

RESOLUTION
DC 0001-12

**INTERGOVERNMENTAL AGREEMENT BETWEEN COMMUNITY
COLLEGE DISTRICT NO. 502, THE VILLAGE OF GLEN ELLYN AND THE
COUNTY OF DUPAGE FOR THE TRANSFER OF CERTAIN REGULATORY
CONTROL OVER THE COLLEGE OF DUPAGE CAMPUS, GLEN ELLYN,
ILLINOIS.**

WHEREAS, the Village of Glen Ellyn (“Village”), Community College District No. 502 (“College”) and the County of DuPage (“County”) are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act," and as authorized by Article 7, Section 10 of the Constitution of the State of Illinois to cooperate for public purpose; and

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

WHEREAS, the College, the County and the Village (collectively the “parties”) are committed to acting in the best interests of the citizens of their respective and collective communities; and

WHEREAS, the College is a unit of local government, which owns and operates a campus of over 270 acres, (“Campus”), which is currently located within the corporate boundaries of the Village; and

WHEREAS, the Campus is also located within the boundaries of the County; and

WHEREAS, the College and the Village have had disagreements with regard to the jurisdiction of authority over certain regulations, such as building codes, zoning and sign codes, which disagreements have resulted in litigation, namely, 2010 CH 356, pending in the Eighteenth Judicial Circuit Court, DuPage County (the “Litigation”); and

WHEREAS, the parties have determined that transferring the administration of Village regulations from the Village to the County would facilitate and improve the administration and enforcement of those ordinances and further resolve the Litigation; and

WHEREAS, the parties are willing to take such actions as are required to enable the County to administer and enforce certain ordinances, by direct jurisdiction or through the Village’s adoption thereof, over the College’s Campus; and

WHEREAS, the County has qualified personnel and resources sufficient to administer and enforce certain ordinances with respect to the College's Campus in accordance with the attached Intergovernmental Agreement, ("Agreement"); and

WHEREAS, the COUNTY agrees to administer and enforce such ordinances over the College's Campus in accordance with the attached Agreement and to otherwise facilitate resolution of the Litigation in accordance with the mediated settlement between the Village and College; and

WHEREAS, the DuPage County Board has reviewed the attached Agreement and has determined that entering into it would be in the best interest of the County, the County's residents and the respective residents or the Village and College.

NOW THEREFORE, BE IT RESOLVED by the DuPage County Board that the attached Agreement between the Village of Glen Ellyn, Community College District No. 502 and the County of DuPage is hereby accepted and approved and that the Chairman of the DuPage County Board is hereby authorized and directed to execute the Agreement on behalf of the County; and

BE IT FURTHER RESOLVED that the DuPage County Clerk be directed to transmit certified copies of this Resolution and the attached Agreement to the Village of Glen Ellyn, 535 Duane Street, Glen Ellyn, Illinois 60137; Stewart Diamond, Esq., Ancel, Glink, 140 S. Dearborn Street, Chicago, Illinois 60603; Kenneth Florey, Esq., Robbins Schwartz, 55 W. Monroe Street, Chicago, Illinois 60603; Community College District No. 502, 425 Fawell Blvd., Glen Ellyn, Illinois 60137; and Assistant State's Attorney Anthony Hayman.

Enacted and approved this ____ day of _____, 2012 at Wheaton, Illinois.

Daniel Cronin, Chairman
DuPage County Board

ATTEST:

Gary A. King, County Clerk

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COLLEGE OF DU PAGE, THE COUNTY OF DU PAGE, AND
THE VILLAGE OF GLEN ELLYN**

WHEREAS, the College of DuPage, the County of DuPage and the Village of Glen Ellyn (collectively the “parties”) are committed to acting in the best interests of the citizens of their respective and collective communities; and

WHEREAS, the College of DuPage, Community College District #502 (“College”) is a unit of local government, which owns and operates a campus of over 270 acres, (“Campus”), which is currently located within the corporate boundaries of the Village of Glen Ellyn, (“Village”)(a list of the Parcel Identification Numbers for each Campus parcel and an aerial photograph [or map] delineating the properties comprising the Campus is attached and incorporated hereto as Exhibit A); and

