RESOLUTION 11-15    Passed February 28, 2011

AUTHORIZING THE MAYOR OF THE CITY OF
DEKALB, ILLINOIS TO SIGN AN AGREEMENT
WITH THE STATE OF ILLINOIS FOR SAFETY
IMPROVEMENTS ON ILLINOIS ROUTE 23
USING FEDERAL, STATE AND CITY FUNDS.

WHEREAS, the State of Illinois, in order to facilitate the free flow of traffic and ensure safety
to the motoring public, is desirous of improving Illinois Route 23, also known as Fourth Street,
within the City of DeKalb beginning at Sycamore Road and extending southerly 1.75 miles to a
point located approximately 500 feet south of Taylor Street; and,

WHEREAS, the said project includes safety improvements consisting of milling and resurfacing
Illinois Route 23, intersection improvements, pavement markings, traffic signal modernization
and reconstruction of sidewalk ramps; and,

WHEREAS, including engineering and construction inspection, 90% of the cost of the project is
funded by the Federal Government, 5% is funded by the State of Illinois and 5% is funded by the
City of DeKalb, except for a fire hydrant move, street lighting and emergency pre-emption units
for which the City will pay 100% of the cost; now,

THEREFORE, BE IT RESOLVED by the City Council of the City of DeKalb Illinois as
follows:

Section 1. That the Mayor of the City of DeKalb be authorized and directed to execute an
agreement committing federal, state and City funds for safety improvements on Illinois Route
23, a copy of which is attached hereto and made a part hereof as Exhibit “A.”

Section 3. That the City Clerk of the City of DeKalb be authorized and directed to attest the
Mayor’s signature.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a regular meeting
thereof held on the 28th day of February, 2011 and approved by me as Mayor on the same day.

ATTEST:

STEVE KAPITAN, City Clerk

KRIS POVLSEN, Mayor
AGREEMENT

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

WITNESSETH:

WHEREAS, the STATE, in order to facilitate the free flow of traffic and ensure safety to the motoring public, is desirous of improving Illinois 23 (FAP 68), also known as Fourth Street, within the city of DeKalb beginning at Sycamore Road and extending southerly 1.75 miles to a point located approximately 500 feet south of Taylor Street (see location map attached hereto as Exhibit #1).

WHEREAS, the said project includes safety improvements consisting of milling and resurfacing Illinois 23, pavement markings, traffic signal modernization, and reconstruction of sidewalk ramps. Intersection improvements are to be made at Taylor Street, Illinois 38 and Fisk Street. All intersection improvements include improving turning radii, with the addition of striping revisions at Taylor Street.

WHEREAS, the STATE will relocate a fire hydrant located in the northwest corner of the intersection of Illinois 23 at Taylor Street. All costs associated with this relocation will be paid by the STATE subject to reimbursement by the CITY.

WHEREAS, existing sidewalk adversely impacted by this project will be replaced at 100 percent cost to the STATE.

WHEREAS, as part of the project, the CITY has requested that optional emergency pre-emption units and combination roadway lighting be added to the traffic signals at Taylor Street, Illinois 38, Locust Street, Pine Street and Sycamore Road. The optional emergency pre-emption units and combination roadway lighting, including cables, conduit, controller and luminaries, are to be at 100 percent cost to the CITY.

WHEREAS, as part of the project, the STATE will install three free-standing light poles at the following locations: southeast corner of Pine Street, northwest corner of Pine Street and southeast corner of Locust Street. The installation of these three poles is to be at 100 percent cost to the STATE.

WHEREAS, the subject project is identified under Illinois 23 (FAP 68), State Section (28)N, TS&I, Job No. C-93-019-10, Contract 66983.

WHEREAS, 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 said improvement in that same will be of immediate benefit to the CITY residents and permanent in nature.

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

The STATE agrees to make the surveys, prepare plans and specifications, coordinate utility relocation with the local utility company, receive bids and award the contract, furnish engineering inspection
2. The STATE agrees to pay for all right of way, construction and engineering costs subject to reimbursement by the CITY as hereinafter stipulated:

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>FEDERAL COST</th>
<th>%</th>
<th>STATE COST</th>
<th>COST</th>
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IL 23 @ Taylor:

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IL 23 @ IL 38

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IL 23 @ Locust

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<th>COST</th>
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IL 23 @ Pine

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<td>at SE and NW Corners of Pine Street</td>
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<td>and SE Corner of Locust Street</td>
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Participation and reimbursement shall be predicated by the percentages shown above for the specified work. Cost shall be determined by multiplying the final quantities times contract unit prices, plus 15 percent for preliminary and construction engineering. CITY participation toward the traffic signal modernization shall not exceed 125 percent of the estimated construction cost of $161,750 stated above, plus 15 percent engineering.

3. The CITY has passed a resolution appropriating sufficient funds to pay its share of the cost for this improvement, a copy of which is attached hereto as Exhibit 2 and made a part hereof.

