



## MANAGER'S MEMO ITEM

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**ITEM:** Intergovernmental Agreement with DuPage County re: Water Shut-Off  
**WORKSHOP DATE:** October 25, 2005  
**PREPARED BY:** Ann Marie Perez, Assistant Village Attorney  
**BID AMOUNT:** \$ \_\_\_\_\_ **ACCOUNT:** \_\_\_\_\_  
**BUDGET AMOUNT:** \$ \_\_\_\_\_

**PURPOSE:** To recommend approval of the intergovernmental agreement between the Village and the County providing for the release of water consumption data to County for their calculation of sewer billing and further providing for the disconnection of water service based upon the non-payment of sewerage charges.

### **BACKGROUND:**

In some areas of the Village, we provide water service while the County of DuPage provides for sewer service. Each entity is entitled to set rates for said services. The 1972 federal act governing water pollution authorized County to implement a sewer user charge that is based upon water consumption data. The Village has been providing water consumption records to the County of DuPage for their sewer users since the 1980s. The Village is now asking that the fees charged to County for this service be increased. At the same time, County has requested that the Village provide an additional service. County is asking that on every delinquent sewer account, the Village shut off water usage to that premises until such time as the fees are paid or payment arrangements are made. This agreement for disconnection of water service is authorized pursuant to statute, specifically, 55 ILCS 5/5-12021.

In this agreement, County will pay the same \$36.00 per month that they had been paying for the water consumption data they receive. This amount will be increased on a yearly basis commensurate with the Consumer Price Index.

Also, this agreement provides the terms upon which the Village will discontinue water service for a premise based upon that premise's non-payment of sewer charges. For every disconnection the Village will charge the County \$42.00 and then for every resumption of water service, the Village will charge County \$42.00. In the event that water service remains disconnected at County's request past 60 days, the Village will be able to recoup lost water revenues as well as the other fees.

### **ATTACHMENTS:**

- Resolution Authorizing Execution of an Intergovernmental Agreement Between the County of DuPage, Illinois and the Village of Downers Grove for the provision of Water Consumption Data and For Discontinuation of Water Service on Delinquent Sewer Customers
- Intergovernmental Agreement Between the County of DuPage, Illinois and the Village of Downers Grove for the provision of Water Consumption Data and For Discontinuation of Water Service on Delinquent Sewer Customers

**STAFF RECOMMENDATION:**

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To approve and authorize execution of the Intergovernmental Agreement.

**REQUESTED COURSE OF ACTION:**

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Approve and authorize execution of the resolution and Intergovernmental Agreement at the November 1, 2005 Council Meeting.

RESOLUTION NO. \_\_\_\_

**A RESOLUTION AUTHORIZING EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF DUPAGE, ILLINOIS  
AND THE VILLAGE OF DOWNERS GROVE FOR THE  
PROVISION OF WATER CONSUMPTION DATA AND FOR DISCONTINUATION OF  
WATER SERVICE ON DELINQUENT SEWER CUSTOMERS**

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 water consumption data and provisions for the discontinuation of water service on delinquent sewer customers, 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 COUNTY OF DUPAGE,  
ILLINOIS AND THE VILLAGE OF DOWNERS GROVE FOR THE  
PROVISION OF WATER CONSUMPTION DATA AND FOR DISCONTINUATION OF  
WATER SERVICE ON DELINQUENT SEWER CUSTOMERS**

This Agreement, made this \_\_\_ day of \_\_\_\_\_, 2005 between the COUNTY OF DUPAGE, a body politic and corporate, with offices at 421 North County Farm Road, Wheaton, Illinois (hereinafter referred to as the County) and the Village of Downers Grove, a body politic and corporate, with offices at 801 Burlington Avenue, Downers Grove, Illinois (hereinafter referred to as the Village).

R E C I T A L S

WHEREAS, the Village of Downers Grove and the County of DuPage are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act", as specified in Illinois Statute, 5 ILCS 220/1 *et seq.*, and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois: and

WHEREAS, the purposes of the "Intergovernmental Cooperation Act" and Article 7 of the Constitution of the State of Illinois include fostering cooperation among governmental bodies; and

WHEREAS, the County and the Village are authorized to contract between each other to obtain or share services or exercise, combine or transfer any power or function in any manner not prohibited by law or by ordinance; and

WHEREAS, the Federal Water Pollution Control Act Amendments of 1972 mandate the County to adopt and implement a Sewer User Charge Ordinance that is based upon water consumption data; and

WHEREAS, the County has adopted a Sewer User Charge Ordinance which recognizes that water consumption is a reasonable measure of sewer usage; and

WHEREAS, the Village operates a water supply and distribution system and it is necessary that water consumption data be provided by the Village subject to the terms and conditions hereinafter set forth; and

WHEREAS, the Village, by providing the meter readings to the County, incurs an incremental cost to said water meter program for the actual costs of providing the data to the County as well as other costs related thereto; and

WHEREAS, the Village has been providing water consumption records to the County since the 1980's and now desires to increase the fees charged for providing the water consumption records; and

WHEREAS, the County desires that the Village continue to provide water consumption records to the County for the accounts common to the service areas of both parties.