WHEREAS, the College and the Village have had disagreements with regard to the jurisdiction of authority over certain regulations, such as building codes, zoning and sign codes, which disagreements have resulted in litigation, namely 2010 CH 356 pending in the Eighteenth Judicial Circuit Court, DuPage County (the “Litigation”); and

WHEREAS, the parties have determined that transferring Village regulatory control and authority as described below from the Village to the County of DuPage (“County”), would facilitate and improve the administration and enforcement of those matters; and

WHEREAS, the parties are willing to take such actions as are required to enable the County to administer and enforce certain County ordinances, by direct jurisdiction or through the Village’s adoption thereof, over the College’s Campus; and

WHEREAS, the County agrees to administer and enforce certain regulatory ordinances with respect to the College’s Campus in accordance with this Intergovernmental Agreement, (“Agreement”), and to otherwise facilitate resolution of the Litigation which was mediated to settlement on February 7, 2012 (A copy of the Mediation Agreement [or any subsequent court order or agreement] is attached and incorporated hereto as Exhibit B); and

NOW, THEREFORE, under the authority possessed by the College, the County and the Village, under the provisions of the Illinois State Constitution and Illinois statutes and the power of the Circuit Court of DuPage County to order parties to take action as part of a settlement of filed lawsuits, and in consideration of the benefits achieved by all of the parties, which constitutes adequate consideration for an intergovernmental agreement, the parties do agree, as follows:

1. In accordance with Illinois law, the Village shall take immediate action to transfer to the County, and the County shall assume administrative and regulatory control

over the Campus as if the Campus were unincorporated property except for ordinances related to taxation, roadways, traffic control and police protection (including specifically, but not limited to, routine police patrols and investigating criminal conduct) over which the Village shall retain jurisdiction. The Glen Ellyn Fire Company shall also retain jurisdiction with regards to life safety code enforcement so long as the College seeks first responder fire protection services from the Village. The County shall not accept any additional Village delegations of administrative and regulatory control, which it has not expressly requested. The Village and County agree to take such further action as the County deems necessary or prudent, including the Village's adoption of County ordinances and subsequent amendments thereto, applicable only to the Campus, in order to implement the mediated settlement and this Agreement. The College agrees to accept County regulatory control and authority, and direct jurisdiction as applicable, over the Campus property and any buildings, structures or uses located thereon, but the College may seek variations, amendments or other forms of relief from the applicable regulations as permitted under state law or applicable ordinance. The County shall not delegate any of the regulatory responsibilities back to the Village during the term of this Agreement except in the event of a termination in accordance with Paragraph 7.

2. The County shall promptly adopt zoning regulations with respect to the College and Campus, and any future developments. Until new zoning regulations have been adopted, the College agrees to abide by the applicable County zoning classification, R-1, as established by law, and the County agrees to utilize said classification, as necessary, in its administration and enforcement of all other regulations until new zoning regulations are adopted.

3. The College recognizes and agrees that any requests for supplemental police protection by, or mutual assistance from, the DuPage County Sheriff or other municipality shall be addressed in a separate agreement or compact and that no such obligations arise under this Agreement.

4. The College agrees to pay the County all permit fees and for all reviews, inspections and other services performed by the County at the fee, rate or charge assessed the public for such fees and services per the County's adopted fee schedules. The College and County may agree to a different fee arrangement but unless and until otherwise agreed upon, such amounts shall be paid by the College in accordance with the preceding sentence.

5. Upon request, and at no charge to the County, the Village and College shall timely provide the County, or the County's contractors or vendors, copies in their possession of all permitting applications, technical and engineering submittals, design plans, review comments or notes and inspection reports for any pending Campus projects, including the BIC East project.

6. This Agreement shall be in full force and effect from the date at which the last of the Corporate Authorities of the three parties shall authorize its execution, ("effective date") which may take place in multiple counterparts.

