



AGENDA ITEM # 17A

**AGENDA ITEM EXECUTIVE SUMMARY
Village Board Meeting
August 13, 2018**

Item Title: Intergovernmental Cooperation Agreement

Staff Contact: Jeffrey D. O'Dell, Village Administrator

VILLAGE BOARD ACTION

Consider a staff recommendation for the Village to enter into an Intergovernmental Cooperation Agreement with the Roselle Public Library District.

Executive Summary:

Several years ago, the Village entered into an Intergovernmental Cooperation Agreement (ICA) with the Roselle Public Library District allowing the Library to install, operate, and maintain its message sign in the right of way along Park Street. The ICA constitutes a license and not an easement and provides the Library the authority to occupy the Village's right of way to install and maintain the message sign for a term of 20 years.

More recently, the Library's Executive Director has met with me on several occasions to renew discussions on the installation of a new drive up book return box to be located on the island in the center of Elm Court. As you know, patrons using the Library must park their car and walk up to the front of the Library facility to return books to the book return box. This is inefficient and causes vehicles to clog up the drive lane around the island on Elm Court.

In a continued effort to promote intergovernmental cooperation between the Village and Library, the Library's Executive Director and myself are recommending our respective Boards consider a new ICA for the purpose of creating more efficiencies in Library operations while eliminating a hazardous situation for drivers and pedestrians when patrons are using the existing book return box near the front door of the Library facility. The attached ICA is identical to the agreement used for the message sign but has been modified to reflect the Library's request to occupy the Village's right of way on Elm Court. Those modifications are as follows:

- The term of the agreement is 10 years, not 20 years as outlined in the previous agreement.

- The Library, at its expense, shall order, purchase, and maintain the drive up book box.
- The Village, at its expense, shall install the concrete pad used to mount the drive up book box and construct/install the box.
- The Library shall maintain the drive up book box in conformance with all applicable Village property maintenance and building codes.

As you also know, the Roselle Sister Cities Association has donated \$1,500 to the Village towards its reforestation effort. The Association would like the Village to use a portion of those funds to plant a new tree in the in the Elm Court island to replace the previous tree which was removed earlier this summer. The Village's Forestry Superintendent has met with the Library Executive Director and me and has recommended a tree species that would be planted sometime this fall when the weather is more conducive to planting trees. In addition, the Friends of the Library may be interested in donating a small sign for the island denoting the donation and cooperation between both the Library and Village.

Implications:

Is this item budgeted? N/A

Any other implications to be considered? Village staff will continue to meet with Library staff to discuss additional intergovernmental cooperative efforts such as shared services for snow removal and landscaping maintenance and shared use of the Library's parking lot adjacent to Park Street.

Attachments:

Intergovernmental Cooperation Agreement

**INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE VILLAGE OF ROSELLE
AND THE ROSELLE PUBLIC LIBRARY DISTRICT (RIGHT OF WAY DRIVE UP
BOOK RETURN)**

This Intergovernmental Cooperation Agreement (“Agreement”) made and entered into as of this ___ day of _____, 201_, by and between the **VILLAGE OF ROSELLE**, an Illinois non-home rule municipal corporation (hereinafter referred to as the “Village”) and the **ROSELLE PUBLIC LIBRARY DISTRICT**, (hereinafter “Library”). From time to time, this Agreement may refer to the Village and Library individually as a “Party” or together as “Parties”.

Preambles

WHEREAS, the Village and Library are public agencies, as those terms are defined in the Intergovernmental Cooperation Act, 5 ILCS 220/2 and the Illinois Constitution; and

WHEREAS, the Village has adopted ordinances controlling the appurtenances located in the public right of ways; and

WHEREAS, the Library, owns, operates, controls and manages the facility commonly known as the Roselle Public Library (hereinafter “Library Facility”) located at 40 S. Park Street in Roselle, Illinois; and

WHEREAS, the Library has contacted the Village to determine whether the Village will allow the erection and maintenance of a drive up book return for the use and benefit of the Library, in public right of way owned and controlled by the Village; and

WHEREAS, the Library Facility is located across the street from a proposed drive up book return; and

