

COUNCIL WORKSHOP ITEM

ITEM: DUPAGE MAYORS AND MANGER'S PROMISSORY NOTES
DATE: 01/16/01
PREPARED BY: MARTIN LYONS, DIRECTOR OF FINANCIAL SERVICES
PURPOSE: Adoption of resolution to confirm the final payment of the original promissory note from the DuPage Mayors and Managers (DMM) Association, and adoption of an intergovernmental agreement authorizing participation in a new promissory note for renovations to the DMM facility in an amount not to exceed \$150,000.

DISCUSSION:

According to Village of Downers Grove accounting records the DMM has paid its promissory note from 1992 for an original principal amount of \$42,000. DMM has made all payments in a timely fashion. Attached is a request from DMM to adopt a resolution formally acknowledging the final payment on this note. The total size of the note was \$251,180 and five communities (Downers Grove, Naperville, Wheaton, Addison, and Woodridge), participated in the project.

Secondly, the DMM is also requesting the Village of Downers Grove to participate in a new promissory note of \$1.5 million. Attached is the request from Lynn Montei, Executive Director. As outlined in this correspondence, the DMM is asking for a considerably higher loan amount, but is also stating that the maximum portion of the Village of Downers Grove would be \$150,000 because a minimum of 10 participants will be required. Another significant difference in this note is the term length of 20 years.

The Village derives a considerable benefit from the DuPage Mayors and Managers organization. As such improvements to their operating conditions can have tangential benefits to our own efforts to operate as efficiently as possible. As noted in the agreement, the Promissory Note will pay an amount equal to the daily rate at the Illinois Funds state Treasurer's pool. The Village uses this fund for its own cash management activities. The daily rate as of 1/16/01 was 5.9% on invested funds.

Although this loan will give us an investment return, because it is not secured and because it is not considered an allowable investment by municipalities, it will be classified on our books as a note receivable. While staff would prefer a mortgage or other security, based on DMM's payment record of the first loan, and based on our close relationship with this intergovernmental association, participating in this loan should still be viewed as a "good investment".

Final documents will be forwarded to the Village of Downers Grove based on the final number of participants, and therefore our total commitment is not finalized other than to note that it will not exceed \$150,000.

RECOMMENDATION:

We recommend the adoption of the resolution confirming the final payment of the \$42,000 promissory note by DuPage Mayors and Managers and adoption of the intergovernmental agreement setting forth participation in a new promissory note in an amount not to exceed \$150,000.



MODEL RESOLUTION

RESOLUTION _____

**A RESOLUTION AUTHORIZING THE CANCELLATION
OF AN ADJUSTABLE RATE PROMISSORY NOTE MADE
BY DUPAGE MAYORS AND MANAGERS CONFERENCE
DATED FEBRUARY 28, 1992 IN THE PRINCIPAL AMOUNT
OF FORTY-TWO THOUSAND DOLLARS (\$42,000.00)**

WHEREAS, on or about February 28, 1992 the Village/City of _____ entered into an Intergovernmental Agreement by and amongst the Village of Addison, Village of Downers Grove, City of Naperville, City of Wheaton, Village of Woodridge and the DuPage Mayors and Managers Conference providing for the loan by the aforesaid municipalities to the DuPage Mayors and Managers Conference (the "Conference") whereby each of the said municipalities loaned the principal sum of Forty-Two Thousand Dollars (\$42,000.00) to the Conference for purposes of making certain leasehold improvements; and

WHEREAS, such debt of the Conference was made by adjustable rate promissory notes between the Conference and each of the aforesaid municipalities; and

WHEREAS, the aforesaid Intergovernmental Agreement and each Adjustable Rate Promissory Note provided that the Note would be repaid with interest not later than May 1, 2002 unless sooner paid; and

WHEREAS, the Conference has now paid all principal and interest due under the Intergovernmental Agreement and Promissory Note; and

WHEREAS, the Conference has requested that the Village/City of _____ cancel the Adjustable Rate Promissory Note, as all amounts due thereunder have been paid.