4. The CITY further 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 by the CITY an amount equal to the CITY's share, divided by the estimated construction costs, multiplied by the actual progress payment made to the contractor until the entire obligation incurred under this agreement has been paid.
5. The CITY further 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.

6. The CITY shall continue to enforce an existing ordinance, requiring that parking be prohibited within the limits of this improvement, a copy of which is attached hereto as Exhibit 3, and will in the future prohibit parking at such locations on or immediately adjacent to this improvement as may be determined necessary by the STATE from traffic capacity studies.

7. The CITY shall continue to enforce an existing ordinance, prohibiting the discharge of sanitary sewage and industrial waste water into any storm sewers, a copy of which is attached hereto as Exhibit 4.

8. Prior to the STATE advertising for the work proposed hereunder, the disposition of encroachments will be cooperatively resolved with representatives from the CITY and STATE.

9. The CITY agrees not to permit driveway entrance openings to be made in the curb, as constructed, or the construction of additional entrances, private or commercial, along Illinois 23 without the consent of the STATE.

10. The CITY agrees to obtain any necessary EPA permits and provide or cause to provide all necessary field inspection of the relocation of the fire hydrant at the northwest corner of Taylor Street, the contractor's hydrostatic and disinfectant testing of fire hydrant and related appurtenances; at no cost to the STATE. Such responsibilities include coordinating with residents and/or businesses in any temporary disruption of water service and/or adjustments to service lines.

11. During construction and upon final field inspection of the improvement, the CITY agrees to maintain or cause to be maintained those portions of the improvement which are not maintained by the STATE, including sidewalks, parkways, all crosswalk and stop line markings, CITY owned utilities including appurtenances thereto, highway lighting including furnishing the electrical energy thereof.

The CITY further agrees to continue its existing maintenance responsibilities on all side road approaches under its jurisdiction, including all left and right turn lanes on said side road approaches, up to the through edge of pavement of Illinois 23. Drainage facilities, if any, at the aforementioned side roads located within the STATE right of way shall be joint maintenance responsibility of the STATE and the CITY unless there is an agreement specifying different responsibilities.

12. It is mutually agreed that upon acceptance by the STATE of the traffic signal work included herein, the financial responsibility for the maintenance and electrical energy charges for operation of the traffic signals serving Illinois 23 at Taylor Street, Illinois 38; Locust Street, Pine Street and Sycamore Road intersections shall remain unchanged and remain in accordance with the ongoing master traffic signal agreement between the STATE and CITY that is in effect at the time of construction of this project.

13. It is mutually agreed that maintenance and electrical energy of all emergency pre-emption units, combination roadway lighting, and the additional three free-standing light poles installed at STATE expense, will be 100 percent responsibility of the CITY.

14. The CITY agrees to provide written approval of that portion of the plans and specifications relative to the CITY financial and maintenance obligations described herein, prior to the STATE's advertising for the aforesaid proposed improvement.
15. Obligations of 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 source fails to appropriate or otherwise make available funds for this contract.

5. 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 three years subsequent to execution of the agreement.

This agreement shall be binding upon and to the benefit of the parties hereto, their successors and assigns.

On Behalf of the City of DeKalb

Kris Povlsen
Mayor of DeKalb

Date

Attest

Steve Kapitan
DeKalb City Clerk

Date

(SEAL)

Approved:

State of Illinois
Department of Transportation

Eric Therkildsen
Acting Deputy Director of Highways
Region Two

Date
LOCATION MAP
ILLINOIS 23 FROM TAYLOR ST. TO SYCAMORE RD.
SECTION (28)N, TS&I
DEKALB COUNTY
RESOLUTION 11-

APPROPRIATING CENTRAL AREA TIF FUNDS OF THE CITY OF DEKALB, ILLINOIS IN THE AMOUNT OF $187,000 IN FY 2012 FOR ROUTE 23 SAFETY IMPROVEMENTS, PROVIDING REIMBURSEMENT TO THE STATE OF ILLINOIS FOR A PORTION OF THE COST OF THE PROJECT AS STATED IN THE AGREEMENT

WHEREAS, on February 28, 2011 the City of DeKalb, Illinois authorized execution of an agreement with the State of Illinois for the improvement Illinois 23 (FAP 68) from Taylor Street to Sycamore Road, known as State Section (28)N, TS&I; and,

WHEREAS, in compliance with the aforementioned agreement, it is necessary for the City to appropriate sufficient funds to pay its share of the cost of traffic signal modernization, combination roadway lighting units and emergency pre-emption units; now,

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL of the City of DeKalb, Illinois, as follows:

Section 1. That there is hereby appropriated the sum of one hundred eighty-seven thousand dollars ($187,000) for Fiscal Year 2012, using Tax Increment Financing (TIF) funds or so much thereof as may be necessary, from any money now or hereinafter, allotted to the City to pay its share of the cost of the above referenced State Route 23 safety improvements.

