS ROAD ACCESS AGREEMENT**

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 Assignment and Assumption Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and the Downers Grove Sanitary District (the "Sanitary District"), for the assignment and assumption of the Northwest Territory sanitary sewer system agreement, 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 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 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

**ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN THE
DOWNERS GROVE SANITARY DISTRICT
AND THE VILLAGE OF DOWNERS GROVE
RELATING TO A UNIVERSITY OF ILLINOIS ROAD ACCESS AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, made this ____ day of _____, 2018, is entered into by and between the DOWNERS GROVE SANITARY DISTRICT, a sanitary district created and existing under the laws of the State of Illinois, (hereinafter referred to as the "Sanitary District"), and the VILLAGE OF DOWNERS GROVE, an Illinois municipal corporation, (hereinafter referred to as the "Village").

WHEREAS, the Village and the District entered into an Agreement dated March 19, 1968, superseded by an Agreement dated August 1, 1973, which was amended by an Agreement dated January 15, 1980, to provide for construction and maintenance of a sanitary sewer system in what is described as the Northwest Territory; and

WHEREAS, in order to access the lift station in the Northwest Territory, use of a road owned by both the University of Illinois ("the University") and Commonwealth Edison ("ComEd") was necessary; and

WHEREAS, the Village and the University entered into an Agreement for the use of the roadway for ingress and egress to the sanitary sewer facilities dated December 16, 1968, as extended by agreement and amended by agreement on September 18, 1995 ("the Agreement"); and

WHEREAS, the September 18, 1995 amendment specifically authorizes the Village to assign its rights under the Agreement to the Sanitary District upon the conveyance of the Northwest Territory sanitary sewer facilities; and

WHEREAS, with the transfer of the Northwest Territory sanitary sewer system from the Village to the Sanitary District, the Village desires to assign its rights, obligations and liabilities, and the Sanitary District desires to accept and assume all of the Village's rights, obligations and liabilities under the Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The Village ("Assignor") hereby assigns, transfers and sets over to the Sanitary District all rights, obligations and liabilities under the Agreement.

2. The Sanitary District ("Assignee") hereby accepts and assumes all of the rights, obligations and liabilities of the Village arising under the Agreement beginning on the date of last approval by either Party. The Sanitary District hereby expressly agrees to observe, perform and be bound by the terms and conditions of the Lease to the same extent and as fully as if it was originally named as a party thereto.

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

Downers Grove Sanitary District (Assignee)

By: _____
General Manager

Attest: _____
Assistant Clerk

Village of Downers Grove (Assignor)

By: _____
Martin Tully, Mayor

Attest: _____
Village Clerk