

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**

<b>SUBJECT:</b>	<b>11/19/2024</b>	<b>SUBMITTED BY:</b>
Intergovernmental Agreement and Settlement Agreement between the Village of Downers Grove and the City of Darien		Enza Petrarca Village Attorney

**SYNOPSIS**

Resolutions have been prepared authorizing execution of an Intergovernmental Agreement between the Village of Downers Grove and the City of Darien concerning water service to the Knottingham Subdivision and authorizing the execution of a settlement agreement between the Village of Downers Grove and the City of Darien concerning the Knottingham Water Distribution System Intergovernmental Agreement in the amount of \$85,000.00.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2023-2025 include *Exceptional Municipal Services and Top Quality Infrastructure*.

**FISCAL IMPACT**

Sufficient funds are provided in the FY24 Budget in multiple funds for the expenses related to this settlement agreement. In future years revenue in the water fund will increase slightly and expenses will decrease slightly.

**RECOMMENDATION**

Approval on the November 19, 2024 Consent Agenda.

**BACKGROUND**

In 1978, Downers Grove and Darien entered into an intergovernmental agreement pursuant to which (i) Darien sold the water distribution system within the Knottingham subdivision to the Village; and (ii) the Village agreed to purchase from Darien, on a wholesale basis, water which the Village, in turn, would sell to the residents the Knottingham subdivision. The current agreement is set to expire on December 31, 2027. A dispute has developed between the Village and Darien as to payment for certain water and maintenance charges. In order to resolve all outstanding disputes, the parties have reached a settlement whereby the Village agrees to pay Darien \$85,000, and the parties agree to terminate the 1978 intergovernmental agreement and replace it with a new intergovernmental agreement providing that the Village will supply water and bill the majority of the residents of the Knottingham subdivision. Downers Grove will handle all billing for Downers Grove residents and Darien will handle all billing for Darien residents. The new intergovernmental agreement has a forty (40) year term, with a five (5) year notice of cancellation.

**ATTACHMENTS**

Resolutions  
 Agreements

## RESOLUTION NO. \_\_\_\_

**A RESOLUTION AUTHORIZING EXECUTION  
OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
VILLAGE OF DOWNERS GROVE AND THE CITY OF DARIEN  
FOR THE KNOTTINGHAM WATER DISTRIBUTION SYSTEM**

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 ("Downers Grove") and the City of Darien ("Darien"), for the Knottingham Water Distribution System 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

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE VILLAGE OF DOWNERS GROVE AND  
THE CITY OF DARIEN REGARDING WATER SERVICE**

**THIS INTERGOVERNMENTAL AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the Village of Downers Grove, an Illinois Municipal Corporation (hereinafter referred to as “Downers Grove”) and the City of Darien, an Illinois Municipal Corporation, (hereinafter referred to as “Darien”).

**WHEREAS**, Article VII, Section 10 of the 1970 Constitution of the State of Illinois and the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) provide that units of local government may contract with one another to perform any activity authorized by law; and

**WHEREAS**, Downers Grove and Darien 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 Knottingham Subdivision (“Knottingham,”) is located partially within Downers Grove and partially in Darien; and

**WHEREAS**, on January 16, 1978, Downers Grove and Darien entered into an Intergovernmental Agreement regarding the purchase of the water system, purchase of water and water service for Knottingham, which was subsequently amended on May 26, 1987 (“Prior Agreement”); and

**WHEREAS**, Knottingham is currently served by one water system partially owned by Downers Grove and partially owned by Darien; and

**WHEREAS**, the parties agree that it will be more efficient and financially sustainable for the majority of the residents of Knottingham to have water service through Downers Grove; and

**WHEREAS**, Darien agrees to convey a portion its ownership interest in the water system to Downers Grove and Downers Grove agrees to convey a portion of its ownership interest in the water system to Darien, as depicted on Exhibit A, attached hereto and incorporated herein by reference; and