Section 2. That upon receipt of the first and subsequent progress payments made to the contractor for the project, the City will pay to the Department of Transportation of the State of Illinois from any funds allotted by the City, an amount equal to the City’s share of the project ($187,000) divided by the estimated construction costs $3,481,000 multiplied by the actual progress payment made to the Contractor until the entire obligation incurred under the Agreement has been paid, based upon final bid unit prices of the awarded contract.

Section 3. That the City agrees to pass a supplemental resolution to provide any necessary funds for its share of the cost of this improvement if the amount appropriated herein proves to be insufficient to cover said cost.

Section 4. That the City Clerk of the City of DeKalb be authorized and directed to attest the Mayor’s signature.

Section 5. That the City Clerk shall immediately transmit two certified copies of this resolution to the District Office of the Department of Transportation, Ottawa, Illinois.
PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the _____ day of ______, 2011 and approved by me as Mayor on the same day.

ATTEST:

STEVEN C. KAPITAN, City Clerk

Kris Povlsen, Mayor
51.12-7 BLOCKING DRIVEWAY.

No person shall stop, stand or park any vehicle so as to block a driveway in any residentially zoned area. When portions of the curb adjacent to a private driveway are painted yellow and any portion of a vehicle is within the area so painted, the vehicle shall be deemed to be stopped, standing or parked in violation of this section. (94-118)

51.13 PARKING PROHIBITED.

When signs are erected in each block giving notice thereof, no person shall park a vehicle at such places and during the times designated in Schedules C and D attached to and made a part hereof: (79-122)

51.13-5 PARKING PROHIBITED DURING SNOW REMOVAL; REMOVAL OF VEHICLES.

a) It shall be unlawful for any person to park a motor vehicle or, if parked, to allow a motor vehicle to remain parked or standing in any public street as designated in Schedule I herein, during or after a snowfall in which there is an accumulation of two (2) inches of snow or more. This prohibition shall remain in effect until such time as the street or alley has been plowed or the snow has been removed therefrom. A City street shall not be deemed to have been plowed until the entire width of the street has been substantially cleared from curb to curb of snow or ice. Whenever the Chief of Police or his/her designee finds a vehicle parked in violation of this subsection, the Chief of Police or his/her designee shall cause the immediate removal of such vehicle to the City's relocation contractor's impound yard. Storage and towing costs shall be paid by the owner or operator of the vehicle, in addition to any other penalties imposed by this Chapter 51. (00-01, 07-116, 09-76)

b) It shall be unlawful for any person to allow a motor vehicle to remain parked or standing in any public street other than those listed in Schedule I, in the City of DeKalb for more than seventy-two (72) hours following snowfall(s) in which there is an accumulation of more than six (6) inches of snow. Whenever the Chief of Police, or his designee, finds a vehicle parked in violation of this subsection, and in his discretion believes that said vehicle constitutes a hazard to the City's snow removal efforts, or in any other manner creates a nuisance and a hazard to public safety, a notice will be placed upon said vehicle informing the owner of the violation and stating that the vehicle shall be removed immediately or else it will be towed in forty-eight hours. In addition to the written notice, prior to any tow, the Chief of Police, or his designee, will make all reasonable efforts to contact the owner of said vehicle. Any vehicle towed will be removed to the City's relocation contractor's impound yard. Storage and towing costs shall be paid by the owner or operator of the vehicle in addition to any other penalties imposed by this Chapter 51. (00-01, 07-116)

c) Penalties. Any person, firm or corporation violating any provision of this Section shall be punished by a fine of not less than Seventy Five Dollars ($75.00) nor more than One Hundred Fifty Dollars ($150.00). Any person, firm or corporation failing to pay the penalty provided for violations of 51.135 within ten days of the issuance of the ticket, shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Hundred Seventy Five Dollars ($175.00). (92-111, 07-116)

51.14 LIMITED PARKING.

a) When signs are erected in a block giving notice thereof, no person shall park a vehicle for longer than the time designated within the district or upon any streets described in Schedule E and Schedule F, attached to and made a part hereof. (03-112)
South First Street, both sides, from the Southerly roadway line of Garden Street Southerly 80 feet to a point. (80-82)

South First Street, both sides, from the Northerly roadway line of Roosevelt Street Northerly 80 feet to a point. (80-82)

South First Street, both sides, from the Southerly roadway line of Roosevelt Street Southerly 80 feet to a point. (80-82)

South First Street, East side, from the Southerly roadway line of Franklin Street to the Northerly roadway line of Prospect Street. (80-82)

South First Street, East side, from the Southerly roadway line of Bush Street Southerly 80 feet to a point. (80-82)

South First Street, East side, from the Northerly roadway line of Bush Street Northerly 80 feet to a point. (80-82)

South First Street, West side, from the Southerly roadway line of Gurler Street, 100 feet South to a point. (74-45)

South First Street, East side, from a point 370 feet North of the North right of way line of Taylor Street to a point 20 feet South of the South right of way line of Wendell Place. (06-67)

Fisk Avenue, North side, between Fourth Street and Sixth Street. (90-09)

