

EXHIBIT A

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF WARRENVILLE AND THE CITY OF AURORA RE DUKE
PARKWAY AND ROUTE 59 INTERSECTION IMPROVEMENTS**

THIS AGREEMENT made and entered into this ____ day of _____, 2017, by and between the **CITY OF WARRENVILLE**, DuPage County, Illinois (hereinafter referred to as “Warrenville”), and the **CITY OF AURORA, Kane, Kendall, DuPage and Will Counties, Illinois** (hereinafter referred to as “Aurora”).

WITNESSETH:

WHEREAS, Article VII, Section 10 of the Illinois Constitution of 1970 and 5 ILCS 220/1 *et seq.* authorize units of local government to contract or otherwise associate among themselves to obtain or share services, to exercise, combine or transfer any power or function, in any manner not prohibited by law, to use their credit, revenues and other reserves to pay costs and to service debt related to intergovernmental activities; and

WHEREAS, Warrenville and Aurora entered into an Intergovernmental Agreement (the “2016 IGA”) on March 21, 2016 regarding the Disconnection and Annexation of Certain Territory owned by Duke Realty and legally described and depicted on Attachment 1 (hereinafter the “Proposed ROW”); and

WHEREAS, pursuant to the 2016 IGA, Aurora de-annexed the Proposed ROW which was then under its jurisdiction on April 12, 2016, and Warrenville thereafter annexed said land on May 2, 2016. The de-annexation and annexation of said lands was recorded with DuPage County on May 18, 2016, with Recording Number R2016-048565 (collectively the “Annexation Agreements”); and.

WHEREAS, the 2016 IGA included provisions regarding the construction of certain roadway improvements including the extension of Duke Parkway to Route 59 (herein after “Duke Parkway/Route 59 Improvements”) within the Proposed ROW; and

WHEREAS, Duke Realty has secured a grant from Illinois Department of Transportation's (IDOT) Economic Development Program (EDP) in the amount of two million dollars (\$2,000,000) towards the construction of said Duke Parkway/Route 59 Improvements, with the City of Aurora being designated the Sponsor Municipality; and

WHEREAS, Warrenville and Aurora desire to set forth provisions for the dedication and jurisdictional transfer of the Proposed ROW and the construction and maintenance of the Duke Parkway/Route 59 Improvements based on the joint expectation that said improvements will be constructed in 2017.

NOW, THEREFORE, in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Aurora and Warrenville, it is agreed by and between the parties hereto as follows:

SECTION ONE: The recitals hereinabove set forth are hereby incorporated as findings of fact in this Section One, as if said recitals were fully set forth herein.

SECTION TWO: Warrenville and Aurora hereby agree to the following regarding the Proposed ROW and the Duke Parkway/Route 59 Improvements:

A. **Acquisition of Required Public ROW.**

1. Pursuant to previously approved Annexation Agreements with both Warrenville and Aurora, Duke Realty has agreed to publicly dedicate the necessary right of way for the Duke Parkway/Route 59 Improvements. Said ROW shall be dedicated to the City of Warrenville.

B. **Jurisdictional Transfer of ROW.**

1. Within 30 days of Aurora's approval and award of the construction contracts for the Duke Parkway/Route 59 Improvements, jurisdiction of said ROW shall be excluded from Warrenville and annexed to Aurora pursuant to the provisions of 65 ILCS 5/7-1-25 (Attachment 2).

C. **Scope of Public Improvements within ROW.**

The following shall be constructed as part of the Duke Parkway/Route 59 Improvements:

1. Curb and gutter with piped storm drain (B6/12 curb).
2. Three (3) twelve-foot (12 ft.) lanes, thirty nine feet (39 ft.) wide back of curb to back of curb, with additional travel and turn lanes at the intersection of Duke Parkway and Route 59 pursuant to IDOT requirements.
3. Said roadway shall be designed and designated as a Class II Truck Route.
4. Five foot (5 ft.) concrete sidewalk on the south side of the roadway.
5. Ten-foot (10 ft.) asphalt multi-use trail along the north side of the ROW.
6. One multi-use trail/sidewalk crossing of Duke Parkway at the proposed intersection of Duke Parkway and Barkley Avenue.
7. Light standards shall be consistent with the existing fixtures in Duke Parkway to the west of the Duke Parkway/Route 59 Improvements.
8. Parkway Street Trees planted at a thirty-foot (30 ft.) spacing interval along both the north and south side of the ROW.

D. Stormwater Detention.

1. Stormwater detention for the section of Duke Parkway proposed in the ROW and the section of Barkley Avenue proposed between Duke Parkway and Estes Street will be provided for in detention basin 9B west of Butterfield East Unit 6.

E. Warrenville Sanitary Sewer and Water Utilities.

1. Warrenville water and/or sanitary sewer utilities that run parallel with the ROW shall be installed outside the ROW. Any locations where said utilities are required to cross the ROW shall be installed in a casing perpendicular and mutually acceptable easements shall be established.

F. IDOT Permitting.

1. The parties acknowledge and agree to jointly use their best efforts and cooperate to secure and then comply with applicable IDOT permitting requirements.

