

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Grants Coordinator      **DATE:** December 2, 2003  
(Name)

**RECOMMENDATION FROM:** \_\_\_\_\_ **FILE REF:** \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

- Ordinance
- Resolution
- Motion
- Other

**STEPS NEEDED TO IMPLEMENT ACTION:**

Motion to Adopt "A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND THE ILLINOIS DEPARTMENT OF TRANSPORTATION (Dunham Road Improvements)", as presented.



**SUMMARY OF ITEM:**

Adoption of the attached resolution will authorize execution of an agreement between the Village and the Illinois Department of Transportation for funding in the amount of \$684,600 for roadway construction costs of Dunham Road with termini from Lemont Road to 71<sup>st</sup> Street/Andrus. The Village will be required to match funding for this project in the amount of \$293,400.

**RECORD OF ACTION TAKEN:**

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**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE  
VILLAGE OF DOWNERS GROVE AND THE  
ILLINOIS DEPARTMENT OF TRANSPORTATION**


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 Agreement (the "Agreement"), between the Village of Downers Grove (the "Local Agency") and the Illinois Department of Transportation (the "State") for local agency roadway construction costs of Dunham Road with termini from Lemont Road to 71<sup>st</sup> Street/Andrus, 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 provision of the Agreement.
4. That all resolutions or parts of resolutions in conflict with the provision of this Resolution are hereby repealed.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

|                   |  |                  |           |                |                  |
|-------------------|--|------------------|-----------|----------------|------------------|
| Local Agency      |  <b>Illinois Department of Transportation</b><br>Local Agency Agreement for Federal Participation | Section          |           |                |                  |
| Downers Grove (v) |  | 00-00089-00-PV   |           |                |                  |
|                   |  | Fund Type<br>STU |           |                |                  |
|                   |  | State Contract   | Day Labor | Local Contract | RR Force Account |
|                   |  | X                |           |                |                  |

This Agreement is made and entered into between the above local agency (LA) and the state of Illinois, acting by and through its Department of Transportation, hereinafter referred to as "STATE". The STATE and LA jointly propose to improve the designated location as shown below. The improvement shall be constructed in accordance with plans approved by the STATE and the STATE's policies and procedures approved and/or required by the United States Federal Highway Administration hereinafter referred to as FHWA.

**Location**

Local Name Dunham Road Route FAU 2612 Length 0.574 miles  
 Termini Lemont Road to 71st Street/Andrus Avenue

Current Jurisdiction Local

**Project Description**

Existing Str. No. N/A

Reconstruction/Resurfacing.

| Type of Work                   | Division of Cost  |     |           |     | LA                | %       | Total             |
|--------------------------------|-------------------|-----|-----------|-----|-------------------|---------|-------------------|
|                                | FHWA              | %   | State     | %   |                   |         |                   |
| Participating Construction     | 684,600           | ( ) | ( )       | ( ) | 293,400           | ( BAL ) | 978,000           |
| Non-Participating Construction | ( )               | ( ) | ( )       | ( ) | ( )               | ( )     | ( )               |
| Preliminary Engineering        | ( )               | ( ) | ( )       | ( ) | ( )               | ( )     | ( )               |
| Construction Engineering       | ( )               | ( ) | ( )       | ( ) | ( )               | ( )     | ( )               |
| Right of Way                   | ( )               | ( ) | ( )       | ( ) | ( )               | ( )     | ( )               |
| Railroads                      | ( )               | ( ) | ( )       | ( ) | ( )               | ( )     | ( )               |
| Utilities                      | ( )               | ( ) | ( )       | ( ) | ( )               | ( )     | ( )               |
| <b>TOTAL</b>                   | <b>\$ 684,600</b> |     | <b>\$</b> |     | <b>\$ 293,400</b> |         | <b>\$ 978,000</b> |

NOTE: The above costs are approximate and subject to change. The final LA share is dependent upon the final Federal and State participation. The actual costs will be used in the final division of cost for billing and reimbursement. If funding is not a percentage of the total, place an asterisk in the space provided for the percentage and explain below. The Federal share of construction engineering may not exceed 15% of the Federal share of the final construction cost.

\*Maximum federal participation 70% not to exceed \$689,000.

**Local Agency Appropriation**

By execution of this Agreement, the LA is indicating sufficient funds have been set aside to cover the local share of the project cost and additional funds will be appropriated, if required, to cover the LA's total cost.