N OW THEREFORE, BE IT RESOLVED by the President and Board of Trustees/City Council of the Village/City of _____ that the _____ (City Manager/Finance Director/Treasurer) is hereby authorized and directed to cancel that certain Adjustable Rate Promissory Note made by the DuPage Mayors and Managers Conference dated February 28, 1992 in the principal amount of Forty-Two Thousand Dollars (\$42,000.00).

BE IT FURTHER RESOLVED that the Village/City Clerk is hereby authorized and directed to send said canceled Note to Ms. Lynn Montei, Executive Director, DuPage Mayors and Managers Conference, 1220 Oak Brook Road, Oak Brook, Illinois 60523.

Adopted this _____ day of _____, 2000.

, Mayor/President

Adopted this ____ day
of _____, 2000.

, City/Village Clerk

clk\hjs\dpm&m.res(NOTE)



DUPAGE MAYORS AND MANAGERS CONFERENCE

an association of municipalities representing 1,000,000 people

1220 Oak Brook Road
Oak Brook, Illinois 60523-2203
(630) 571-0480
Fax: (630) 571-0484

Founded June 19, 1962

MEMBER MUNICIPALITIES

Addison
Aurora
Bartlett
Bensenville
Bloomingdale
Bolingbrook
Burr Ridge
Carol Stream
Clarendon Hills
Darien
Downers Grove
Elmhurst
Glendale Heights
Glen Ellyn
Hanover Park
Hinsdale
Itasca
Lemont
Lisle
Lombard
Naperville
Oak Brook
Oakbrook Terrace
Roselle
Schaumburg
St. Charles
Villa Park
Warrenville
Wayne
West Chicago
Westmont
Wheaton
Willowbrook
Winfield
Wood Dale
Woodridge

January 10, 2001

MEMORANDUM TO: MANAGERS / ADMINISTRATORS OF
HOME RULE MUNICIPALITIES FINANCING
THE CONFERENCE'S BUILDING PROJECT

FROM: LYNN MONTEI, EXECUTIVE DIRECTOR

SUBJECT: INTERGOVERNMENTAL LOAN AGREEMENT -
*** FINAL DRAFT ***

Enclosed please find the final draft of the Intergovernmental Loan Agreement (and promissory note) prepared by attorney Harlan Spiroff.

The Conference received many valuable suggested revisions to the initial and revised drafts which I had provided to you in December. Thank you for helping to improve the Agreement.

Although we instituted most of the suggested revisions, I would like to point out one revision which was not implemented. You will recall that one community suggested converting the loan into a loan secured by the property that is to be acquired and improved by the Conference. Although this proposal was given serious consideration by the Conference's Board of Directors, ultimately the Board (which includes representatives from some of the home rule lenders) decided that this level of security was not required. Consequently, the enclosed agreement provides for a conventional loan accompanied by a promissory note, rather than a secured loan accompanied by a mortgage.

Also please note that Section 3 of the Agreement (pages 3-4) provides that at least ten of the participating municipalities must execute the agreement and provide the loan funds to the Conference by February 28, 2001. **Consequently, please begin now to take the necessary actions to formally approve the agreement and authorize the loan expenditure.** I will provide you with copies of the Agreement containing the appropriate dollar amounts and executed by the Conference during the week of January 22 (after we have confirmed the final number of participating municipalities).

Thank you again for helping the Conference with this important project.

WHEREAS, the Participating Municipalities, _____,
_____, _____,
_____, _____, _____, _____,
_____, _____, _____, and
_____ are home rule municipalities located, in whole or in part, within DuPage
County, Illinois; and

WHEREAS, the Conference is an association of municipal corporations located within
DuPage County, of which the Participating Municipalities are members; and

WHEREAS, the Conference finds it necessary, desirable and convenient to acquire certain
real property for the Conference offices and to expand and renovate the same so as to more
efficiently and effectively carry out the purposes of the Conference; and

WHEREAS, the Parties have reasonably estimated the cost of the acquisition, expansion,
and renovations at One Million Five Hundred Thousand Dollars (\$1,500,000.00); and

WHEREAS, each of the Participating Municipalities is willing to loan to the Conference
the sum of _____ Dollars (\$ _____) in order
to assist the Conference in acquiring the property and making the renovations.