7. The initial term of this Agreement shall be for five (5) years from the date set forth in Paragraph 6, above, (“Initial Term”) and shall remain in full force and effect unless otherwise terminated by the County in accordance with this paragraph due to a breach. Following the Initial Term, this Agreement shall automatically renew on the fifth anniversary of its effective date for successive five (5) year terms (individually “Subsequent Renewal Term”) without the need for further action by the parties. However, the College or Village may terminate this Agreement by giving written notice to the other parties not less than one (1) year prior to the expiration date of the Initial Term, or of any Subsequent Renewal Term, in which event this Agreement shall not automatically renew and shall terminate on the expiration date of the then current term. Such termination (non-renewal) notice shall be accompanied by a resolution or ordinance by that party’s governing board declaring that party’s intention to terminate this Agreement. Except in the event of a breach, as provided for below, the County may terminate this Agreement at any time after completion of the Initial Term. The County shall give not less than ninety (90) days written notice to the other parties of its intent to terminate, whereupon the Agreement shall terminate on the later date of either: (i) the ninety-first (91st) day following said notice; or, (ii) the expiration date of the Initial Term; unless the parties agree to a different termination date. The parties agree that, in the event of a termination, the County shall retain jurisdiction and authority over any work, construction, alteration, remodeling, demolition or relocation of any building, structure or improvement (project) commenced prior to the termination notice. In those cases, County jurisdiction over a project shall continue in full force and effect until the County issues final approval for the project in the manner specified in the applicable ordinance(s), unless the parties agree otherwise. Notwithstanding the foregoing, the County may terminate this Agreement at any time, after giving not less than seven (7) days written notice to the other parties, in the event that the County determines that any party has materially breached this Agreement and the breaching party fails to cure or remedy such breach within a reasonable time after receiving notice of such breach. The decision of the County regarding the existence of a breach, or whether such breach has been remedied or cured, shall be in the County’s sole discretion and shall be accepted by all parties. In the event of any termination of this Agreement Paragraph 9, below, shall control.

8. The Village and College agree to indemnify, defend and hold the County harmless, jointly and severally, from any claim, demand or lawsuit which challenges any party’s authority to enter into this Agreement, or any party’s authority to do any act contemplated herein, or the Village’s enactment of any regulation applicable to the Campus. In the event the County makes a written claim to be indemnified or defended, the obligations of the Village and the College shall commence. Provided, however, that if a claim is made and while such claim is in effect, any party may terminate this Agreement and give seven (7) days written notice thereof to the other parties. The County may, at its discretion, either suspend its performance under this Agreement while any such claim, demand or litigation is pending or terminate this Agreement in such case Paragraph 9, below, shall control. The County’s exercise of this contingency shall be effective after giving the other parties seven (7) days written notice. The Village and the College shall be obligated under this paragraph for their obligations arising out of any act

or omission by the County prior to the effective date of the termination of this Agreement. The Village's and the College's obligations under this paragraph shall survive such termination. Further, the County may defend through the selection and use of its own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against it. Pursuant to Illinois law, the attorney representing the County under this paragraph shall be the State's Attorney. The County's participation in its defense shall not relieve the other parties' duty to indemnify, defend, and hold the County harmless, as set forth above. The County does not waive, by these indemnity requirements, any defenses or protections under the Local Government and Governmental Employees Tort Liability Act (745 ILCS 10/1 et seq.) or otherwise available to it under the law.

9. If this Agreement is terminated, or suspended, at any time, as provided in this Agreement or otherwise, then the College and Village shall return to the Circuit Court to determine if they can mediate any then current disputes under the law then in force. If mediation should fail, then the provisions of Section 6 of the previously mediated agreement between the College and Village shall govern.