Fisk Avenue, North side, from the Easterly roadway line of North First Street 30 feet East to a point. (81-72)

Fisk Avenue, South side, from the Easterly roadway line of North First Street East to the first North/South alley East of North First Street. (81-72)

Forsythe Lane, either side, from the West right-of-way line of North First Street to a point 40 feet West. (86-44)

Fourteenth Street, East side, between Market Street and Pleasant Street. (72-24)

Fourth Street, both sides, from Sycamore Road South to the South City Limits. (96-74)

Franklin Street, North side, between First Street and Fourth Street. (70-11)

Franklin Street, North side, between Fourth Street and Fifth Street. (76-81)

Franklin Street, South side, from South Ninth Street West of the alley. (8/22/60)

Franklin Street, South side, between First Street and Seventh Street. (11/19/56)

Franklin Street, South side, from the East roadway line of South Seventh Street to the West roadway line of South Eleventh Street. (75-48)
No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Health Officer of the City of DeKalb.

19.13 PENALTIES.

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter 19, shall be fined not less than Twenty Dollars ($20.00) nor more than Five Hundred Dollars ($500.00). A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation or failure to comply is permitted to exist after notification thereof. Prosecutions under this Chapter 19 shall be instituted by the Commission, its duly authorized representative or the City Council and shall be prosecuted in the name of the City. (86-32)

19.14 ILLICIT DISCHARGE AND CONNECTION TO STORM SEWER SYSTEM (08-18)

a) Definitions. For the purposes of this Section, the following shall mean:

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.


Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Subsection f) of this Section.

Illicit Connections. An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
Industrial Activity. Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of DeKalb and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit, means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Management Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

b) Applicability. This Section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Director of Public Works or Director of Engineering.
6.33 NON-CONFORMING MAILBOX/SUPPORT INSTALLATIONS.
6.58 REVOCATION - SUSPENSION OF PERMIT.
6.59 VIOLATION - PENALTY.

6.01 COMMON BASE OF LEVEL.

A horizontal plane 100 feet below and parallel with the top of a stone sill or step under the lower door of the main entrance to the City Hall is hereby established as a common base of levels, and that all grades, or lines or levels shall be referred to this common base.

6.02 OBSTRUCTING STREETS, ALLEYS.

a) Except as provided for in Chapter 23, "Unified Development Ordinance", Article 13, "Signs", no person shall obstruct any street, alley, sidewalk, gutter or drain within the City by placing any substance or thing thereupon or therein in such manner as to interfere with or obstruct the full, free and proper use thereof, nor erect or place any building, fence or obstruction in whole or in part upon any street, alley, sidewalk or other public grounds within the City, or cause to be placed upon any street or sidewalk in the City any goods, wares or merchandise, for sale or show, without a permit approved by the City Manager and issued by the City Clerk: (93-43, 05-55)

6.03 CLEATED VEHICLES.

No person shall move, or assist in moving any engine or machine or vehicle having wheels with projections on the under or road face of the tire, along, upon, over or across any paved street, alley or bridge within the City, unless such wheels shall be so covered as to present a smooth and even surface to pavement or bridge, or unless such pavement or bridge is planked so as to prevent such wheels from coming in contact with the pavement or bridge for the entire distance said machinery is to move along, upon, over or across such pavement or bridge.

6.04 ENCROACHMENT PERMITS. (05-55, 10-48)

a) Permit required. A person or group of persons may be granted the privilege of encroaching upon any public highway, street, sidewalk, alley, or other publicly-owned common area (hereinafter referred to as public right of way) within the Central Business District of the City of DeKalb by the issuance of an encroachment permit. All encroachments shall not unreasonably interfere with access to building entrances or pedestrian and traffic safety. A minimum sidewalk width of five (5) feet must be maintained free and clear of any encroachment. Permittees shall be responsible for compliance with the Ordinances of the City of DeKalb, the City of DeKalb's Unified Development Ordinance and all other applicable county, state and federal regulations. There shall be five types of encroachment permits (10-48):

1. Temporary Encroachment Permit. That issued for encroachments which shall be adjacent to an existing building, may be readily moved, and which are to be of a duration of one (1) day per week.

2. Continuous Encroachment Permit. That issued for encroachments which are permanently affixed to the sidewalk. The applicant will be required to enter into a permit agreement with the City of DeKalb, the terms of which may include, but not be limited to: provisions for insurance, maintenance, indemnity, as a condition of receiving the permit.

3. Outdoor Café Permit. That issued for encroachments for which any person owning, leasing,
managing or operating a cafe or restaurant which abuts public right of way may maintain or operate an
outdoor cafe in an area adjacent to its premises.