**WHEREAS**, a majority of the single family homes in Knottingham will be connected to Downers

Grove water system and will receive water supplied through Downers Grove; and

**WHEREAS**, a few homes located within the jurisdiction of Downers Grove will be connected to the Darien water system and will receive water supplied by Darien (“Downers Grove Knottingham Residents”), as specifically depicted on Exhibit B; and

**WHEREAS**, a few homes located within the jurisdiction of Darien will be connected to the Downers Grove water system and will receive water supplied by Downers Grove (“Darien Knottingham Residents”), as specifically depicted on Exhibit C; and

**WHEREAS**, the Prior Agreement is set to expire on December 31, 2027; and

**WHEREAS**, Downers Grove and Darien mutually desire to terminate the Prior Agreement prior to December 31, 2027, and replace it with this Agreement, finding that this Agreement will simplify procedures for both parties and for the residents of Knottingham, and will benefit and promote the public health, safety and welfare.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions, and agreements herein set forth, the parties hereto agree as follows:

1. The above recitals are hereby incorporated into this Agreement as if fully set forth in this paragraph.
2. Downers Grove shall supply water for the majority of the Knottingham residents, including the Darien Knottingham Residents, and except for the Downers Grove Knottingham Residents.
3. Darien shall supply water for a portion of the Darien residents residing in Knottingham and the Downers Grove Knottingham residents.
4. Darien shall be solely responsible for billing and collecting all water charges from the Darien Knottingham Residents.
5. Downers Grove shall be solely responsible for billing and collecting all water charges from the Downers Grove Knottingham residents.
6. Annual Consumption Reports and Net Payment.
  - a) Downers Grove shall pay Darien for the water provided by Darien to the Downers Grove Knottingham Residents. The payment shall be equal to the amount of water consumed during the

six (6) billing cycles per calendar year by the Downers Grove Knottingham Residents receiving water supplied by Darien multiplied by the DuPage Water Commission rate for water in place as of December 31<sup>st</sup> of that calendar year. No later than January 31<sup>st</sup> of the subsequent calendar year of the annual billing cycle, Downers Grove shall submit to Darien a water consumption report showing the amount of water consumed by the Downers Grove Knottingham Residents receiving water from Darien during the annual payment period, the water consumption report shall be in a form substantially consistent with the report attached hereto as Exhibit B attached hereto and incorporated herein reference. The water consumption report shall also include any permit and connection fees due to Darien as provided for in paragraph 11.

b) Darien shall pay Downers Grove for the water provided by Downers Grove to Darien Knottingham Residents. The payment shall be equal to the amount of water consumed during the six (6) billing cycles per calendar year by the Darien Knottingham Residents receiving water supplied by Downers Grove multiplied by the DuPage Water Commission rate for water in place as of December 31<sup>st</sup> of that calendar year. No later than January 31<sup>st</sup>, of the subsequent calendar year of the annual billing cycle, Darien shall submit to Downers Grove a water consumption report showing the amount of water consumed by the Darien Knottingham Residents receiving water from Downers Grove during the annual payment period. The water consumption report shall be in a form substantially consistent with the report attached hereto as Exhibit C attached hereto and incorporated herein by reference. The water consumption report shall also include any permit and connection fees due to Downers Grove as provided for in paragraph 12.

c) In lieu of exchanging payments, Downers Grove and Darien shall net the amount of the annual payments noted above as follows:

Within thirty (30) days of the submittal of the water consumption reports, Downers Grove and Darien shall collectively determine which annual payment is greater. The amount of the lesser payment shall be subtracted from the amount of the greater payment. The resulting amount shall

be paid to the appropriate municipality by the other municipality no later than thirty (30) days from the receipt of an invoice.

