

VILLAGE OF DOWNERS GROVE
Report for the Village
6/4/2019

SUBJECT:	SUBMITTED BY:
IGA with DuPage County for a New Traffic Signal at 63rd Street and Springside Avenue	Nan Newlon Director of Public Works

SYNOPSIS

A resolution has been prepared to authorize the execution of an Intergovernmental Agreement between the Village of Downers Grove and DuPage County to design, construct and operate a new traffic signal at the intersection of 63rd Street and Springside Avenue.

STRATEGIC PLAN ALIGNMENT

The goals for 2017-2019 includes *Top Quality Infrastructure*.

FISCAL IMPACT

The FY20 Budget will include funding for the Village's share of this project in the Capital Improvements Fund.

RECOMMENDATION

Approval on the June 4, 2019 Consent Agenda.

BACKGROUND

A traffic study was conducted that found this intersection meets warrants for the installation of a traffic signal. As a result of safety concerns related to pedestrians, primarily high school students, crossing 63rd Street at this location, DuPage County proposed a cost share project between the County and the Village for construction in 2020. Per the terms of the agreement DuPage County will complete the design of the traffic signal, obtain bids and manage the construction contract. The Village will reimburse the County 50% of the cost of the project construction and resident engineering services. The County will own and operate the traffic signal and the Village will annually reimburse the County for 50% of the maintenance costs and 100% of the energy costs.

ATTACHMENTS

Resolution
Agreement

RESOLUTION NO. ____

**A RESOLUTION AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE COUNTY OF DUPAGE AND THE VILLAGE OF DOWNERS
GROVE FOR THE INSTALLATION OF A TRAFFIC SIGNAL AT CH 38/63RD STREET
AND SPRINGSIDE AVENUE INCLUDING FUTURE
MAINTENANCE/ENERGY RESPONSIBILITIES
SECTION NO. 19-00288-03-TL**

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 installation and maintenance of a traffic signal at CH 38/63rd Street and Springside Avenue, 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. The Agreement supersedes and replaces the NIPAS Agreement, dated February 21, 2012, all ordinances and resolutions or parts of ordinances and 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 THE VILLAGE OF DOWNERS GROVE
FOR THE INSTALLATION OF A TRAFFIC SIGNAL
AT CH 38/63RD STREET AND SPRINGSIDE AVENUE
INCLUDING FUTURE MAINTENANCE/ENERGY RESPONSIBILITIES
SECTION NO. 19-00288-03-TL

This Agreement (hereinafter referred to as "AGREEMENT") is entered into this _____ day of _____, _____, between the County of DuPage (hereinafter referred to as "COUNTY"), a body corporate and politic, with offices at 421 North County Farm Road, Wheaton, Illinois and the Village of Downers Grove (hereinafter referred to as the "VILLAGE"), a home rule municipal corporation with offices at 801 Burlington Avenue, Downers Grove, Illinois. The COUNTY and the VILLAGE are hereinafter sometimes individually referred to as a "Party" or together as the "Parties."

RECITALS

WHEREAS, the COUNTY and the VILLAGE, in order to facilitate the free flow of traffic and to ensure the safety of the public, desire to install a four (4) way traffic signal at the intersection of CH 38/63rd Street and Springside Avenue (hereinafter referred to as "TRAFFIC SIGNAL"); and

WHEREAS, the "TRAFFIC SIGNAL" lies within the corporate limits of the Village of Downers Grove; and

WHEREAS, the COUNTY by virtue of its power set forth in "Counties Code" (55 ILCS 5/1-1001 et seq.) and "Illinois Highway Code" (605 ILCS 5/1-101 et seq.), is authorized to enter into this AGREEMENT and the VILLAGE by virtue of its home rule power and as set forth in the "Municipal Code" (65 ILCS 1/1-1-1 et seq.) are authorized to enter into this AGREEMENT; and

WHEREAS, the COUNTY and the VILLAGE have determined that it is in their mutual best interests to enter into 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

- 1.1. All recitals set forth above are incorporated herein and made part thereof, the same constituting the factual basis for this AGREEMENT.