4. Farmer's Market Permit. That issued for encroachments which may be readily moved and which
are intended by the holder of the permit to be of a duration of one (1) day per week. These permits are
limited to an area mutually agreed upon between the City and the sponsoring organization. The Farmer's
Market Sponsor may request to have permit fees waived if they choose not to utilize the sidewalk. (10.33)

5. Frank VanBuer Plaza (FVB Plaza) Permit. That issued for temporary encroachments in Frank
VanBuer Plaza, where such encroachments may be readily moved and which are intended by the holder
of the permit to be of a duration of a maximum of three 3 days. (10.48)

b) All encroachment permits shall be issued for only the purpose of public convenience or public
necessity. The issuance of the encroachment permit shall grant the person the privilege of using the public
right-of-way for the purposes set forth in said permit, subject to the terms and conditions set forth in the
permit and this Section. This permit to encroach upon public right of way granted by the City is only
permission to use the property in question; it is neither an easement nor a conveyance of real property.

c) Application for Permit; Fees. Any person or group seeking the privilege of encroaching upon any
public right of way in the Central Business District of the City of DeKalb shall file an application for a permit
with the City Clerk on a form provided by the City. Frank Van Buer Plaza permit applications must be
submitted at least thirty days in advance of the event. The applicant must comply with the requirements of this
subsection, unless such compliance is waived by the City Manager. The application shall include the
following (10.48):

1. The name, address, and phone number of the person(s) or group that will be responsible for the
operation and/or maintenance of the encroachment; if the person or group is a corporation, the applicant
shall list the name and addresses of all officers and the registered agent of the corporation.

2. A detailed map of the proposed location.

3. A description of the proposed encroachment including nature of construction, material to be used,
the exact dimensions, a drawing of the encroachment, and explanation of any utility requirements and
location of such utilities.

4. A certificate of insurance indicating the applicant has purchased and maintains public liability and
property damage insurance in an amount of at least One Million Dollars ($1,000,000.00) to secure
payment for any loss or damage caused by the encroachment. The certificate of insurance shall name the
City as an additional insured, and the permittee shall indemnify and hold the City harmless from any
action, proceeding or claim of liability asserted against it as a result of the operation of an encroachment.
The insurance shall be maintained in full force and effect at all times during the permit period. Proof of
insurance shall be presented to the City Clerk prior to the issuance of a permit under this Section. Each
certificate or policy of insurance shall provide for notice in writing to the City Clerk at least thirty
days (30) prior to cancellation or policy lapse. Failure by the permittee to maintain the insurance required
by this Section shall result in the forfeiture of the encroachment permit.

5. A statement providing that in consideration of receiving the encroachment permit, the applicant
shall pay any and all expenses, including compensation for damages, caused by the encroachment and
that the applicant shall indemnify and hold harmless the City from any action, proceeding or claim of
liability asserted against the City resulting from the encroachment or from the issuance of the encroachment permit.

6. Frank Van Buer Plaza Permit Applications shall also require the following information (10.48):

a) A site plan showing the lot or tract of land where the event will be held, including any existing or proposed structure (including accessory structures) thereon, location of existing or proposed easements, fire lanes, parking arrangements and vehicle access points, electrical supply sources, location of portable fire extinguishers, location of refuse and portable restroom facilities, any existing as well as proposed screening or barricading and a detailed description of available means of egress or temporary alteration thereof.

b) A statement that of understanding that property maintenance inspections and fire/life safety code inspections may be performed prior to the issuance of the "Encroachment Permit", and that the applicants shall make themselves and the event location available for said inspections, and further that the applicant understands that in the event that the application results in the need for an inspection by City inspection staff after 5:00pm on Monday through Friday, or on Saturday, Sunday or a City recognized Holiday, an additional fee of One Hundred Dollars ($100.00) shall be submitted prior to issuance of permit.

c) A detailed description of the hours of operation of any proposed live and/or amplified sound entertainment activities. The issuance of an Encroachment Permit does not exempt the holder of the permit from the obligation to abide by all sound regulations set forth in Chapter 52.35 of this Code. In no event shall the hours of live and/or amplified sound entertainment activities extend beyond 10:00 p.m. on Sundays through Thursdays and beyond 11:00 p.m. on Fridays and Saturdays.

7. The period of time for which the encroachment permit is sought (date(s) and hours).

8. The non-refundable application fee of Twenty-Five dollars ($25.00)

d) Approval by the City Manager. Upon submission of a complete application and the payment of the application fee, the City Manager or shall forward the application to the Director of Public Works, or his designee, who shall, obtain comments from the various departments of the City and other applicable regulatory agencies as deemed appropriate, and forward any required revisions, considerations, conditions or comments to the applicant. It shall be the applicant's responsibility to amend, delete, add or alter any conditions as prescribed by the City of DeKalb which are deemed necessary to comply with the regulations set forth in the DeKalb Municipal Code. It is further the responsibility of the applicant to resubmit a revised plan to the Director of Public Works, or his designee, for final consideration. The City Manager reserves the right to refuse any permit application which he/she deems an inappropriate use of public right-of-way. If the application is denied, the applicant will be so notified. (10.48)

e) Conditions for approval. The applicant, owner or permittee may not have any debt owed to the City. Upon review of the application, the City Manager may grant an encroachment permit subject to any conditions or terms he/she deems appropriate to protect the public health, safety, or welfare including, but not limited to the following: (10.48)

1. The encroachment shall be constructed, operated, and maintained in a clean, safe, and sanitary manner, and kept free from trash, weeds or other debris.
2. The encroachment shall be designed, constructed, and maintained without the presence of any overhead wiring.