NOW THEREFORE, in consideration of the foregoing recitals and the covenants and
conditions hereinafter set forth, the adequacy and sufficiency of which the Parties hereto hereby
stipulate, the Parties agree as follows:

1. INCORPORATION OF RECITALS. The foregoing recitals are hereby incorporated
herein by reference, as if the same were set out in full.

2. LOANS. Subject to the terms and conditions stated herein each of the Participating Municipalities shall lend to the Conference the sum of _____ Dollars (\$ _____), to be evidenced by promissory notes by the Conference to each of the Participating Municipalities in substantially the form provided in Exhibit "A" attached hereto and incorporated herein (the "Notes"). Each of the Notes shall be in the principal amount of _____ Dollars (\$ _____), with a maturity date of May 1, 2021, and shall bear interest on the unpaid principal balance thereof at a floating rate equivalent to the average monthly rate paid by the state treasurer's Illinois Funds investment pool calculated through March 31st of each year. Each participating municipality shall be required to loan the identical sum of money.

The Conference shall make annual payments of principal and interest, the amount of which shall be based upon a twenty year amortization schedule. The first of such payments shall be due on May 1, 2002, with subsequent annual payments, of both interest and principal, due on May 1 of each succeeding year, until maturity or pre-payment, as the case may be.

3. ESCROW ACCOUNT. The Conference shall, at its expense, establish an escrow account with Chicago Title & Trust Company (the "Escrow Agent"), to facilitate the purposes of this Agreement and the making of payments for the costs of the acquisition, expansion, and renovations (the "Escrow"). On or before February 28, 2001, each of the Participating Municipalities shall deposit the proceeds of their respective loans into the Escrow. On or before February 28, 2001, the Conference shall deposit the Notes reflecting the loans as provided in Paragraph 2 hereof. Should, subsequent to the establishment of the Escrow, the aggregate total obligations incurred by the Conference on all contracts let for the acquisition, expansion and

renovations (the "Project") exceed the estimated cost of the Project, the Conference shall immediately deposit into the Escrow a sum equal to the difference of said amounts. The Conference shall retain any funds remaining in the Escrow after the final payment is made for the Project.

The failure of less than ten (10) of the Participating Municipalities or the Conference to execute this Agreement on or before February 28, 2001, or to make the required deposits as set forth above, shall render this Agreement null and void and the Escrow Agent shall be instructed to return to each of the Parties all funds and documents deposited in the Escrow. Upon the execution of this Agreement by each of the Parties and the deposit into the Escrow of the Conference's required deposit and the deposit of the loan proceeds by each of the Participating Municipalities, the Escrow Agent shall distribute to each of the Participating Municipalities the Note reflecting the loan described in Paragraph 2 hereof.

None of the amounts deposited in the Escrow shall be disbursed until:

1. All required deposits by all of the Parties have been made.
2. Contracts for the Project have been let by the Conference.
3. Performance, Labor and Material Payment Bonds have been secured by the Conference from all contractors, excluding architects and engineers, and copies thereof have been deposited with the Escrow Agent.
4. Insurance policies, naming the Conference and the Participating Municipalities and all parties' agents, officials and employees as co-insureds, have been secured by the Conference for:
 1. Fire and extended coverage of the contents.

- II Comprehensive general liability, coverage covering any and all liability whatsoever and howsoever occasioned by reason of injury to persons, in an amount not less than \$2,000,000.00 combined single limit per occurrence for bodily injury, personal injury and property damage.
- III. Worker's Compensation coverage in the amounts required by statute and Employer's Liability coverage in an amount of not less than \$500,000.00. All such policies be written by insurance companies with an A.M. Best Company rating of "A" or better, and shall include endorsements providing for at least five (5) days prior written notice of cancellation to all insureds.

Current certificates of insurance naming the Participating Municipalities as additional insureds on the foregoing coverage shall be provided to the Participating Municipalities prior to the effective date of this agreement. Escrowed funds may be disbursed for the purpose of paying for the Project only upon the application of the Conference for the purchase of the existing land and improvements and, in the case of paying for expansions or renovations, only if accompanied by sworn contractor's statements supported by appropriate partial and final waivers of mechanics' lien claims in form and substance satisfactory to the Escrow Agent. Periodic disbursements may be made in an amount equal to ninety percent (90%) of the amounts reflected on the sworn contractors statement and supporting lien waiver. The ten percent (10%) retained shall not be disbursed until the Conference has finally accepted all renovations and the contractors and subcontractors have submitted final waivers of lien acceptable to the Escrow Agent.