**Method of Financing (State Contract Work)**

METHOD A---Lump Sum (95% of LA Obligation) \_\_\_\_\_  
 METHOD B--- \_\_\_\_\_ Monthly Payments of \_\_\_\_\_  
 METHOD C---LA's Share Balance divided by estimated total cost multiplied by actual progress payment.  
 (See page two for details of the above methods and the financing of Day Labor and Local Contracts)

| Construction |                | Engineering |                | Right-of-Way |                |
|--------------|----------------|-------------|----------------|--------------|----------------|
| Job Number   | Project Number | Job Number  | Project Number | Job Number   | Project Number |
| C-91-066-03  | M-8003(271)    |             |                |              |                |

**Agreement Provisions**

**THE LOCAL AGENCY AGREES:**

- (1) To acquire in its name, or in the name of the state if on the state highway system, all right-of-way necessary for this project in accordance with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and established state policies and procedures. Prior to advertising for bids, the LA shall certify to the STATE that all requirements of Titles II and III of said Uniform Act have been satisfied. The disposition of encroachments, if any, will be cooperatively determined by representatives of the LA, and STATE and the FHWA, if required.
- (2) To provide for all utility adjustments, and to regulate the use of the right-of-way of this improvement by utilities, public and private, in accordance with the current Utility Accommodation Policy for Local Agency Highway and Street Systems.
- (3) To provide for surveys and the preparation of plans for the proposed improvement and engineering supervision during construction of the proposed improvement.
- (4) To retain jurisdiction of the completed improvement unless specified otherwise by addendum (addendum should be accompanied by a location map). If the improvement location is currently under road district jurisdiction, an addendum is required.
- (5) To maintain or cause to be maintained, in a manner satisfactory to the STATE and FHWA, the completed improvement, or that portion of the completed improvement within its jurisdiction as established by addendum referred to in item 4 above.
- (6) To comply with all applicable Executive Orders and Federal Highway Acts pursuant to the Equal Employment Opportunity and Nondiscrimination Regulations required by the U.S. Department of Transportation.
- (7) To maintain, for a minimum of 3 years after the completion of the contract, adequate books, records and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with the contract; the contract and all books, records and supporting documents related to the contract shall be available for review and audit by the Auditor General and the department; and the LOCAL AGENCY agrees to cooperate fully with any audit conducted by the Auditor General and the department; and to provide full access to all relevant materials. Failure to maintain the books, records and supporting documents required by this section shall establish a presumption in favor of the STATE for the recovery of any funds paid by the STATE under the contract for which adequate books, records and supporting documentation are not available to support their purported disbursement.
- (8) To provide if required, for the improvement of any railroad-highway grade crossing and rail crossing protection within the limits of the proposed improvement;
- (9) To comply with Federal requirements or possibly lose (partial or total) Federal participation as determined by the FHWA;
- (10) (STATE Contracts Only) That the method of payment designated on page one will be as follows:
  - Method A - Lump Sum Payment. Upon award of the contract for this improvement, the LA will pay to the STATE, in lump sum, an amount equal to 95% of the LA's estimated obligation incurred under this Agreement, and will pay to the STATE the remainder of the LA's obligation (including any nonparticipating costs) in a lump sum, upon completion of the project based upon final costs.
  - Method B - Monthly Payments. Upon award of the contract for this improvement, the LA will pay to the STATE, a specified amount each month for an estimated period of months, or until 95% of the LA's estimated obligation under the provisions of the Agreement has been paid, and will pay to the STATE the remainder of the LA's obligation (including any nonparticipating costs) in a lump sum, upon completion of the project based upon final costs.
  - Method C - Progress Payments. Upon receipt of the contractor's first and subsequent progressive bills for this improvement, the LA will pay to the STATE, an amount equal to the LA's share of the construction cost divided by the estimated total cost, multiplied by the actual payment (appropriately adjusted for nonparticipating costs) made to the contractor until the entire obligation incurred under this Agreement has been paid.
- (11) (Day Labor or Local Contracts) To provide or cause to be provided all of the initial funding, equipment, labor, material and services necessary to construct the complete project.
- (12) (Preliminary Engineering) In the event that right-of-way acquisition for, or actual construction of the project for which this preliminary engineering is undertaken with Federal participation is not started by the close of the tenth fiscal year following the fiscal year in which this agreement is executed, the LA will repay the STATE any Federal funds received under the terms of this Agreement.
- (13) (Right-of-Way Acquisition) In the event that the actual construction of the project on this right-of-way is not undertaken by the close of the twentieth fiscal year following the fiscal year in which this Agreement is executed, the LA will repay the STATE any Federal Funds received under the terms of this Agreement.

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- (14) And certifies to the best of its knowledge and belief its officials:
- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements receiving stolen property;
  - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, local) with commission of any of the offenses enumerated in item (b) of this certification; and
  - (d) have not within a three-year period preceding the Agreement had one or more public transactions (Federal, State, local) terminated for cause or default.
- (15) To include the certifications, listed in item 14 above and all other certifications required by State statutes, in every contract, including procurement of materials and leases of equipment.
- (16) (STATE Contracts) That execution of this agreement constitutes the LOCAL AGENCY's concurrence in the award of the construction contract to the responsible low bidder as determined by the STATE.
- (17) That for agreements exceeding \$100,000 in federal funds, execution of this Agreement constitutes the LOCAL AGENCY's certification that:
- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
  - (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress, in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
  - (c) The LOCAL AGENCY shall require that the language of this certification be included in the award documents for all subawards at all ties (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (18) To regulate parking and traffic in accordance with the approved project report.
- (19) To regulate encroachments on public right-of-way in accordance with current Illinois Compiled Statutes.
- (20) To regulate the discharge of sanitary sewage into any storm water drainage system constructed with this improvement in accordance with current Illinois Compiled Statutes.