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 RECITALS INCORPORATED**

- 1.1 All recitals set forth above are incorporated herein and made part hereof, the same constituting the factual basis for this Agreement.
- 1.2 The headings of the paragraphs and subparagraphs of this Agreement are inserted for convenience of reference only and shall not be deemed to constitute part of this Agreement or to affect the construction hereof.

## **2.0 WATER CONSUMPTION RECORDS**

- 2.1 The Village shall provide to the County the water consumption records of those users common to the service areas of both parties as defined in the County's User Charge Ordinance. "Water consumption records" are defined for the purpose of this Agreement as being water meter readings performed on a regular cycle, final readings and accompanying forwarding addresses, if available, for users discontinuing service; names, addresses and accounts for new users; name changes of existing users; meter reading corrections; inactive or pulled meters, new meters, and such other information as may be necessary to determine correct water consumption amounts and the name and address of the user billed for the water consumption. The records shall continue to be provided on a computer medium, if the County has a system capable of accepting such, and a printed copy on blue bar paper. Data shall be furnished to the County by the Village not more than thirty-five (35) calendar days after the date the data is obtained by the Village.
- 2.2 Requests by the County to change the current paper copy method for submitting the data, or for special services, shall be submitted in writing to the Village. The County shall be billed on a time and material basis for the alternations or special services at the hourly rates for the Village staff implementing the request, plus thirty percent (30%) for overhead, or at the actual cost if the work is performed by outside consultants.
- 2.3 The Village is in the process of procuring a new financial software program that may allow for a change in the method of delivery and/or may change the layout of the information provided. However, the Village shall give at least sixty (60) days notice of the alteration by providing to County a copy or sample of said proposed alteration. The Village shall not charge the County for alterations initiated by the Village. In the event, the County and Village computer systems become more compatible due to the change in the Village's software and an alternate method for delivery of information becomes available, such as through email, the Village will not charge the County for this alteration.
- 2.4 The Village agrees to provide, at no charge, such reasonable and timely assistance to the County as may be required to locate information and to answer or resolve questions or errors that may arise with respect to water consumption records furnished by the Village hereunder. The County agrees to cooperate with the Village to provide at no charge, such

reasonable and timely assistance as may be required to implement the terms of this Agreement.

- 2.5 The Village shall maintain all necessary and appropriate records for adequate accounting to enable the County to cause an annual audit under this agreement to be made for the purpose of verifying the number of customers and water consumption data provided. However, in order to obtain any verification information, the County shall provide a list of accounts to the Village. The Village will be able to verify whether the user has a new electronic meter or whether it is an estimated read meter. The Village does not warranty any accuracy for estimate readings since, by definition, it is an estimate.
- 2.6 The Village shall submit a monthly statement to the County on such forms and invoices as are customarily used by the Village. Such statements shall be submitted to the County on or before the tenth of the month following the month to which such statement relates. The County shall pay to the Village the amount stated therein, not less than thirty (30) days after receipt by the County of each monthly statement. The monthly statement shall include the sum of thirty-six dollars (\$36.00) which shall be compensation for the Village's transmittal of water consumption records to the County. Additionally, based upon requests made by County, the monthly statement may include any special request or services pursuant to paragraph 2.2, above, and/or any requests for disconnection or resumption of water service. Finally, the monthly statement may include lost water service revenues as provided below. Said billing shall begin with services provided for the month of November, 2005. The compensation amount for submittal of water consumption records provided in this paragraph shall be increased each year based on the annual change in the CPI-U for the preceding calendar year. CPI-U shall mean the Consumer Price Index for all categories of goods for all urban consumers for the Chicago area as published by the U.S. Department of Labor.

### **3.0 DISCONTINUANCE OF WATER SERVICE**

- 3.1 The County shall not request the Village to discontinue water service until the County has given the sewer user notice of the delinquency in accordance with the notice requirements under state law and the County's ordinances and further granting the sewer user the opportunity to be heard and to appeal the County's decision in accordance with County's ordinances
- 3.2 The Village shall promptly forward to the County all complaints, correspondence, inquiries and communications from any County sewer users. The Village shall have no obligation to reply, respond, communicate or otherwise correspond to any County sewer user. The Village shall not be responsible for collecting any monies for the County, however, in the unlikely event the Village receives monies for County sewer use, the Village shall promptly turnover to County those monies.