4. PREPAYMENTS AND CREDITS TOWARD PAYMENTS. The Conference shall have the right to prepay, at any time before maturity and without any premium or penalty thereon,

the principal balance or any portion thereof, including interest to the date of such prepayment, on the notes to the Participating Municipalities. In the event that the Conference elects to make prepayments on the Notes, it shall make equal payments on each of the Notes.

5. CANCELLATION OF NOTE. Upon payment in full of all principal and interest on the Notes, each Participating Municipality shall by resolution passed by its corporate authorities, cancel such Note and deliver same to the Conference.

6. INSURANCE. The Conference shall maintain, in full force and effect, all of the insurance coverages detailed hereinabove until all principal and interest payments on each of the Notes has been paid in full.

7. CONTRACTS. All contracts let by the Conference for the Project shall comply with applicable law, including but not limited to the Prevailing Wage Act (820 ILCS 130/0.01 et seq.).

8. EFFECTIVE DATE OF AGREEMENT. The effective date of this Agreement shall be deemed to be February 28, 2001 for all purposes, notwithstanding approval and/or execution of this Agreement on any other date.

9. EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. Any such counterpart may be signed by one or more of the Parties hereto so long as each of the Parties hereto has signed one or more of such counterparts.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals on the date first above written.

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

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Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

An Illinois Municipal Corporation

Attest: _____ By: _____

EXHIBIT A

ADJUSTABLE RATE PROMISSORY NOTE

\$150,000.00

Dated: February 28, 2001

FOR VALUE RECEIVED, the undersigned, DUPAGE MAYORS AND MANAGERS CONFERENCE, an Illinois not-for-profit corporation, ("Maker"), hereby promises to pay to the order of _____ an Illinois Home-rule municipal corporation ("Lender"), at its offices at _____, Illinois, or at such other place as the Lender may from time to time designate in writing, the principal sum of _____ Dollars (\$ _____) ("Principal"), and interest on the balance of Principal remaining from time to time unpaid as hereinafter provided.

1. Interest shall be charged on the unpaid Principal balance remaining outstanding from time to time until the full amount of Principal has been paid. Maker shall pay interest annually on the annual payment dates specified in Paragraph B hereof. The interest rate shall float so that it shall at all times be equal to the average monthly rate of return paid on funds deposited with the state treasurer's Illinois Funds investment pool (the "Illinois Funds") calculated through March 31st of each year this note is in effect as that rate shall from time to time be adjusted. Interest at the Illinois Funds rate shall accrue from the date first set forth above and shall be paid annually in arrears. Interest at the Illinois Funds Rate shall apply both before and after any default hereunder and before and after the Maturity Date as defined in Paragraph B hereof.

2. Maker shall pay Principal and Interest by making annual payments. Maker shall make its first annual payment, consisting of interest only, on May 1, 2002, and on the 1st day of May each year thereafter, the Maker shall make its annual payment of Principal and Interest, until this Note is paid in full except that the final payment of Principal and Interest, if not sooner paid, shall be due on May 1, 2022 (the "Maturity Date"). The unpaid Principal balance may be prepaid in whole or in part, from time to time, at the election of the Maker. Such prepayments shall, in each case be made without premium or penalty and shall be credited to the then outstanding Principal balance.
3. This Note is given in accordance with and is subject to the terms of an Intergovernmental Agreement by and amongst the parties dated February 28, 2001, which is incorporated by reference herein. Such Note and Intergovernmental Agreement are hereinafter referred to as the "Loan Documents".
4. This note shall not be assignable without the prior written consent of the Maker.
5. In the event of default in the payment of any of the installments as herein provided ("Event of Default"), time being of the essence hereof, the holder of this Note may without notice or demand declare the entire Principal sum then unpaid, together with accrued interest thereon, immediately due and payable.
6. In the event of commencement of suit to enforce payment of this Note, the undersigned agrees to pay such additional sum as costs of collection, including attorney's fees, as the court in such action may adjudge reasonable.