THE STATE AGREES:

- (1) To provide such guidance, assistance and supervision and to monitor and perform audits to the extent necessary to assure validity of the LA's certification of compliance with Titles II and III requirements.
- (2) (STATE Contracts) To receive bids for the construction of the proposed improvement when the plans have been approved by the STATE (and FHWA, if required) and to award a contract for construction of the proposed improvement, after receipt of a satisfactory bid.
- (3) (Day Labor) To authorize the LA to proceed with the construction of the improvement when Agreed Unit Prices are approved and to reimburse the LA for that portion of the cost payable from Federal and/or State funds based on the Agreed Unit Prices and Engineer's Payment Estimates in accordance with the Division of Cost on page one.
- (4) (LOCAL Contracts) That for agreements with Federal and/or State funds in engineering, right-of-way, utility work and/or construction work:
  - (a) To reimburse the LOCAL AGENCY for the Federal and/or State share on the basis of periodic billings, provided said billings contain sufficient cost information and show evidence of payment by the LOCAL AGENCY.
  - (b) To provide independent assurance sampling, to furnish off-site material inspection and testing at sources normally visited by STATE inspectors of steel, cement, aggregate, structural steel and other materials customarily tested by the STATE.

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**IT IS MUTUALLY AGREED:**

- (1) That this Agreement and the covenants contained herein shall become null and void in the event that the FHWA does not approve the proposed improvement for Federal-aid participation or the contract covering the construction work contemplated herein is not awarded within three years of the date of execution of this Agreement.
- (2) This Agreement shall be binding upon the parties, their successors and assigns.
- (3) For contracts awarded by the LOCAL AGENCY, the LOCAL AGENCY shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any USDOT – assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The LOCAL AGENCY shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of USDOT – assisted contracts. The LOCAL AGENCY's DBE program, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31U.S.C. 3801 et seq.). In the absence of a USDOT – approved LOCAL AGENCY DBE Program or on State awarded contracts, this Agreement shall be administered under the provisions of the STATE's USDOT approved Disadvantaged Business Enterprise Program.
- (4) In cases where the STATE is reimbursing the LOCAL AGENCY, obligations of the STATE shall cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or applicable Federal Funding source fails to appropriate or otherwise make available funds for the work contemplated herein.

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**ADDENDA**

Additional information and/or stipulations are hereby attached and identified below as being a part of this Agreement.

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(Insert addendum numbers and titles as applicable)

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The LA further agrees, as a condition of payment, that it accepts and will comply with the applicable provisions set forth in this Agreement and all addenda indicated above.

**APPROVED**

Name \_\_\_\_\_

Title \_\_\_\_\_  
County Board Chairperson/Mayor/Village President/etc.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED**

State of Illinois  
Department of Transportation

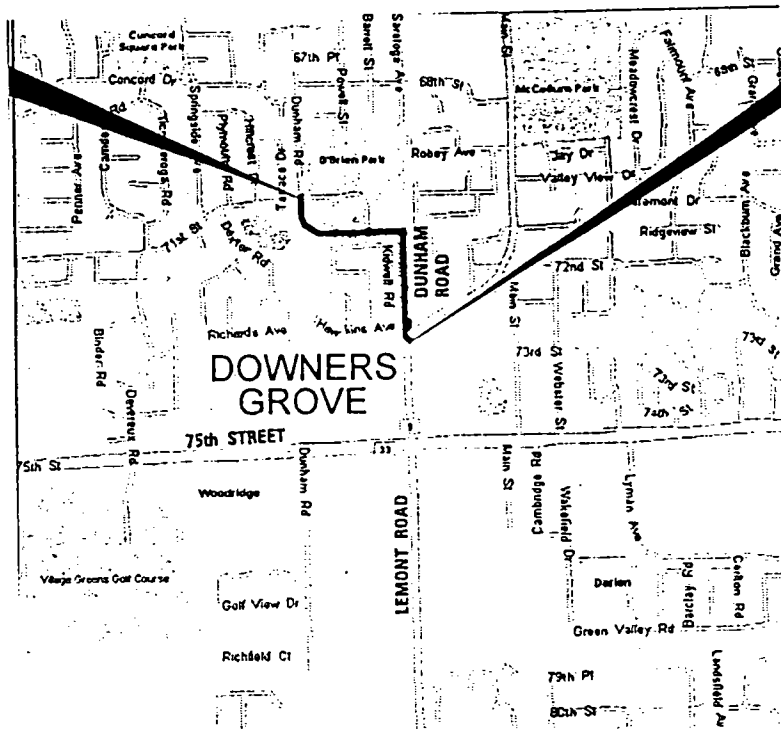
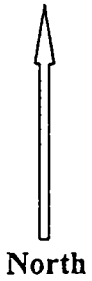
By \_\_\_\_\_  
Director of Highways

Date \_\_\_\_\_

**NOTE:** If signature is by an APPOINTED official, a resolution authorizing said appointed official to execute this agreement is required.

|                                   |
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ADDENDUM 1



LOCATION MAP

Dunham Road: Lemont Road to 71<sup>st</sup> Street/Andrus Avenue  
Village of Downers Grove, DuPage County, Illinois