*For example, if the Downers Grove calculated payment to Darien is \$100 and the Darien calculated payment to Downers Grove is \$90, then Downers Grove shall pay Darien \$10.*

*If the Darien calculated payment to Downers Grove is \$100 and the Downers Grove calculated payment to Darien is \$90, then Darien shall pay Downers Grove \$10.*

- d) Once the annual net payment is made, the water consumption reports and payment shall be deemed complete and final. No adjustments to the amount of water consumed or the amount paid shall be made after the annual net payment is made.
7. Darien hereby conveys to Downers Grove all of its watermains and attached appurtenances (except for water meters) located in the Knottingham water system, including those located within the city limits of Darien located on Baimbridge Drive, and Knottingham Lane, as more accurately depicted on Exhibit A. Notwithstanding any designation to the contrary, all appurtenances, including but not limited to valves and hydrants, which appear in an area designated to be a “Water Main Conveyance” on Exhibit A shall be deemed to be conveyed along the applicable water main. Upon the effective date of this Agreement Downers Grove shall become solely responsible for repair and maintenance of said watermains and attached appurtenances.
8. Downers Grove hereby conveys to Darien its watermain and all attached appurtenances (except for water meters) located in Williams Street from 75<sup>th</sup> Street to Plainfield Road, located in Knottingham Lane from Elizabeth Lane north to 75<sup>th</sup> Street and located in Elizabeth Lane from Williams Street to Knottingham Lane, as more accurately depicted on Exhibit A. Notwithstanding any designation to the contrary, all appurtenances, including but not limited to valves and hydrants, which appear in an area designated to be a “Water Main Conveyance” on Exhibit A shall be deemed to be conveyed along the applicable water main. Upon execution of this Agreement Darien shall become solely responsible for repair and maintenance of said watermain and attached appurtenances.
9. Darien agrees that Downers Grove employees and agents shall have the right to access the

- Knottingham water system located in Darien, including but not limited to any Darien right-of-way in which the Nottingham water system is located, for the purpose of operating, repairing and maintaining the Nottingham water system without the need for obtaining any permits from Darien.
10. Downers Grove agrees that Darien employees and agents shall have the right to access the watermain located in Downers Grove, including but not limited to any Downers Grove right-of-way in which such watermain is located, for the purpose of operating, repairing and maintaining the watermain without the need for obtaining any permits from Downers Grove.
  11. Downers Grove Nottingham Residents who are required to obtain any permit or pay any fees with regard to the Nottingham water system, including but not limited to a resident's connection to or disconnection from the Nottingham water system, shall pay to Downers Grove any and all then-prevailing fees enacted by Downers Grove, as may be amended from time to time, relative to such permit, connection or disconnection. Downers Grove shall be responsible for the review of all such permit applications related to any such permits. Downers Grove shall remit any connection or disconnection fees it receives in relation to such activity to Darien along with the annual payment due to Darien pursuant to Section 6 of this Agreement.
  12. Darien Nottingham Residents who are required to obtain any permit or pay any fees with regard to the Nottingham water system, including but not limited to a resident's connection to or disconnection from the Nottingham water system, shall pay to Darien any and all then-prevailing fees enacted by Darien, as may be amended from time to time, relative to such permit, connection or disconnection. Darien shall be responsible for the review of all permit applications related to any such permits. Darien shall remit any connection or disconnection fees it receives in relation to such activity to Downers Grove along with the annual payment due to Downers Grove pursuant to Section 6 of this Agreement.
  13. That the water systems of Downers Grove and Darien shall be interconnected minimally at two (2) points as depicted and in accordance with the plan attached hereto as Exhibit A, and as further required by mutual agreement of the parties. The common interconnect valves shall be opened

only upon mutual consent of the parties hereto and only for emergency purposes. For the purposes of this Agreement, an emergency shall exist when either of the parties hereto shall experience circumstances beyond their individual control which prevents or substantially restricts their ability to serve the normal requirements of the users of their respective systems in order to maintain health and safety standards such as a major mechanical pumping failure, loss of power, a major water main rupture, a major fire or other act of God. The interconnect valves may be opened due to scheduled maintenance, water main installation or replacement, and as approved, in advance, by both municipalities through their respective Managers.

