

**VILLAGE OF DOWNERS GROVE  
COUNCIL ACTION SUMMARY**

**INITIATED:** Village Attorney  
(Name)

**DATE:** December 7, 2004

**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 INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF DUPAGE AND THE VILLAGE OF DOWNERS GROVE FOR THE SOUTHERN DUPAGE COUNTY REGIONAL TRAIL GREEN VALLEY SPUR EAST BIKEWAY", as presented.



**SUMMARY OF ITEM:**

Adoption of the attached resolution will authorize execution of an intergovernmental agreement between the Village and the County of DuPage for the development and construction of the Southern DuPage County Regional Trail Green Valley Spur East Bikeway.

**RECORD OF ACTION TAKEN:**

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RESOLUTION NO. \_\_\_\_

**A RESOLUTION AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF DUPAGE AND THE VILLAGE OF DOWNERS GROVE FOR THE SOUTHERN DUPAGE COUNTY REGIONAL TRAIL GREEN VALLEY SPUR EAST BIKEWAY**

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 development and construction of a bikeway trail, 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 That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.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

INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
THE COUNTY OF DU PAGE AND VILLAGE OF DOWNERS GROVE  
FOR THE SOUTHERN DU PAGE COUNTY REGIONAL TRAIL  
GREENE VALLEY SPUR EAST BIKEWAY  
SECTION 02-00001-05-BT

THIS INTERGOVERNMENTAL AGREEMENT ("AGREEMENT") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2004, between the County of DuPage (the "COUNTY"), a body corporate and politic, with offices at 421 North County Farm Road, Wheaton, Illinois 60187 and the Village of Downers Grove (the "VILLAGE"), a municipal corporation with offices at 801 Burlington Avenue, Downers Grove, Illinois 60515.

RECITALS

WHEREAS, the VILLAGE and the COUNTY are public agencies within the meaning of Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.; and

WHEREAS, Article VII, Section 10, of the 1970 Constitution of the State of Illinois encourages and provides for units of local government to contract and otherwise associate with each other to exercise, combine or transfer any power or function; and

WHEREAS, the COUNTY by virtue of its power set forth in the Counties Code, 55 ILCS 5/1001 et seq., and the VILLAGE by virtue of its power set forth in the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., are authorized to enter into this agreement; and

WHEREAS, the COUNTY and VILLAGE desire to implement the recommendations of the 1996 DuPage County Regional Bikeway Plan to develop a regional facility that will provide a safe bikeway for transportation, healthy exercise and recreation by linking together municipal bikeway systems, major forest preserves, and communities in southern DuPage County; and

WHEREAS, the COUNTY undertook the 2001 Southern DuPage County Regional Trail Feasibility Study ("STUDY") to identify a potential route for a new regional trail to connect Aurora-Naperville on the west to Burr Ridge-Hinsdale on the east; and

WHEREAS, the results of the STUDY were shared with all communities and transportation agencies in the project area and support was expressed by the VILLAGE for the COUNTY to pursue implementation of this new regional trail; and

WHEREAS, the STUDY identified a component known as Greene Valley Spur East for construction of a bikeway along Plainfield Road, Manning Road, Fairview Avenue, 75<sup>th</sup> Street, Quincy Street, and Executive Drive which is more fully described in paragraph 2.0 SCOPE OF WORK below (the "PROJECT"); and

WHEREAS, a portion of the PROJECT, as shown on Exhibit A, is located within the corporate boundaries of the VILLAGE, and

WHEREAS, it is necessary that the VILLAGE and the COUNTY enter into this agreement ("AGREEMENT") prior to construction of the PROJECT; and

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, the COUNTY and the VILLAGE agree that:

1.0 RECITALS INCORPORATED

1.1 The foregoing recitals are incorporated herein by reference as though fully set forth.

2.0 SCOPE OF WORK

2.1 The PROJECT includes construction of an off-road trail along the south side of Plainfield Road from Lemont Road to Manning Road, striped bicycle lanes on Manning Road from Plainfield Road northwest to Fairview Avenue, striped bicycle lanes on Fairview Avenue from Manning Road north to 75<sup>th</sup> Street, an off-road trail on 75<sup>th</sup> Street from Fairview Avenue east to Quincy Street, a signed bicycle route on Quincy Street from 75<sup>th</sup> Street south to Executive Drive, and a signed bicycle route on Executive Drive from Quincy Street east to Madison Street, including that part of the PROJECT located within the corporate boundaries of the VILLAGE as shown on Exhibit A.

3.0 RESPONSIBILITIES OF THE COUNTY

3.1 The COUNTY shall be responsible for all preliminary and design engineering, right-of-way acquisition (if necessary), contractor and engineer selection, awarding of bids, permit processing, utility coordination, construction engineering and construction of the PROJECT in accordance with the construction Plans and Specifications for Greene Valley Spur East (75<sup>th</sup> Street East), Section 02-00001-

05-BT and federal grant requirements of the Surface Transportation Program as administered by the Illinois Department of Transportation.