- 3.3 The County shall provide the Village a seven (7) day written notice for each request for discontinuance of water service, listing each address. Shut offs shall only occur during standard operating hours. The Village shall advise the County if water service cannot be discontinued and the reason therefore.
- 3.4 In addition to any other fees or compensation provided for in this Agreement to be paid by the County to the Village, the County shall reimburse the Village for the Village's cost of performing any water service disconnection and the subsequent resumption of water service. Any disconnection or resumption that occurs during the standard operating hours of 7:00 a.m. and 4:00 p.m. Monday through Friday, legal holidays excepted, the Village shall bill County the amount of Forty-two Dollars (\$42.00) per disconnection and, then, forty-two dollars (\$42.00) per resumption of water service. Any requests for water disconnection or resumption to occur after standard operating hours shall incur a fifty-five dollar (\$55.00) after hours fee. There will be no reconnect service available between Friday 4:00 p.m. and Monday 7:00 a.m. Water reconnection service will only occur if the resident is on the premises. In the event that any County requested water disconnection remains in effect for sixty (60) consecutive days, County shall reimburse the Village for any lost water service revenues. Such compensation shall be determined by the water consumption history of the premises that is disconnected. The water service disconnection and resumption fees provided in this paragraph shall be increased each year based on the annual change in the CPI-U for the preceding calendar year. CPI-U shall mean the Consumer Price Index for all categories of goods for all urban consumers for the Chicago area as published by the U.S. Department of Labor.

#### **4.0 INDEMNIFICATION**

- 4.1 The Village shall indemnify, hold harmless and defend the County or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expenses 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 performance under this Agreement to the fullest extent the Village is so authorized under the law, provided, however, that the Village shall not be obligated to indemnify, hold harmless and defend the County for any negligent or intentional wrongful acts or omission by County officials, employees, agents, contractors or personnel.
- 4.2 To the extent permitted by law, the County shall indemnify, hold harmless and defend the Village or any of its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expenses 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 requests for water service disconnection under this

Agreement, provided, however, that the County shall not be obligated to indemnify, hold harmless and defend the Village for any negligent or intentional wrongful acts or omission by Village officials, employees, agents, contractors or personnel.

**5.0 AMENDMENT OR MODIFICATION OF THIS AGREEMENT**

5.1 The parties may modify or amend terms of this Agreement only by a written document duly approved and executed by both parties.

**6.0 EFFECTIVE DATE**

6.1 This Agreement shall become effective upon the date fully executed by the parties. This document shall be automatically renewed on a yearly basis, unless and until termination notice is given by one party to the other as provided for below.

**7.0 ENTIRE AGREEMENT**

7.1 This Agreement represents the entire agreement between the County and Village and supersedes all prior negotiations, representations or agreements, either written or oral.

**8.0 AGREEMENT BINDING**

8.1 This Agreement shall be binding upon the parties and their respective transferees, successors, and assigns.

**9.0 NOTICES REQUIRED UNDER THIS AGREEMENT**

9.1 Any notice required by the provision of this Agreement shall be mailed to:

Village of Downers Grove  
C/O Rita Trainor  
Director of Financial Services  
801 Burlington Avenue  
Downers Grove, IL 60515

DuPage County Department of Public Works  
C/O Karen Wilson  
Financial Services Manager  
7900 S. Route 53  
Woodridge, IL 60517

9.2 All notices required to be given under the terms of this Agreement shall be in writing and either (a) served personally during regular business hours; (b) served by facsimile transmission during regular business hours; or (c) served by certified or registered mail, return receipt requested, properly addressed with postage prepaid. Notices served personally or by facsimile transmission shall be effective upon receipt, and notices served by mail shall be effective upon receipt as verified by the United States Postal Service. Each party may designate a new location for service of notices by serving notice thereof in accordance with the requirements of this Paragraph, and without compliance to the amendment procedures set forth in Paragraph 5.1.

**10.0 SEVERABILITY**

10.1 The invalidity or enforceability of any of the provision of this Agreement shall not affect the validity or enforceability of the remainder of this Agreement.

**11.0 GOVERNING LAW**

11.1 The laws of the State of Illinois shall govern this Agreement as to both interpretation and performance.

**12.0 TERM OF THIS AGREEMENT**

12.1 The Agreement may be cancelled by either party without premium or penalty of any kind by giving the other party notice of such cancellation not less than thirty (30) days prior to the effective date of cancellation.

12.2 It is expressly understood that if a governmental or legislative body other than the parties herein enacts any law or statute which prohibits or has the effect of prohibiting either party from complying with this Agreement, then this Agreement shall automatically terminate.

12.3 Neither party shall be deemed in violation of this Agreement for the delay in that party's performance or failure to perform in whole or in part its obligations under this Agreement due to strike, work stoppages, war or act of war (whether or not an actual declaration is made), insurrection, riot, act of public enemy, fire, flood, or other act of God or by other events to the extent that such events are caused by circumstances beyond the party's control. In the event that the delay in performance or failure to perform affects only a part of either party's capacity to perform its obligations under this Agreement, then such party shall perform such obligations under this Agreement to the extent it is able to do so in as expeditious a manner as possible.

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

COUNTY OF DUPAGE

VILLAGE OF DOWNERS GROVE

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

\_\_\_\_\_  
Brian J. Krajewski  
Mayor

ATTEST:

ATTEST:

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

\_\_\_\_\_  
April Holden, Village Clerk