14. That for purposes of this Agreement, emergency purposes shall contemplate an opening of the interconnecting main for non-consecutive periods not to exceed twenty-four (24) hours each. In the event that the valve and main are operating and water flowing there through for a period exceeding twenty-four (24) hours, the party hereto furnishing the water may charge the other at DuPage Water Commission rate then in effect at the time of the opening of the interconnecting main for the estimated volume of water provided after that first twenty-four (24) hour emergency period.
15. That maintenance cost for the common interconnection valves shall be paid equally by Downers Grove and Darien. Downers Grove and Darien shall be jointly responsible for the determination of need for and the performance of said maintenance on the common interconnection valves, and the party performing such maintenance shall be reimbursed by the other for one-half (1/2) of actual maintenance costs incurred within thirty (30) days of presentation of a statement by the party performing such maintenance. Each Village and City shall reimburse the other for its share of every maintenance cost including, but not limited to, labor, engineering, equipment (at State of Illinois, Department of Transportation equipment rental rates) and material costs.
16. Notwithstanding anything herein stated to the contrary, neither party hereto shall be required to provide water to the other when such party shall itself be experiencing circumstances constituting an emergency, or when prohibited from providing such service by the parties furnishing water.
17. Each of the parties hereto agrees to indemnify and hold the other harmless from any loss or liability



resulting from the water system interconnection provided for herein including, but not by way of limitation, any loss or liability resulting from the inability or refusal of either of the parties hereto to serve or provide water to the other.

18. This Agreement represents the entire agreement between the parties. This Agreement shall only be amended by a written instrument approved and signed by all parties hereto.
19. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Illinois. The forum for any legal disputes arising out of this Agreement shall be DuPage County, Illinois.
20. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Illinois. The forum for any legal disputes arising out of this Agreement shall be DuPage County, Illinois.
21. If any section, paragraph, clause or provision of this Agreement shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Agreement.
22. This Agreement shall become effective on January 1, 2026, at which time the Prior Agreement and any other agreements governing this matter, shall have no further force or effect and shall become null and void.
23. The parties agree that the term of this Agreement shall continue in from the effective date and shall expire on December 31, 2066, subject to cancellation as provided in this Agreement.
24. The parties agree that this Agreement may be cancelled by either party at any time for any reason by not less than five (5) years prior written notice of such cancellation expressly referring to this paragraph and specifying the effective date of such cancellation. Notwithstanding the foregoing, paragraphs 7, 8, 9 and 10 shall survive any cancellation of this Agreement, unless otherwise expressly agreed to by both parties in writing.

**IN WITNESS WHEREOF**, the parties, pursuant to proper and necessary authorization have executed this Agreement on the date first written above.