7. Maker hereby irrevocably submits to the jurisdiction of any state court sitting in DuPage County, Illinois over any action or proceeding based hereon and Maker hereby irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined in such state court. Maker hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of any inconvenient forum to the maintenance of such action or proceeding. Maker irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to such Maker at its address as specified herein or otherwise in the records of the Lender.

IN WITNESS WHEREOF, the DUPAGE MAYORS AND MANAGERS

CONFERENCE has caused this Note to be executed by its duly authorized officers.

By: _____

Its: _____

Attest: _____

Its: _____

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE) SS.

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ and _____ personally known to me to be the _____ and, _____ respectively, of DUPAGE MAYORS AND MANAGERS CONFERENCE, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____ and _____ and _____ of said DUPAGE MAYORS AND MANAGERS CONFERENCE, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, DUPAGE MAYORS AND MANAGERS CONFERENCE, for the uses and purposes therein set forth.

Given under my hand and official seal, this _____ day of _____, 2000.

(SEAL)

Notary Public

STATE OF ILLINOIS)
)
 COUNTY OF DUPAGE) SS.

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ and _____ personally known to me to be the _____ and, _____ respectively, of DUPAGE MAYORS AND MANAGERS CONFERENCE, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____ and _____ and _____ of said DUPAGE MAYORS AND MANAGERS CONFERENCE, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, DUPAGE MAYORS AND MANAGERS CONFERENCE, for the uses and purposes therein set forth.

Given under my hand and official seal, this _____ day of _____, 2000.

(SEAL)

 Notary Public

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\$150,000.00

Dated: February 28, 2001

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- A. Interest shall be charged on the unpaid Principal balance remaining outstanding from time to time until the full amount of Principal has been paid. Maker shall pay interest annually on the annual payment dates specified in Paragraph B hereof. The interest rate shall float so that it shall at all times be equal to the average monthly rate of return paid on funds deposited with the state treasurer's Illinois Funds investment pool (the "Illinois Funds") calculated through March 31st of each year this note is in effect as that rate shall from time to time be adjusted. Interest at the Illinois Funds rate shall accrue from the date first set forth above and shall be paid annually in arrears. Interest at the Illinois Funds Rate shall apply both before and after any default hereunder and before and after the Maturity Date as defined in Paragraph B hereof.

- B. Maker shall pay Principal and Interest by making annual payments. Maker shall make its first annual payment, consisting of Principal and Interest, on May 1, 2002, and on the 1st day of May each year thereafter, the Maker shall make its annual payment of Principal and Interest, until this Note is paid in full except that the final payment of Principal and Interest, if not sooner paid, shall be due on May 1, 2021 (the "Maturity Date"). The unpaid Principal balance may be prepaid in whole or in part, from time to time, at the election of the Maker. Such prepayments shall, in each case be made without premium or penalty and shall be credited to the then outstanding Principal balance.
- C. This Note is given in accordance with and is subject to the terms of an Intergovernmental Agreement by and amongst the parties dated February 28, 2001, which is incorporated by reference herein. Such Note and Intergovernmental Agreement are hereinafter referred to as the "Loan Documents".
- D. This note shall not be assignable without the prior written consent of the Maker.
- E. In the event of default in the payment of any of the installments as herein provided ("Event of Default"), time being of the essence hereof, the holder of this Note may without notice or demand declare the entire Principal sum then unpaid, together with accrued interest thereon, immediately due and payable.
- F. In the event of commencement of suit to enforce payment of this Note, the undersigned agrees to pay such additional sum as costs of collection, including attorney's fees, as the court in such action may adjudge reasonable.

G. Maker hereby irrevocably submits to the jurisdiction of any state court sitting in DuPage County, Illinois over any action or proceeding based hereon and Maker hereby irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined in such state court. Maker hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of any inconvenient forum to the maintenance of such action or proceeding. Maker irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to such Maker at its address as specified herein or otherwise in the records of the Lender.

IN WITNESS WHEREOF, the DUPAGE MAYORS AND MANAGERS

CONFERENCE has caused this Note to be executed by its duly authorized officers.

By: _____

Its: _____

Attest: _____

Its: _____