The headings of the paragraphs and subparagraphs of this AGREEMENT are the inserts for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

2.0 RESPONSIBILITIES OF THE COUNTY

- 2.1. The COUNTY shall prepare plans and specifications, receive bids, award the contract, furnish engineering inspection during construction, and cause the TRAFFIC SIGNAL to be built in accordance with the plans and specifications, incorporated herein by reference. The COUNTY agrees to pay all costs subject to reimbursement by the VILLAGE as hereinafter set forth.
- 2.2. The COUNTY shall have the VILLAGE named an additional insured for the Commercial General Liability in the Special Provisions section of the contract for the TRAFFIC SIGNAL.
- 2.3. Upon completion, inspection and approval by written letter or via e-mail communication to the VILLAGE by the COUNTY of the installation of the TRAFFIC SIGNAL, the COUNTY shall own, operate and maintain said TRAFFIC SIGNAL and shall provide and pay for all costs associated with the future maintenance and repair of the TRAFFIC SIGNAL including pre-emption equipment with reimbursement from the VILLAGE as referenced hereinafter.
- 2.4. The COUNTY retains the right to control and regulate the sequence and all other aspects of phasing and timing of the TRAFFIC SIGNAL.
- 2.5. The COUNTY shall arrange for the energy supply with the local power company to furnish the electrical energy for the operation of the TRAFFIC SIGNAL.

- 2.6. The COUNTY will be responsible for maintenance of all pavement markings on CH 38/63rd Street.

3.0 RESPONSIBILITIES OF THE VILLAGE

- 3.1. The VILLAGE shall reimburse the COUNTY for fifty percent (50%) of the final construction costs of said TRAFFIC SIGNAL. The construction cost is estimated to be \$350,000.00.
- 3.2. The VILLAGE agrees to reimburse the COUNTY fifty percent (50%) of the actual cost of construction engineering, estimated to be \$52,500.00, total.
- 3.3. The VILLAGE agrees to pay the COUNTY fifty percent (50%) of the estimated VILLAGE costs of the TRAFFIC SIGNAL, as depicted in Exhibit A attached hereto, upon award of a construction contract based upon as-bid unit prices. Upon completion of the TRAFFIC SIGNAL and based upon the documentation of the final construction costs, the VILLAGE agrees to reimburse the COUNTY for the balance of its share of costs within sixty (60) days of receipt of a properly documented invoice from the COUNTY.
- 3.4. The VILLAGE shall pay one hundred percent (100%) of all future energy costs for the TRAFFIC SIGNAL and shall be invoiced directly by the energy provider for the TRAFFIC SIGNAL.
- 3.5. The VILLAGE shall be responsible for maintenance of all pavement markings on Springside Avenue.
- 3.6. The VILLAGE shall reimburse the COUNTY fifty percent (50%) of all future routine maintenance costs including traffic signal equipment and luminaries for the TRAFFIC SIGNAL by annual invoice from the COUNTY. Routine maintenance shall be invoiced to the VILLAGE at the same unit price paid by the COUNTY for the COUNTY traffic signal maintenance contract in place at the time of the annual invoice.
- 3.7. The VILLAGE agrees that the COUNTY shall repair damages to the TRAFFIC SIGNAL caused by motor vehicles or construction activities by others and shall invoice the VILLAGE for fifty (50%) percent of said costs not

recovered by the COUNTY. The COUNTY agrees to execute any necessary documentation subrogating the COUNTY's rights to the VILLAGE for recovery of said cost.

4.0 FUTURE MODERNIZATION/RECONSTRUCTION

4.1. If, in the future, it is determined by the Parties that the TRAFFIC SIGNAL requires modernization or reconstruction due to age, condition, etc. or if the COUNTY improves CH 38/63rd Street which results in the need to modernize or reconstruct the TRAFFIC SIGNAL, the Parties hereby agree to share the cost of the improvement to the TRAFFIC SIGNAL, including engineering, construction, construction engineering and/or land acquisition, in proportion to the number of approaches to the intersection maintained by the respective Parties. For the purposes of this AGREEMENT, the north and south legs, Springside Avenue, shall be considered as VILLAGE maintained. The east and west legs, 63rd Street, shall be considered as COUNTY maintained.