WHEREAS, based upon this specific location of the proposed drive up book return the Corporate Authorities of the Village have no objection to its use subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Village has reviewed the terms and conditions set forth in this Agreement, with regard to the operation of the drive up book return, and finds them reasonable, appropriate, and compatible with the concept of intergovernmental cooperation and comity; and

WHEREAS, the Village and the Library desire to establish standards for the operation of the drive up book return so as not to constitute an unnecessary or hazardous distraction to drivers and pedestrians in the area of the drive up book return; and

WHEREAS, the Village and Library acknowledge, by entering into this Agreement, that there are benefits for the citizens of Roselle when mutually compatible uses of their contiguous

properties are promoted through intergovernmental cooperation implemented by intergovernmental agreement.

Now, therefore, in consideration of the mutual promises contained herein and of their good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals** The recitals contained in the foregoing Preamble are incorporated into this Agreement and made a part hereof, as representing the intent of the parties and where applicable a substantive provisions herein, and all covenants, terms, conditions and provisions hereinafter contained shall be interpreted and construed in accordance therewith.

2. **Installation Allowed** Village of Roselle hereby grants a license, upon the submission of applicable permitting application documents by the Library to the Village, to allow the installation of a drive up book return to be located in the Public Right of Way of Elm Court adjacent to the Library Facility. The type and dimensions of the drive up book return are attached hereto and incorporated herein as it fully set forth in Exhibit "A". The location of the drive up book return is depicted on the Exhibit attached hereto and incorporated herein as it fully set forth in Exhibit "B".

3. **Terms of Installation and Maintenance** The drive up book return shall be maintained, managed and operated by the Library in conformance with the following requirements:

A. The Library, at its expense, shall be responsible for ordering, purchasing, and having the drive up book return delivered to the Village's Public Works Department.

B. The Village, at its expense, shall install the concrete pad used to mount the drive up book return in the island on Elm Court located across from the Library Facility.

C. The Village's Public Works Department shall construct and install the new drive up book return on the concrete pad in the island of Elm Court.

D. The Library shall maintain the drive up book return in conformance with all applicable Village property maintenance and building codes and further insure that the book drop box is maintained in very good condition, is structurally sound and free of graffiti.

4. **Termination of Agreement** Except as qualified in Section 5 of this Agreement, the authority to install and maintain the drive up book return shall be for a period of ten (10) years from the date of approval of this Intergovernmental Agreement by the Village. The Agreement may be extended by mutual agreement between the parties. If at the end of the ten (10) years, the Village does not notify the Library of its intent to withdraw its authority under this Agreement, the authorization set forth herein shall be extended for 1 year periods from the

anniversary date of the approval of this Agreement by the Village until notification of termination of authority by the Village to the Library. Where notification of termination occurs within a 1 year extension period the authorization will terminate upon the next anniversary date.

5. **License** This agreement constitutes a license and not an easement or lease. If any court interprets this document as an easement or leasehold it shall be temporary having a duration of only 7 calendar days only from the date of such interpretation. The Corporate Authorities of the Village upon 30 days written notice to the Library may terminate this license if they determine based on one or more casualty events proximately resulting from the presence of the drive up book return in the right of way that the drive up book return constitutes an unreasonable risk of harm to persons or upon one hundred twenty (120) days written notice if the Corporate authorities determine that the license should be terminated in the exercise of their policy discretion.

6. **Indemnification** The Library on behalf of itself, its agents and assigns hereby agrees to the greatest extent permitted by Illinois law to defend, indemnify and hold harmless the Village, its elected and appointed officials, employees, agents, and assigns from any and all claims, demands, actions, causes of action, injuries, deaths, judgments, settlements, and costs (including reasonable attorneys and expert consultant's fees) related to the presence of the drive up book return on the right of way. Nothing in this section or Agreement shall constitute a waiver or release of any privilege or immunity provided either Party under Illinois law nor are there any intended third party beneficiaries of this Agreement.