**VILLAGE OF DOWNERS GROVE,**  
an Illinois municipal corporation

**CITY OF DARIEN,**  
an Illinois municipal corporation

\_\_\_\_\_  
By: Mayor

\_\_\_\_\_  
By: Mayor

**ATTEST:**

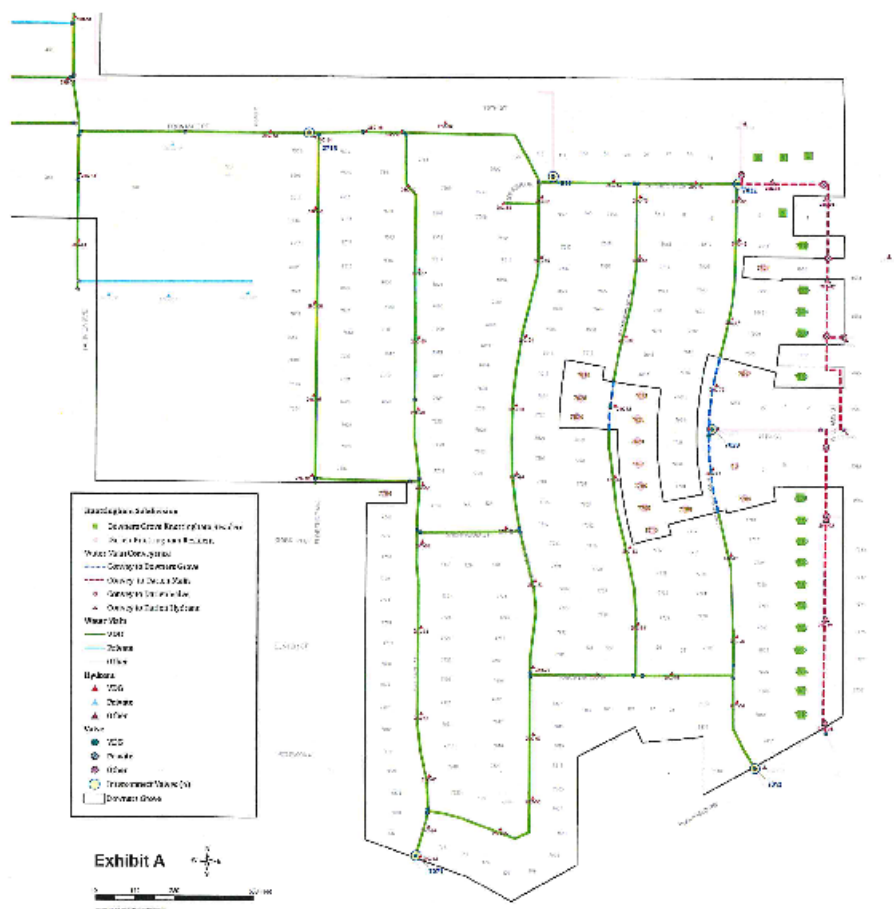
**ATTEST:**

\_\_\_\_\_  
By: Village Clerk

\_\_\_\_\_  
By: City Clerk

\\mw\Agr.24\IGA-Darien (Knottingham) H2O 6.21.24

### EXHIBIT A



**EXHIBIT B****Sample Water Consumption Report  
Downers Grove Knottingham Residents**

<b>Downers Grove Consumption and Billing Report to Darien</b>						
<b>Address</b>	<b>Units Consumed during an annual billing cycle</b>	<b>Gallons Consumed</b>	<b>DWC Rate</b>	<b>Permit &amp; Connection Fees</b>	<b>Payment to Darien</b>	
7516 Williams Street						
7600 Williams Street						
7604 Williams Street						
7608 Williams Street						
7616 Williams Street						
7708 Williams Street						
7712 Williams Street						
7716 Williams Street						
7720 Williams Street						
7724 Williams Street						
7728 Williams Street						
7732 Williams Street						
7800 Williams Street						
7804 Williams Street						
7808 Williams Street						
7812 Williams Street						
2 Elizabeth Lane						
5 Elizabeth Lane						
6 Elizabeth Lane						
10 Elizabeth Lane						
<b>Total</b>						

**EXHIBIT C****Sample Water Consumption Report  
Darien Knottingham Residents**

<b>Darien Consumption and Billing Report to Downers Grove</b>				
<b>Address</b>	<b>Gallons Consumed during an annual billing cycle</b>	<b>DWC Rate</b>	<b>Permit &amp; Connection Fees</b>	<b>Payment to Downers Grove</b>
7616 Baimbridge Drive				
7620 Baimbridge Drive				
7621 Baimbridge Drive				
7624 Baimbridge Drive				
7625 Baimbridge Drive				
7629 Baimbridge Drive				
7701 Baimbridge Drive				
7705 Baimbridge Drive				
7709 Baimbridge Drive				
7713 Baimbridge Drive				
7708 Knottingham Drive				
7709 Knottingham Drive				
7617 Knottingham Drive				
7521 Knottingham Drive				
7704 Queens Court				
13 77th Street				
<b>Total</b>				