3. The specific time when the encroachment permit will expire.

4. The prohibition of any relocation or design modification of the encroachment without prior approval of the City.

5. Encroachments shall be firmly secured and able to withstand wind and storm conditions or be removed by the permit holder prior to such weather events.

f) Permit Fees. The fees for encroachment permits are due and payable upon notice of approval of the permit application. No permit will be issued until payment has been received. The fees for encroachment permits are as follows:

1. Temporary Encroachment Permit - $10 per day, up to a maximum of $100.00, April 1st - November 1st

2. Continuous Encroachment Permit - $100.00 (one time fee)

3. Outdoor Café Permit - $100.00 per year, April 1st - November 1st

4. Farmer’s Market Permit - $100.00 per year, June 1st - November 1st

5. FVB Plaza - $100.00 per event, April 1st – November 1st (10-48)

i. Standard Event. In addition to the permit fee a cash deposit in the amount of $100 must be deposited with the City to insure the cleanup of all trash, garbage, and debris within one (1) day after the event. If all the cleanup is found to be satisfactory by the Assistant Director of Public Works – Operations & Maintenance, the deposit will be returned within twenty (20) working days; however, if it is necessary for City staff to perform significant additional cleanup, all or a portion of the $100 will be used to defray expenses of said cleanup, and the City will assess a fine of $50.00.

ii. Event with Food Component. Events which include the preparation and distribution of food to patrons will require a minimum cash deposit in the amount of $150.00. This amount will be deposited with the City to insure the cleanup of all trash, garbage, and debris within one (1) day after the event. Additional deposit may be required based on the number of food vendors proposed to participate in the event, and is shown as follows:

1-3 Food Vendors: No additional deposit required.

4-6 Food Vendors: Add $50.00 to the base deposit amount of $150.00

7-10 Food Vendors: Add $100 to the base deposit amount of $150.00

11 & above Food Vendors: Add $150.00 to the base deposit amount of $150.00

If the cleanup is found to be satisfactory by the Assistant Director of Public Works – Operations & Maintenance, the deposit will be returned within twenty (20) working days; however, if it is necessary for City staff to perform significant additional cleanup, all or a portion of the deposited monies will be used to defray expenses of said cleanup, and the City will assess a fine of $50.00.
iii) Electrical Fee. Should the event require electrical connection to the City’s outlets within FVB Plaza, a fee of $25 shall be added to the $100.00 base fee for the permit.

iv) Water Fee. Should the event require water connection to the City’s faucets within FVB Plaza, a fee of $25 shall be added to the $100.00 base fee for the permit.

v) Inspection Fee. In the event that the application results in the need for an inspection by City inspection staff after 5:00 p.m. on Monday through Friday, or on Saturday, Sunday or a City recognized Holiday, an additional fee of One Hundred Dollars ($100.00) shall be submitted prior to issuance of the permit.

g) Appeal of Permit fees. Requests for reduction or waiver of permit fees shall be subject to a demonstrated hardship and submitted in writing stating the reason for such request. The City Manager may approve or deny such requests.

h) Expiration Of Permit. Permits shall be granted for the period requested, provided no permit shall be granted for a period in excess of twelve (12) months from the date of issuance. Continuous encroachment permits are excluded from this provision.

i) Persons requesting continuance of the permit after the expiration period may do so upon payment of the requisite fee for a new permit, and upon signing a form which specifies that no changes have been made from the original application. Should change of such a nature be made as to warrant further investigation, such application shall be handled in the manner specified for in the original permit.

j) Exceptions. The Annual DeKalb Corn Fest is excluded from these requirements.

k) Restrictions.

1. Maximum Encroachment height shall not exceed five (5) feet except for FVB Plaza permits, in which case the maximum height shall not exceed 15 feet. (10-48)

2. White Goods intended for sale, herein defined as refrigerators, ranges, water heaters, freezers, air conditioners, washing machines, dryers and other large appliances, including those containing chlorofluorocarbons (CFCs), switches containing mercury and polychlorinated biphenyls (PCBs), shall not be placed in the encroachment area. (10-48)

I) Outdoor Café Permits.

1. Shall not be valid the Thursday, Friday, Saturday and Sunday of the annual DeKalb Corn Fest.

2. Outdoor cafes permitted under this Chapter shall not operate earlier than 5:00 a.m. nor later than 10:00 p.m. Monday through Sundays. Furniture shall be removed from the area no later than 10:30 p.m.

3. Items Restricted: No alcoholic beverages shall be served or consumed in an outdoor café receiving a permit under the provisions of this Section.