- 3.2 The COUNTY shall submit the Plans and Specifications for the PROJECT to the VILLAGE for review and approval. The VILLAGE shall provide review comments within fourteen (14) days of receipt of the Plans and Specifications. The COUNTY will correct any errors and address other reasonable comments prior to the resubmittal of Plans and Specifications to the VILLAGE for approval. Approval of the Plans and Specifications shall not be unreasonably withheld by the VILLAGE and shall be provided within fourteen (14) days of resubmittal by the COUNTY. The COUNTY shall advise the VILAGE of a projected construction start date and shall give notice to the VILLAGE at least seven (7) days prior to beginning construction within the VILLAGE and shall further cooperate with the VILAGE regarding construction related issues affecting VILLAGE residents, including but not limited to, road closings.

The entire PROJECT cost is estimated to be approximately \$2,500,000.00 and will be the sole responsibility of the COUNTY with 75% construction funding provided through a FY03 Federal Surface Transportation Program federal grant as administered by the Illinois Department of Transportation.

- 3.3 Upon completion of the PROJECT, the COUNTY agrees to convey any real property interests acquired by the COUNTY for the VILLAGE'S portion of the PROJECT to the VILLAGE. The COUNTY shall be responsible for maintaining the improvements on that portion of the PROJECT located along roadways under the jurisdiction of the COUNTY.

#### 4.0 RESPONSIBILITIES OF THE VILLAGE

- 4.1 The VILLAGE hereby grants to the COUNTY, its employees, contractors and agents a right-of-entry for ingress and egress onto, over, under and above the VILLAGE'S property within the PROJECT limits for purposes of constructing the PROJECT.
- 4.2 Upon completion of the PROJECT, the right-of-entry shall terminate and the VILLAGE shall own and be responsible for maintaining the improvements on that

portion of the PROJECT located along roadways under the jurisdiction of the VILLAGE. The VILLAGE'S responsibility for maintaining the improvements on that portion of the PROJECT located within the VILLAGE'S jurisdiction, as shown on Exhibit A, shall not exceed the general responsibility that the VILLAGE has for maintaining its streets. The COUNTY shall be responsible for maintaining the improvements on that portion of the PROJECT located along roadways under the jurisdiction of the COUNTY.

- 4.3 The VILLAGE agrees to accept the property interests referenced in paragraph 3.3 above, and agrees to retain jurisdiction of those roadways within its corporate boundaries.

## 5.0 INDEMNIFICATION

- 5.1 The COUNTY shall to the extent allowed by law 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. The COUNTY does not hereby waive any defenses or immunity available to it with respect to third parties.
- 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. The VILLAGE does not hereby waive any defenses or immunity available to it with respect to third parties.
- 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, under this AGREEMENT 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 the 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 experts from defending any claims, suits, demands, proceedings and actions brought against them. The VILLAGE'S participation in its defense shall not remove the COUNTY'S duty to indemnify, defend, and hold the VILLAGE harmless, as set forth above.

5.5 Any indemnity as provided in this AGREEMENT shall not be limited by reason of any insurance coverage provided. The COUNTY'S indemnification of the VILLAGE shall terminate when the PROJECT is completed and the VILLAGE assumes its maintenance responsibilities as set forth in Section 4 above. The VILLAGE'S indemnification of the COUNTY shall terminate when the project is completed and the VILLAGE assumes its maintenance responsibilities as set forth in Section 4 above.

#### 6.0 ENTIRE AGREEMENT

6.1 This represents the entire AGREEMENT between the COUNTY and the VILLAGE with respect to the PROJECT, and supersedes all previous communication or understanding whether oral or written.

#### 7.0 NOTICES

7.1 Any notice required hereunder shall be deemed properly given to either the COUNTY or the VILLAGE to be notified at the time it is personally delivered or mailed by certified mail, return receipt requested, to the respective address below. The address of the COUNTY or the VILLAGE is as specified below; either the COUNTY or the VILLAGE may change its address for receiving notices by giving notices thereof in compliance with the terms of this subsection.

FOR THE VILLAGE

FOR THE COUNTY

Rick Ginex, Village Manager  
Village of Downers Grove  
801 Burlington Avenue  
Downers Grove, IL 60515

Charles F. Tokarski, P.E.  
County Engineer  
DuPage County  
Division of Transportation  
421 N. County Farm Road  
Wheaton, IL 60187

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 COUNTY or the VILLAGE in writing.

9.0 NON-ASSIGNMENT

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

10.0 GOVERNING LAW

10.1 This AGREEMENT shall be governed by the laws of the State of Illinois as to both interpretation and performance.

10.2 The forum for resolving any disputes concerning the respective performance, or failure to perform, of the COUNTY or the VILLAGE under this AGREEMENT, shall be the Judicial Circuit Court, Wheaton, Illinois.

11.0 FORCE MAJEURE

11.1 Neither the COUNTY nor the VILLAGE 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 or natural disasters.

Dated at Wheaton, Illinois this \_\_\_\_\_ day of \_\_\_\_\_,  
2004.