COLLEGE OF DUPAGE

By: _____ Date: _____
Chairman

Attest: _____
Secretary

COUNTY OF DUPAGE

By: _____ Date: _____
Chairman

Attest: _____
County Clerk

VILLAGE OF GLEN ELLYN

By: _____ Date: _____
President

Attest: _____
Village Clerk

EXHIBIT A

Exhibit A

LEGAL DESCRIPTION OF COLLEGE OF DUPAGE

THAT PART OF THE NORTHEAST QUARTER OF SECTION 27 AND PART OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 26; THENCE NORTH 89°26'46" EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26, ALSO BEING THE SOUTH LINE OF RAINTREE APARTMENT ASSESSMENT PLAT PER DOCUMENT NUMBER R69-008068 AND THE SOUTH LINE OF GREENBRIAR PLACE CONDO'S (1ST AMEND.) PER DOCUMENT NUMBER R2002-336765, A DISTANCE OF 1,345.12 FEET TO A POINT ON THE WESTERLY LINE OF RAINTREE UNIT 3 PER DOCUMENT NUMBER R71-43671; THENCE SOUTH 00°06'09" EAST ALONG SAID WESTERLY LINE, A DISTANCE OF 327.89 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID RAINTREE UNIT 3; THENCE SOUTH 85°10'51" EAST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 467.66 FEET TO A POINT ON THE WESTERLY LINE OF MARTIN H. BRAUN'S ASSESSMENT PLAT PER DOCUMENT NUMBER R63-40803, ALSO BEING A POINT ON A NON-TANGENT CURVE; THENCE SOUTHERLY, ALONG SAID WESTERLY LINE, ALSO BEING A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 372.00 FEET, AN ARC LENGTH OF 145.71 FEET, A CHORD BEARING OF SOUTH 10°36'55" WEST AND A CHORD LENGTH OF 144.78 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID MARTIN H. BRAUN'S ASSESSMENT PLAT, ALSO BEING A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF FAWELL BOULEVARD DEDICATED PER DOCUMENT NUMBER R80-19903; THENCE NORTH 89°23'39" EAST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 777.83 FEET TO A POINT ON THE EASTERLY LINE OF SAID MARTIN H. BRAUN'S ASSESSMENT PLAT, ALSO BEING A POINT ON THE WESTERLY RIGHT OF WAY LINE OF PARK BOULEVARD; THENCE NORTH 13°06'00" EAST ALONG THE EASTERLY LINE OF SAID MARTIN H. BRAUN'S ASSESSMENT PLAT AND THE WESTERLY RIGHT OF WAY LINE OF PARK BOULEVARD, A DISTANCE OF 71.24 FEET TO A POINT ON THE SOUTHERLY LINE OF PARCEL 1 IN SAID MARTIN H. BRAUN'S ASSESSMENT PLAT; THENCE SOUTH 85°10'51" EAST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 50.53 FEET TO A POINT ON THE CENTER LINE OF PARK BOULEVARD (AS MONUMENTED); THENCE SOUTHWESTERLY ALONG SAID CENTERLINE FOR THE FOLLOWING 2 COURSES: 1) THENCE SOUTH 13°06'00" WEST, A DISTANCE OF 700.78 FEET; 2) THENCE SOUTH 14°36'25" WEST, A DISTANCE OF 1196.24 FEET TO A POINT ON THE NORTHERLY LINE OF THE FIRST ADDITION TO ASHLAND'S ARBORETUM ESTATES PER DOCUMENT NUMBER 752019, FORMERLY KNOWN AS THE "P. SCHULZ LINE"; THENCE SOUTH 89°08'23" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 2,177.57 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26; THENCE SOUTH 00°12'49" WEST ALONG SAID WEST LINE, ALSO BEING THE WESTERLY LINE OF SAID FIRST ADDITION TO ASHLAND'S ARBORETUM ESTATES, A DISTANCE OF 382.89 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27, ALSO BEING A POINT ON THE NORTH LINE OF FOXCROFT UNIT 2 PER DOCUMENT NUMBER R68-13710; THENCE SOUTH 88°47'49" WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, A DISTANCE OF 1,313.96 FEET TO SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE NORTH 00°06'15" EAST

ALONG THE EAST LINE OF SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27, A DISTANCE OF 330.09 FEET TO A POINT ON A LINE THAT IS 330.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE SOUTH 88°47'49" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 470.00 FEET; THENCE SOUTH 55°30'56" WEST, A DISTANCE OF 73.03 FEET TO A POINT ON A LINE THAT IS 530.00 FEET WESTERLY OF AND PARALLEL WITH THE EAST LINE OF SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE SOUTH 00°06'15" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 290.00 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF NORTHEAST QUARTER OF SAID SECTION 27, ALSO BEING A POINT ON THE NORTH LINE OF FOXCROFT UNIT 3 PER DOCUMENT NUMBER R68-20041; THENCE SOUTH 88°47'49" WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27 AND THE NORTH LINE OF BRIARCLIFFE UNIT 1 PER DOCUMENT NUMBER R69-19634, A DISTANCE OF 783.82 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE NORTH 00°00'17" WEST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27 AND THE EAST LINE OF BRIARCLIFFE LAKES CONDOMINIUMS PER DOCUMENT NUMBER R77-021190, A DISTANCE OF 2,689.41 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, ALSO BEING A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF FAWELL BOULEVARD DEDICATED PER DOCUMENT NUMBER R80-19903; THENCE NORTH 89°01'54" EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, A DISTANCE OF 2,637.93 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THOSE PARTS FALLING IN PARK BOULEVARD, FAWELL AVENUE (22ND STREET), AND LAMBERT ROAD.