5.0 INDEMNIFICATION

5.1. The COUNTY shall 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.

5.1.1. 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 the COUNTY's or any successor's or assign's indemnification authority, such occurrence(s) shall not affect the validity and enforceability of the remainder of this AGREEMENT or the Parties rights and obligations provided for therein.

5.2. The VILLAGE 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.

5.2.1. The COUNTY and the VILLAGE acknowledge that the VILLAGE has made no representations, assurances or guaranties regarding the VILLAGE's or any successor's or assign's authority and legal capacity to indemnify COUNTY as provided for in this AGREEMENT. In the event a court of competent jurisdiction holds that the VILLAGE, or any successor or assign, is deemed to lack the lawful authority or ability to indemnify, defend or hold harmless the COUNTY, or any person or entity claiming a right through COUNTY, or in the event of change in the laws of the State of Illinois governing VILLAGE's or any successor's or assign's indemnification authority, such occurrence(s) shall not affect the validity and enforceability of the remainder of this AGREEMENT or the parties rights and obligations provided for therein.

5.3. 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, who is not already an

Assistant State's Attorney, 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.

- 5.4. Nothing contained herein shall be construed as prohibiting the VILLAGE, 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. 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.
- 5.5. Neither party waives, by these indemnity requirements, any defenses or protections available to them under the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1 *et seq.*) or any other applicable law by virtue of the provisions set forth in this Section or any other Section of this AGREEMENT.
- 5.6. Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided.

6.0 ENTIRE AGREEMENT

- 6.1. This AGREEMENT represents the entire AGREEMENT between the Parties with respect to the TRAFFIC SIGNAL, and supersedes all previous communications or understandings whether oral or written.

7.0 NOTICES

- 7.1. 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, postage prepaid, to the Party's address or sent by confirmed facsimile or email, 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 VILLAGE:

David Fieldman, Village Manager
Village of Downers Grove
801 Burlington Ave.
Downers Grove, IL 60515
Phone: 630.434.5500
Facsimile: 630-434-5571
Email: dfieldman@downers.us

For COUNTY:

Christopher C. Snyder, P.E.
Director of Transportation/County Engineer
DuPage County Division of Transportation
421 N. County Farm Rd.
Wheaton, IL 60187
Phone: 630.407.6900
Facsimile: 630.407.6901
Email: Christopher.Snyder@dupageco.org

8.0 AMENDMENT, MODIFICATION OR TERMINATION OF THIS AGREEMENT

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

9.0 NON-ASSIGNMENT

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

10.0 AUTHORITY TO EXECUTE/RELATIONSHIP

10.1. The Parties hereto have read and reviewed the terms of this AGREEMENT and by their signature as affixed below represent that the signing Party has the authority to execute this AGREEMENT and that the Parties intend to be bound by the terms and conditions contained herein.

10.2. This AGREEMENT shall not be deemed or construed to create an employment, joint venture, partnership or other agency relationship between the Parties.

10.3. This Agreement shall not be deemed or construed to create any rights or benefits in or to any third parties.

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 for DuPage County.

12.0 SEVERABILITY

12.1. 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.

13.0 FORCE MAJEURE

13.1. 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 and natural disasters.

14.0 COUNTERPARTS

14.1. This AGREEMENT may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which shall be deemed one in the same instrument.

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

COUNTY OF DU PAGE

VILLAGE OF DOWNERS GROVE

Daniel J. Cronin
Chairman, DuPage County Board

Robert T. Barnett
Mayor

ATTEST:

ATTEST:

Jean Kaczmarek
County Clerk

April Holden
Village Clerk

EXHIBIT A					
ESTIMATE OF COSTS SECTION NO. 19-00288-03-TL					
Type of Work	County of DuPage		Village of Downers Grove		TOTAL
	\$	%	\$	%	\$
TRAFFIC SIGNAL					
CH 38/63rd St. & Springside Ave.					
Design Engineering	\$15,000	100%			\$15,000
Construction	\$175,000	50%	\$175,000	50%	\$350,000
Construction Engineering (15%)	\$26,250	50%	\$26,250	50%	\$52,500
TOTAL	\$216,250		\$201,250		\$417,500