

**APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION REGARDING THE APPROPRIATION OF FUNDS FOR ADA CURB RAMP IMPROVEMENTS AND PARKING RESURFACING IN CONJUNCTION WITH MILLING AND RESURFACING OF ILLINOIS ROUTE 38 FROM APPROXIMATELY ILLINOIS ROUTE 23 TO THE KANE COUNTY LINE.**

**WHEREAS**, the City of DeKalb (the "City") is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

**WHEREAS**, the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, authorizes intergovernmental cooperative agreements; and

**WHEREAS**, the State of Illinois (IDOT) and City staff negotiated an intergovernmental agreement for cost-sharing regarding the appropriation of funds for curb ramp improvements and parking resurfacing in conjunction with milling and resurfacing of Illinois Route 38 from approximately IL Route 23 to the Kane County Line in the form attached hereto and incorporated herein as Exhibit A (the "IGA"); and

**WHEREAS**, the City's corporate authorities find that approving the IGA is in the City's best interests for the protection of the public health, safety, morals and welfare; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:**

**SECTION 1:** The City's corporate authorities approve, authorize and direct the Mayor to execute, and the Executive Assistant to attest, the IGA in the same form as Exhibit A attached hereto and incorporated herein.

**SECTION 2:** This resolution and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such resolution should (a) contain terms contrary to the provision of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent that the terms of this resolution should be inconsistent with any non-preemptive state law, this resolution shall supersede state law in that regard within its jurisdiction.

**SECTION 3:** This resolution shall be in full force and effect from and after its passage and approval as provided by law.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois at a Regular meeting thereof held on the 28<sup>th</sup> day of February 2022 and approved by me as Mayor on the same day. Passed by a 7-0-1 roll call vote. Aye: Morris, Larson, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None. Absent: Smith.



*Cohen Barnes*  
\_\_\_\_\_  
**COHEN BARNES, Mayor**

ATTEST:

*Ruth A. Scott*

Ruth A. Scott, Executive Assistant

FAP 567 (IL 38)  
Section (7,6)RS-3  
DeKalb County  
Milling and Resurfacing with ADA improvements  
Job No. C-93-041-19  
Contract No. 66J64  
Agreement JN321010

## AGREEMENT

This agreement is entered into by and between the State of Illinois, through its Department of Transportation, hereinafter called the STATE, and the City of DeKalb of DeKalb County, Illinois, hereinafter called the CITY.

WHEREAS, the STATE is an agency of the state government and the CITY is a unit of local government authorized to enter into intergovernmental agreements pursuant to the Intergovernmental Cooperation Act 5ILCS 220, et seq, and the Illinois Constitution Article VII, Sec. 10.

WHEREAS, to facilitate the free flow of traffic and ensure safety to the traveling public, the STATE and CITY are desirous of resurfacing IL Route 38 (identified as East Lincoln Highway within the CITY). Work will include milling and resurfacing of the existing pavement, pavement markings, traffic signal video detection installation and curb ramp and crosswalk improvements to meet requirements of the American's with Disabilities Act (ADA).

Termini of the subject project are approximately from IL Route 23 to the Kane County line. The gross length of the project is approximately 8.21 miles. The subject project is hereby identified under FAP 567 (IL 38), Section (7,6)RS-3, Job No. C-93-041-19 and Contract No. 66J64 (see project location map attached hereto as Exhibit #1).

WHEREAS, the STATE is to apply Federal National Highway Performance Program (NHPP) and Surface Transportation Program (STP) funds toward financing this project. Application is at an 80 percent federal and 20 percent STATE matching formula.

WHEREAS, the existing pavement section of IL 38 from IL 23 to east of Peace Road consists of four through lanes with left turn lanes and bidirectional lanes at various locations. Sidewalks and curb and gutter are present throughout this section. From east of Peace Road to the Kane County line the existing pavement consists of two lanes.

WHEREAS, the purpose of this agreement is to provide a general description to the scope of work proposed with the subject project. All desired specific details of type of work, locations, design dimensions, elevations, item quantities and materials are to be obtained from the related project design plan sheets which serve as a supplement to this agreement. The said plans have been provided to the CITY for its review, comment and concurrence. Additional purposes of this agreement are to provide estimated costs, cite cost sharing participation between the STATE and CITY, determine responsibilities of funding, commitments to payments, and define jurisdictional and maintenance responsibilities of various roadways, utilities and appurtenances relating to the subject project.