\_\_\_\_\_  
Robert J. Schillerstrom, Chairman  
DuPage County Board

ATTEST:

\_\_\_\_\_  
Gary A. King, County Clerk

Dated at Downers Grove, Illinois this \_\_\_\_\_ day of \_\_\_\_\_,  
2004.

\_\_\_\_\_  
Brian Krajewski, Mayor  
Village of Downers Grove

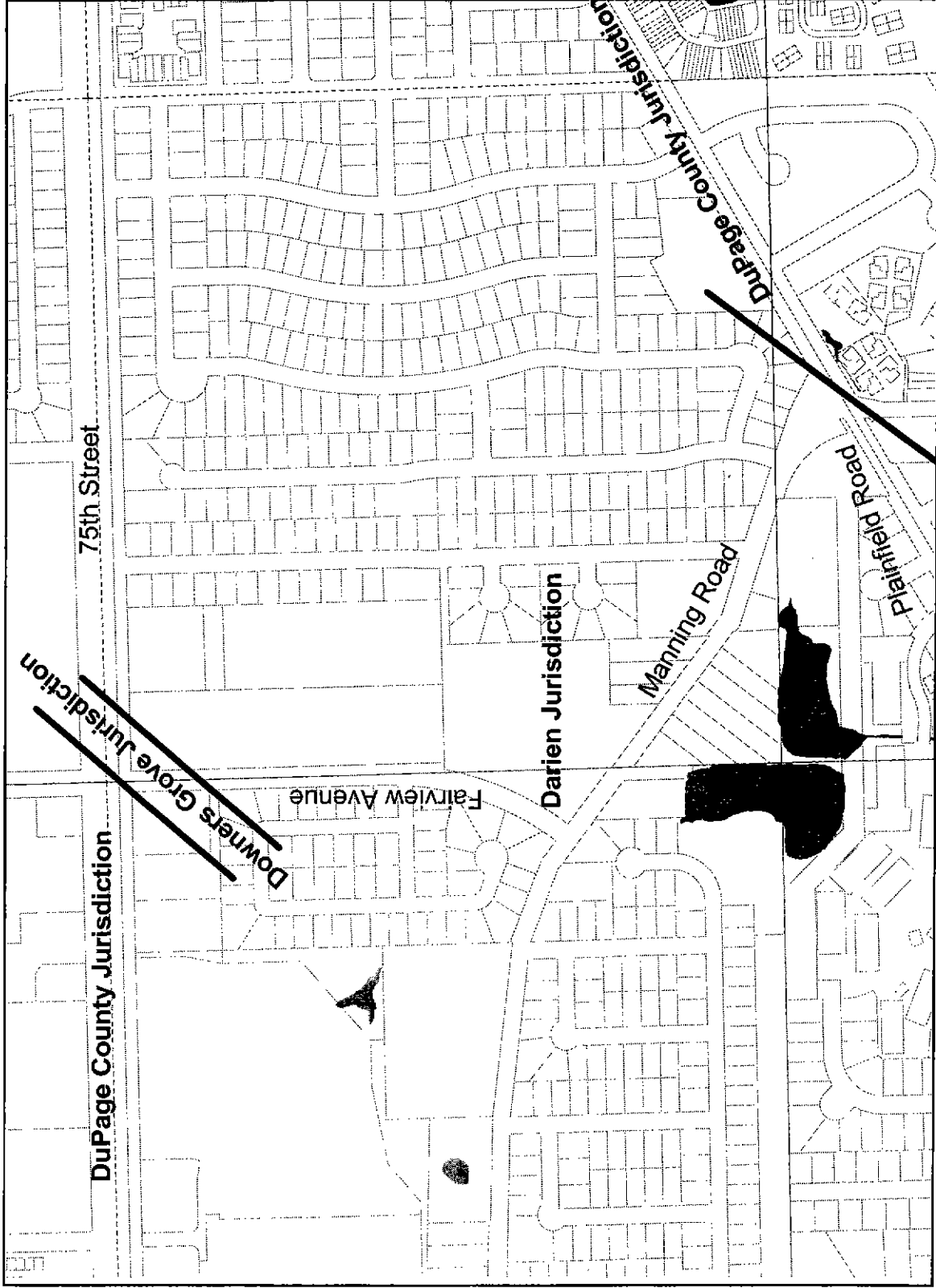
ATTEST:

\_\_\_\_\_  
April Holden, Village Clerk  
Village of Downers Grove

**EXHIBIT A**

Boundary Map

# Exhibit A - West Project Limits Southern DuPage County Regional Trail



- Legend**
- Parcel Boundaries
  - Plss Qtr. Sect. Bdys.
  - County
  - Township
  - Section
  - Qtr Section
  - Major Roads
  - County
  - Federal
  - Interstate
  - Local
  - State
  - Trail
  - Lakes, Water Bodies
  - Lake
  - Pond
  - River
  - Stream
  - Creek
  - Detention Pond
  - Ditch
  - Parcels

DuPage County Department  
of Economic Development  
and Planning

September, 2004