4. Additional Requirements: Every permittee shall be responsible for the prompt collection and removal of all litter, food scraps, and any other debris or garbage generated by the serving of food and beverages under the provisions of this Chapter.
m) FVB Plaza Permits.

1. Due to the location of FVB Plaza and the occasional unpredictable high wind gusts, a total of 100 pounds in weights will be required to be secured to any tent or umbrella of any kind set up during the event. Affixing tents, umbrellas, or any other device via ground stakes or any other method which requires propelling objects into the brick surface is strictly prohibited.

2. No permits will be issued in FVB Plaza for events associated with carnivals, amusement rides, live animal displays, or the operation of motor vehicles.

3. Every permittee shall be responsible for the prompt collection and removal of all litter, food scraps, and any other debris or garbage generated by the serving of food and beverages under the provisions of this Chapter.

4. Vendors are responsible for obtaining individual City of DeKalb Itinerant Merchant Permits, DeKalb County Health Permits, and collecting and paying all state and local sales tax.

5. Vendors are not permitted to yell, taunt, or aggressively pursue sales with customers, vendors or event staff.

6. All vendor vehicles that are not used in the event should be parked in the nearby 12 hour lots to allow patrons to have primary access to optimal parking spaces.

n) Obstructions Removed.

1. The owner of any building, fence, or other obstruction erected or placed upon any street, alley, sidewalk or any other public grounds within the City, shall remove the same within one (1) day after receiving notice in writing signed by the City Manager. In the event of an emergency situation, the City is hereby authorized to remove the encroachment.

2. Whenever the owner of any building, fence or other obstruction upon any street, alley, sidewalk or public grounds shall refuse or neglect to remove the same, after notice, the obstruction shall be deemed a nuisance, and it shall be lawful for the City Manager to cause the same to be removed or taken down, in his discretion, and the expense thereof shall be recovered from the owner in an action in the name of the City.

6.05 DISTURBING STREET OR SIDEWALK.

No person shall plow, dig, scrape or in any way disturb or interfere with the materials in any street, alley, or sidewalk in the City, or make any excavation therein, or remove any sidewalk except as permitted under this Chapter.

6.06 GUARDS ON OPENINGS.

No owner or person having possession of any lot or premises in the City shall leave or keep open, unguarded or uncovered, any cellar door, pit, grating, trap door or other street, alley or sidewalk in the City, nor suffer any basement stairway to be left open and unprotected on each side by a good and sufficient railing or balustrade, nor suffer or permit any such cellar door, pit, vault, grating, trap door, basement stairway or other opening or place of a like nature in or about or connected with such lot or premises to be or remain in an
6.29 ENCROACHMENTS ON PUBLIC RIGHT OF WAY.

Whereas, the City of DeKalb, hereinafter known as the City, and the State of Illinois, acting by and through its Department of Public Works and Buildings, Division of Highways, have entered into agreements relative to the improvement of certain State marked routes and/or city streets; and,

Whereas, in order to facilitate said improvement it is necessary for the City to adopt an ordinance regulating encroachments on the right of way for said improvements in accordance with the following definitions:

Roadway Right-of-Way is defined as those areas existing or acquired by dedication or by fee simple for highway purposes; also, the areas acquired by temporary easement during the time the easement is in effect;

Project Right-of-Way is defined as those areas within the project right-of-way lines established jointly by the City, State and the United States Bureau of Public Roads which will be free of encroachments except as hereinafter defined;

Encroachment is defined as any building, fence, sign or any other structure or object of any kind (with the exception of utilities and public road signs), which is placed, located or maintained in, on, under or over any portion of the project right-of-way or the roadway right of way where no project right-of-way line has been established;

Permissible Encroachment is defined as any existing awning, marquee, advertising sign or similar overhanging structure supported from a building immediately adjacent to the building line and which does not impair the free and safe flow of traffic on the highway; the permissive retention of overhanging signs is not to be construed as being applicable to those signs supported from poles constructed outside the project right-of-way line and not confined by adjacent buildings;

Construction Easement Area is defined as that area lying between the project right of way limits and the platted street limits within which the City by concurrence in the establishment of the project right-of-way lines, will permit the State to enter to perform all necessary construction operations; and

Whereas, representatives of the City and the State, by visual inspection cooperatively established project right-of-way lines and have mutually determined the disposition of encroachments; now, therefore, be it ordained:

a) It shall be unlawful for any person, firm or corporation to erect, or cause to be erected, to retain or cause to be retained, any encroachment (herein above defined), except as provided in subsection (c), and as provided in Chapter 23, "Unified Development Ordinance", Article 13, "Signs", within the limits of the project right-of-way or roadway right-of-way where no project right-of-way lines have been established for said improvements as provided in Subsection (b). (93-43)

b) Improvement Descriptions. (84-76)

1. The width of North First Street Bridge (60 feet), which includes the roadway, the clearance area and the sidewalk area, also known as FAU Project M-5017 (2), Section 75-00072 -00-BR. (76-71)