WHEREAS, the proposed scope of work for the subject project is as follows:

A. **Mainline IL 38 and sideroad/entrance paving - (80% FEDERAL/ 20% STATE Cost):**

Proposed work on IL 38 includes removal of the existing hot-mix asphalt surface and replacement with hot-mix asphalt binder and hot-mix asphalt surface course as follows:

- IL 23 to 11<sup>th</sup> Street – Mill and resurface 3¼”
- 11<sup>th</sup> Street to Peace Road – Mill and resurface 3¾”
- Peace Road to W. of Loves Road – Mill and resurface 3¾”
- W. of Loves Road to E. of Somonauk Road – Mill and resurface 2¾”
- E. of Somonauk Road to Kane Co Line – Mill to concrete, resurface 2¾”

Sideroads and entrances will be milled and resurfaced as needed with lift types and thicknesses appropriate to the type of road or entrance. Traffic signal upgrades, pavement markings and raised reflective pavement markers within the limits of the milling will be replaced.

B. **ADA ramp replacement on IL 38 - (80% FEDERAL/20% STATE Cost):** Improvements to ADA curb ramps crossing IL 38 and to adjacent local road curb ramps will be completed at the STATE's cost. This work will include removal items, sidewalk, detectable warnings, curb and gutter, drainage and utility structure adjustments, median pavement, push button adjustments/new push buttons as applicable and pavement markings to bring the street crossings into ADA compliance. Adjacent pavement will be milled and resurfaced.

C. **ADA ramp replacement on sideroads – (80% FEDERAL/ 20% CITY Cost):**

Improvements to ADA curb ramps crossing major entrances or sideroads where ramp work for IL 38 crossings will not be needed will require 20 percent CITY participation. This work will include only the sidewalk removal item. Adjacent resurfacing and pavement markings will be installed at the STATE's cost.

D. **Parking lane resurfacing between 5<sup>th</sup> Street and 7<sup>th</sup> Street – (50% FEDERAL/50% CITY Cost):**

Improvements to the parallel parking lane on the south side of IL 38 between IL Route 23 and 6<sup>th</sup> Street and the parallel parking lane on the north side of IL 38 between 6<sup>th</sup> Street and 7<sup>th</sup> Street will require 50 percent participation. This work will include milling and resurfacing the lanes.

E. All other work necessary to complete the project will be performed in accordance with the approved plans and specifications.

WHEREAS, the CITY is desirous of the said IL 38 project in that same will be of immediate benefit to CITY residents and permanent in nature.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. The above stated recitals are incorporated herein by reference, as if full set out herein.
2. The STATE agrees to make the surveys, prepare the plans and specifications, receive bids and award the contract, furnish engineering inspection during construction and cause the improvement to be built in accordance with the plans, specifications, and contract.
3. The STATE agrees to pay all construction and engineering costs subject to reimbursement by the CITY as hereinafter stipulated below.

<b>Work Item</b>	<b>Construction Cost</b>	<b>Federal Cost</b>	<b>State Cost</b>	<b>City Cost</b>
Mainline IL 38 and intersecting local road resurfacing (Includes ADA ramps that do not require city participation)	\$5,900,000	\$4,720,000	80.0%	\$1,180,000 20.0%
ADA curb ramp reconstruction sidewalk removal costs (optional locations requiring city cost participation)	\$17,500	\$14,000	80.0%	0 0.0% \$3,500 20.0%
Parking lane resurfacing from IL 23 to 7th Street	\$13,000	\$6,500	50.0%	0 0.0% \$6,500 50.0%
subtotal	\$5,930,500	\$4,740,500		\$1,180,000 \$10,000
Engineering (15%)				\$1,500
Totals	\$5,930,500	\$4,740,500		\$ 1,180,000 \$11,500

4. The CITY's participation shall be predicated on the percentages shown above for the specified work. CITY cost shall be determined by multiplying the final quantities times bid unit prices of the awarded contract, plus an additional 15 percent for preliminary and construction engineering.