P.I.Ns: 05-26-100-013
05-26-100-014
05-26-100-015
05-27-200-008
05-27-200-009
05-27-200-011
05-27-200-012

Aerial Map to follow

EXHIBIT B

COLLEGE OF DUPAGE – VILLAGE OF GLEN ELLYN DRAFT AGREEMENT

1. The Village of Glen Ellyn “Village” and the College of DuPage “College” enter into this agreement, subject to the acceptance by the County of DuPage “County”.
2. The Village shall transfer all regulatory control and authority over the College, its property and operations on the campus to the County and State of Illinois authority.\
3. The College shall pay all applicable Village taxes, including but not limited to sales, utility, and hotel and motel taxes, unrelated to regulatory control transferred to the County.
4. The College shall recognize the jurisdiction of the County, but may seek variances, waivers or changes in County ordinances, consistent with State law.
5. The Village will serve the College with water and sewer at residential rates during the term of this Agreement. The College will use these services during the term of this Agreement.
6. The Agreement shall have an initial term of five years. Before the end of each five year term, the parties may, upon one year’s written notice:
 - A. Renew this Agreement,
 - B. Exercise a de-annexation option from the Village pursuant to the terms set forth in Exhibit A, attached and incorporated into this Agreement,
 - C. Agree that the College remains in the Village, subject to its jurisdiction; or
 - D. Provided, however, upon no written notice, elect to automatically renew this agreement for another five year term.
7. At the end of twenty years, this Agreement shall automatically renew unless terminated as provided in Paragraph 6, for successive five year terms.
8. Any disconnection shall be by Court Order pursuant to the terms of Exhibit A, with the Village waiving any objections and any conditions required by law. The Village shall not take any actions that would prevent the College from being legally able to de-annex from the Village.
9. The current court case, 2010CH356, and ordinance citations shall be dismissed with prejudice, each party bearing their own fees and costs. The Village releases the College from any Ordinance Violations alleged to have occurred prior to the date of this Agreement. The College agrees to pay agreed upon inspection fees and the Village agrees to continue inspections on the BIC East, until jurisdiction is transferred pursuant to Paragraph 2.

10. The College may obtain fire protection service from a provider of their choice, without objection or interference by the Village.
11. The College shall request supplemental police protection from the County, rather than the Village.
12. If the Village performs any work on College or Village property, and work damages any College improvements/installations (i.e. trees and other landscaping), the Village shall restore such improvements/installations to their original condition. This provision is reciprocal.
13. The Court, Judge Hollis L. Webster, if available, or any Judge sitting in Chancery Courtroom 2005, retains jurisdiction to enforce the terms of this Agreement. In the event of an enforcement action in Circuit Court, the prevailing party will be entitled to reasonable fees from the non-prevailing party.

Robert B. ... 2/7/12
M. J. ... 2/7/12

Exhibit A

1. The Village agrees that the College shall have the option of purchasing water and/or sewer services from the Village at the 1.125% of residential rate. The College commits to continue to purchase water and sewer for a minimum of three years following de-annexation pursuant to the terms set forth above, and the Village will commit to provide these services.
2. The college shall keep those parts of its property annexed into the Village minimally required by law to maintain Village contiguity for new annexations from Park Boulevard to the City of Wheaton border, with annexations being subject to Paragraph 8 of the attached Agreement.
3. The College shall provide the Village with an easement for a future water line to service areas south of the College, subject to the College's approval of:
 - a. The location
 - b. The project specifications and conditions, and
 - c. The Village's full restoration of the affected areas.Approval shall not be unreasonably denied.
4. The College will provide the Village with a license for the Village's existing lift station on College property until the Village removes the lift station and existing sewer lines for which a bill of sale and easement has not been granted. Rent for such license agreement shall be included and paid for through the discount afforded the College in Paragraph 1 of this Exhibit A.
5. The College shall obtain fire protection service from another agency or by agreement with the Village of Glen Ellyn Fire Company.
6. The College commits that it will not improve property north of Fawell with a building.


Steve Bouda 2/7/12


M. J. [unclear] 2/7/12