7. **Insurance**

A. The Library shall procure and maintain, for the duration of the Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Library, agents, representatives, employees or subcontractor. Insurance shall be placed with insurers licensed to do business in the State of Illinois. The Library shall be responsible for payment of all policy deductible and shall maintain limits no less than the following:

i. Workers' Compensation and Employers' Liability: Workers' Compensation coverage with statutory limits and Employers' Liability limits of \$500,000 per accident.

ii. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, and property damage and \$1,000,000 per occurrence for personal injury. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000.

iii. Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

iv. An Umbrella Insurance Policy in an amount not less than \$1,000,000 per occurrence.

B. The Library shall cause the Village, its officials, agents, employees and volunteers to be covered as additional insured as respects to: liability arising out of the Library's work, including activities performed by or on behalf of the Library; products and completed operations of the Library; premises owned, leased or used by the Library; or automobiles owned, leased, hired or borrowed by the Library. The coverage shall contain no special limitations on the scope of protection afforded to the Village, its officials, agents, employees and volunteers.

C. The Library's insurance coverage shall be primary as respects to the Village, its officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the Village, its officials, agents, employees and volunteers shall be excess of the Library's insurance and shall not contribute with it.

D. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officials, agents, employees and volunteers.

E. The Library shall furnish the Village with certificates of insurance naming the Village, its officials, agents, employees and volunteers as additional insured, and with original endorsements affecting coverage required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

F. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Village.

G. The Library shall assume liability for all injury to or death of any person or persons including employees of the Library, any sub-contractor, any supplier or any other person and assumes liability for all bodily injury and property damage sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this Agreement.

H. In the event of accidents of any kind (including injuries to the Library's employees), which involve the general public, and/or private or public property, the Library shall immediately notify the Village Administrator's Office and shall provide a full accounting of all details of the accident. The Library shall furnish the Village with copies of all reports of such accidents at the same time that the reports are forwarded to any other interested parties.

I. The Library shall provide proof of insurance as required by this section to the Village Administrator, of his designee, prior to commencement of the work under this Agreement. The Library shall also provide the Village Administrator, or his designee, with any change in insurers' providing insurance required by this section.

8. **Contractor Insurance** The Library shall require any Contractor it hires to maintain or repair the drive up book return to carry commercial liability insurance in an amount no less than Paragraph 7 (ii) of this Agreement and to name the Village as an additional insured under that policy for operations the Contractor undertakes in the Village's right of way.

9. **Miscellaneous** The descriptive headings of the various sections or parts of this Agreement are for convenience only. They shall not affect the meaning or construction or be used in the interpretation of this Agreement or any of its provisions.

A. This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois and both the Village and the Library agree to submit to the jurisdiction of the courts of Illinois any dispute regarding this Agreement. The exclusive venue for such purposes shall be the Circuit Court for the 18th Judicial Circuit, DuPage County, Illinois.

B. The Parties have had the opportunity to freely negotiate and cooperate in the drafting and preparation of this Agreement, and in any interpretation or construction of this Agreement or any word, clause or provision herein, the same shall not be construed against any Party on the basis that the Party was the drafter.

C. If any clause, phrase, provision or portion of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable under applicable law, such event shall not affect, impair, or render invalid or unenforceable the remainder of this Agreement, nor any other clause, phrase, provision or portion thereof, nor shall it affect the application of any clause, phrase, provision or portion hereof to other persons or circumstances.

D. This Agreement supersedes all prior agreements and understandings, both written and oral, of the Parties with respect to the subject matter hereof. This Agreement may be modified or amended only with the express written approval of both Parties dated subsequent to the date of this Agreement.

E. This Agreement is not and shall not be binding upon either Party unless and until executed by both Parties. The Agreement may be executed in counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.

F. Subject to the provisions regarding assignment, this Agreement shall be binding upon, and inure to the benefit of the successors-in-interest of the Parties.

G. The Parties acknowledge that this Agreement was freely negotiated by each of the Parties hereto and accordingly shall be construed according to the fair meaning of its terms, and not against any Party.

H. Nothing contained in this Agreement is intended to create, or shall be construed as creating, a partnership, joint venture or any similar relationship between the Parties.

IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Cooperation Agreement as of the day and year first above written.

VILLAGE OF ROSELLE

ROSELLE PUBLIC LIBRARY DISTRICT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title _____

ATTEST:

ATTEST:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title _____