5. The CITY agrees to pass and approve a resolution appropriating \$11,500 to reimburse the STATE for the work described in this agreement. A copy of the ordinance is attached hereto as Exhibit #2.
6. The CITY agrees to pass a supplemental resolution to provide necessary funds for its share of the cost of this improvement if the amount appropriated in Exhibit #2 proves to be insufficient to cover said cost.
7. The CITY agrees that upon receipt of the first and subsequent progress payments made to the CONTRACTOR, the CITY will pay to the STATE from any funds allotted to the CITY, an amount equal to the CITY share \$11,500 divided by the estimated construction costs, \$5,930,500, multiplied by the actual progress payment made to the CONTRACTOR until the entire obligation incurred under this AGREEMENT has been paid. The CITY's actual monetary reimbursement obligation to the STATE will be based upon the final quantities and bid unit prices of the awarded contract.
8. Upon final inspection of the improvement and so long as IL 38 remains and is used as a state highway, the STATE agrees to retain jurisdiction and will maintain or cause to be maintained all traffic lanes and turn lanes as well as curb and gutter that adjoins these traffic lanes. The CITY agrees to maintain or cause to be maintained those portions of the improvement which are not maintained by the STATE.
9. It is mutually agreed by the STATE and the CITY that all CITY owned streets that intersect IL 38 and are impacted and thereby improved by the STATE due to the highway project, will remain under the jurisdiction of the CITY at all times.
10. The CITY agrees to maintain the entire right of way outside of that maintained by the STATE. This includes but is not limited to, CITY utilities, landscaping, sidewalks, shared use paths, parkways, crosswalks and stop line/stop bar markings. Maintenance includes, but is not limited to, all cost of material and labor for repair and/or replacement of surfaces, mowing, landscaping, drainage, snow and ice removal, clearing of debris and trash, and removal of graffiti.
11. The CITY agrees, upon completion of the project, to maintain all storm sewers and appurtenances within the city limits by performing those functions necessary to keep the sewer in serviceable condition, including cleaning sewer lines, inlets, manholes, and catch basins along with repair and/or replacement of inlet, manhole, and catch basin frames, grates, or lids. The CITY further agrees to repair and/or reconstruct structural failures to a maximum of 12 feet between adjacent inlets, manholes, or catch basins.
12. The STATE agrees to assume responsibility for repairs and/or reconstruction of the storm sewer system that exceeds the routine maintenance requirements of the CITY, as cited in the above paragraph.
13. The CITY agrees that no future storm sewer connection or additional water discharge will be added to the storm sewer system that is being adjusted as part of this project. The CITY

agrees to obtain a permit from the STATE prior to routing any additional discharge to storm sewer system adjusted as part of this contract.

14. Upon acceptance by the STATE of the traffic signal work included herein the responsibility for maintenance and energy shall continue to be as outlined in the Master Agreement executed by the STATE and the CITY on July 28, 2021. No additional traffic signals are being installed at new locations under this contract.
15. It is mutually agreed that by the execution of this agreement and under the penalty of perjury, the CITY, doing business as a governmental entity, certifies that its correct federal identification number (FEIN) is 36-6005843. The CITY agrees to assume full responsibility of providing or cause to provide all funds required to pay the local share of cost participation in the subject project.
16. The CITY agrees to not permit additional entrances along Illinois 38 without the consent of the STATE.
17. The CITY agrees to provide, prior to the STATE's advertising for the work to be performed hereunder, a letter, resolution, or signed plan approval indicating its review and approval of the STATE's plans and specifications for the subject project.
18. The CITY agrees to exercise its franchise right to cause private utilities to be relocated at no expense to the STATE.
19. The CITY agrees to cause its utilities installed on right of way after said right of way was acquired by the STATE or installed within the limits of a roadway after the said roadway's jurisdiction was assumed by the STATE, to be relocated and/or adjusted, if required, at no expense to the STATE.
20. The CITY agrees to continue enforcement of existing ordinances regulating parking along IL 38. Parking regulations shall be applied according to the City of DeKalb Municipal Code, Chapter 51- TRAFFIC, Schedule C "Parking Prohibited.
21. The CITY agrees to continue enforcement of existing ordinances regulating encroachment along the state highway. These ordinances shall be applied according to the City of DeKalb Municipal Code, Chapter 6.29 – ENCROACHMENTS ON PUBLIC RIGHT OF WAY.
22. Prior to the STATE's advertising for the work to be performed hereunder, the disposition of encroachments will be cooperatively resolved with representatives from the CITY and the STATE.
23. The CITY agrees to continue enforcement of existing ordinances prohibiting the discharge of sanitary sewage and industrial wastewater into any storm sewers along the state highway. These ordinances shall be applied according to the City of DeKalb Municipal Code, Chapter 19.
24. The STATE agrees to invite representatives of the CITY to mutually inspect the completed project prior to the STATE's final approval of the work.