2. Along both sides of Sycamore Road between North First Street and North Fourth Street (Illinois Route 23), also known as Section 75-00071-00-CH. (76-89).
3. Along both sides of North First Street beginning South of Fisk Street and extending South to Oak Street, 744 feet; along both sides of Augusta Avenue and Pine Street beginning East of Linden Place and extending East on Augusta Avenue and Pine Street, 717 feet just West of Second Street, also known as Section 76-00077-00-CH. (79-20)

4. (Deleted by 90-107)

5. Along both sides of Illinois Route 23 (Sycamore Road), from Kendall Lane to Ninth Street; along both sides of Seventh Street from Sycamore Road Southerly 400 feet; along both sides of Hillcrest Drive from Sycamore Road Northwesterly 500 feet, also known as Section 78-00038-01-SP. (79-86)

6. Along both sides of Sycamore Road, Illinois Route 23, from Kendall Lane to Ninth Street; along both sides of Seventh Street from Sycamore Road Southerly 400 feet; along both sides of Hillcrest Drive from Sycamore Road Northwesterly 500 feet, also known as Section 80-00105-00-TL. (80-61)

7. (Deleted by 90-107)

8. Along both sides of South Fourth Street (State Route 23, FA Route 68) from Taylor Street to Charter Street, also known as Section 28 (W&RS) RS-1. (84-94)

9. Along both sides of Bethany Road from the Easterly right-of-way of Illinois Route 23, to a point 400 feet East and along both sides of Illinois Route 23, F.A. Route 68, State Section 27-28M, from a point 850 feet South of the South right-of-way line, extended, of Bethany Road to a point 400 feet North of the North right-of-way line, extended, of Bethany Road, and known as Section 84-00109-00-TL. (84-42)

10. (deleted by 90-107)

11. Seventh Street (FAU 4354) from Oak Street to Sycamore Road (IL Route 23) designated City Section 85-00078-01-WR 85-00078-02 WR). (88-38)

12. West Lincoln Highway from Annie Glidden Road West to Station 196+00 the west City Limits, (Section 83-00112-00-WR). (89-34)

13. Illinois Route 23 (Sycamore Road) from Oakland Drive to Dresser Road - FA324 - State Section (27R & 28R) W&RS-2, City Section 93-00101-01-WR. (93-90)

c) Project right-of-way lines have been established at the following locations: (84-76)

1. Along both sides of Lincoln Highway (Illinois Route 23) from the Kishwaukee River Bridge to North First Street (Section 76-00079-00-WR), Lincoln Highway (Illinois Route 38) from first Street to Fourth Street (FA Route 567, Section 7W&RS-1), Lincoln Highway (Illinois Route 38) from Fourth Street to the railroad tracks 150 feet west of Dodge Avenue (Section District #1, BR 1970-25, City Section 61CS), First Street from the Chicago and Northwestern Railroad North to Oak Street (Section 76-00079-00-WR) and Seventh Street (FAU 4354) from Franklin Street North to Oak Street, including the intersection of Lincoln Highway (Illinois Route 38) with Seventh Street (City Section 76-00078-00-WR, FAU Project M-5017 (3), State Section 7M+TS-1, FAP 567), two (2) feet in back of and parallel with the back of the curb as measured at a point within a block at the widest point on the street roadway inclusive of any parking stall or lane. Said project right-of-way line as determined above for each side of said street shall be extended for the entire subject block length and shall constitute the project right-of-way line for said block and shall be extended parallel with the street right-of-way line for the entire length of said block. Said project line shall be independently.
established for each side of each block of the above noted street sections. (90-107)

2. Along the North side of East Lincoln Highway, 33 feet from the center of the proposed improvement, from the railroad tracks 150 feet West of Dodge Avenue to the East corporate limit, known as State Section District #1, BRS 1970-25 City Section 61CS. (70-25)

3. Along the South side of East Lincoln Highway, 40 feet from the centerline of the proposed improvement, from the railroad tracks 150 feet West of Dodge Avenue to the East Corporate limit, known as State Section District #1, BRS 1970-25 City Section 61CS. (70-25)

4. Along both sides of West Lincoln Highway, 2 feet in back of and parallel to the curbs within the limits of the improvement known as State Section 34-1, City Section 63-CS. (73-74)

5. Along both sides of Illinois Route 23 (Sycamore Road) from Fifth Street north to Dresser Road, designated FA324, State Section 27R & 28R W&RS-3, City Section 93-00101-02-WR. (95-97)

6. Along both sides of Illinois Route 23 (Sycamore Road) from Fifth Street, South to Davy Street, designated FA324, State Section 27R & 28R, M-2, City Section 96-00147-00-TL. (96-75)

d) This Section is intended to and shall be in addition to all other ordinances, rules and regulations concerning encroachments and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict therewith.

e) Any person, firm, or corporation violating this section shall be fined not less than Twenty Five Dollars ($25) nor more than Five Hundred Dollars ($500) for each offense and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.