25. It is mutually agreed that obligations for the STATE and CITY will cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or federal funding sources fail to appropriate or otherwise make available funds for this contract.
26. The STATE and CITY mutually agree that any work to be performed by other than CITY and/or STATE forces is are subject to the Prevailing Wage Act, 820 ILCS 130/1 et seq. ("Prevailing Wage Act"). The STATE agrees to fully comply with all applicable requirements of the Prevailing Wage Act, and the STATE agrees to notify all contractors and subcontractors that the work performed pursuant to this Agreement shall be subject to the Prevailing Wage Act. In the event the STATE fails to comply with the notice requirements set forth in this paragraph, the STATE shall solely be responsible for any and all penalties, fines and liabilities incurred for contractors and/or subcontractors' violations of the "Prevailing Wage Act".
27. The STATE and CITY mutually agree that the STATE's contractors and/or subcontractors shall not discriminate on the basis of race, color, national origin or sex in performance of this agreement. The STATE agrees to carry out applicable requirements of 49 CFR Part 26 in the award and administration of the STATE assisted contracts. Failure by the STATE to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such remedy as the STATE deems appropriate.
28. This Agreement represents the entire Agreement between the parties and supersedes any prior written or oral agreements between the parties regarding these specific components of this section of IL 38 as constructed under Contract 66J64. Previous agreements pertaining to other aspects of this section of highway, such as the referenced Master Traffic Signal Agreement, shall remain in full force and effect. This agreement may not be modified except in writing acknowledged by both parties.
29. Neither party shall assign, sublet, sell or transfer its interest in this Agreement without the prior written consent of the other.
30. This Agreement shall be construed in accordance with the law and Constitution of the State of Illinois and if any provision is invalid for any reason, such invalidations shall not render invalid other provisions which can be given in effect without the invalid provision.
31. This agreement and the covenants contained herein shall be null and void in the event the contract covering the construction work, contemplated herein, is not awarded within 3 years subsequent to the execution of this agreement.
32. This agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.
33. This agreement is passed and approved by the Mayor and City Council of the City of DeKalb of DeKalb County, Illinois, and the State of Illinois, through its Department of Transportation.


Executed on Behalf of the City of DeKalb of DeKalb County, Illinois, on this


28<sup>th</sup> day of February, 2022.

APPROVED:

ATTEST:

  
 Cohen Barnes, Mayor of City of DeKalb




  
 Ruth A. Scott, Executive Assistant

2-28-22  
Date

2-28-22  
Date

Executed on Behalf of the State of Illinois,  
Department of Transportation

  
 Masood Ahmad, P.E.  
 Region Two Engineer

March 03, 2022  
Date



# Project Location Map

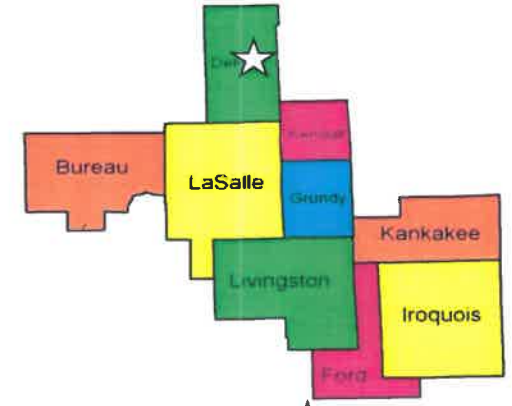
Route FAP 567 (IL 38)  
 Section (7,6)RS-3  
 Dekalb County  
 3P Milling & Resurfacing, reconstruction &  
 ADA improvements  
 D-93-021-19  
 R-93-001-20  
 C-93-041-19  
 Co: 66J64  
 Location: IL 38 – IL23 to Kane Co. Line

## Proposed ADA Work

4 <sup>th</sup> St
5 <sup>th</sup> St
6 <sup>th</sup> St
7 <sup>th</sup> St
8 <sup>th</sup> St
9 <sup>th</sup> St
10 <sup>th</sup> St
11 <sup>th</sup> st
Evans Ave
Simonds Ave
Elm St
Holly St/Sliverfross Ln
Home Dr
Cotton Ave
Peace Rd
Somonauk Rd

## Structures Located in Project Limits

SN	Type	Feature Crossed
019-0045	Bridge	Union Ditch #1



Project Area = ☆



D3#-3116