G. Cost Sharing and Timing of Public Improvements.

1. The Duke Parkway/Route 59 Improvements will be front funded by Duke Realty with cost sharing and timing as determined by separate agreement(s).

H. Vehicular Access Points.

1. Warrenville shall be allowed one (1) full access point onto Duke Parkway for the Barkley Avenue Connection (north and south) and one (1) right-in, right-out access driveway for the private development site to the north and one (1) right-in, right-out access driveway for the private development site to the south located in Warrenville along the north and south side of the ROW as generally depicted on Attachment 3. Right-in, right-out access driveways shall be restricted to be no less than 150 feet from the west ROW line of Route 59 if this section of Duke Parkway is constructed with a barrier median OR no less than 350 feet from the west ROW line of Route 59 if this section of Duke Parkway is not constructed with a barrier median.

2. The parties recognize that the Duke Parkway/Route 59 Improvements will require the permitting and approval of IDOT which will require the modification or elimination of the existing Route 59/Estes Street full access intersection.

I. Emergency Services.

1. Warrenville or its assigns shall be fully responsible for providing emergency police services to the IDOT Duke Parkway/Route 59 Intersection.

J. Maintenance Responsibilities and Jurisdiction.

1. Warrenville or its assigns shall be fully responsible for providing maintenance of any Warrenville utilities in the ROW and the sidewalk and multi-use trail improvements adjacent to Warrenville incorporated properties including but not be limited to repair/replacement costs.

2. Aurora or its assigns shall be responsible for providing maintenance of the full roadway improvement which shall include but not be limited to snow plowing, roadway repair/replacement, lighting costs, and parkway tree maintenance.

3. In the event IDOT requires local contribution for traffic signal maintenance and replacement costs, both parties shall be responsible for said IDOT traffic signal maintenance and replacement costs related to the IDOT Duke Parkway/Route 59 Intersection. Said costs shall be shared equally (50/50) between the parties. It is anticipated that IDOT will be invoicing Aurora for said costs, however upon receipt of an invoice from IDOT by either municipality, said party shall pay the invoice and request reimbursement for 50% of said invoiced amount from the other party to be paid within 45 days of the request.

SECTION THREE: Should Aurora fail to commence the Duke Parkway/Route 59 Improvements before the end of 2017, the ROW shall remain within the corporate boundaries of Warrenville and its use and improvement shall be governed by the 2016 IGA.

SECTION FOUR: In the event that Warrenville installs public improvements in the ROW, the water and/or sewer improvements shall remain under the ownership and control of Warrenville and Aurora shall grant Warrenville a perpetual easement for said water and/or sewer improvements located on the ROW.

SECTION FIVE: Prior to commencing construction of the Duke Parkway/Route 59 Improvements in the ROW while under Warrenville jurisdiction, Aurora, its contractor or a third party developer shall obtain the following insurance coverages with the following minimum limits, and the policies of insurance shall name Warrenville as an additional, non-contributory co-insured:

A. **Comprehensive General Liability.** Comprehensive general liability insurance with coverage written on an “occurrence” or “claims made” basis and with limits no less than: (1) General Aggregate: \$2,000,000; (2) Bodily injury: \$2,000,000 per person, \$2,000,000 per occurrence; and (3) Property Damage: \$2,000,000 per occurrence.

B. Comprehensive Motor Vehicle Liability. Comprehensive motor vehicle liability insurance with a combined single limit of liability for bodily injury and property damage of not less than \$2,000,000 for vehicles owned, non-owned, or rented. The coverage required by this subsection shall include bodily injury and property damage for all motor vehicles that are operated by any employee, subcontractor, or agent of Aurora or third party developer in conjunction with the Duke Parkway/Route 59 Improvements.

C. General Standards for All Insurance. Aurora must provide Warrenville, upon request, with reasonable evidence of insurance and with certificates of insurance for commercial coverage designating Warrenville and its officers, boards, commissions, elected officials, agents, and employees as additional insureds and demonstrating that Aurora is causing the insurance required in this Section to be maintained. Each policy shall provide that no change, modification, or cancellation of any insurance coverage required by this Section shall be effective until the expiration of 30 calendar days after written notice to Warrenville of any such change, modification, or cancellation and providing that there is no limitation of liability if Warrenville is not notified of a policy cancellation.

SECTION SIX: This Agreement has been executed in the State of Illinois and will be governed in all respects, including validity, interpretation, and effect, and construed in accordance with, the laws of the State of Illinois. Any court action may be filed only in DuPage County, Illinois.

SECTION SEVEN: No provision of this Agreement may be amended or otherwise modified, in whole or in part, except by an instrument in writing duly approved and executed by the corporate authorities of Aurora and Warrenville. Any amendment must be authorized by ordinance.

SECTION EIGHT: Nothing in this Agreement is intended to confer third-party beneficiary status on any person, individual, corporation or member of the public to enforce the terms of this Agreement.

SECTION NINE: Any notice to a party shall be sent by certified mail, return receipt requested, or by personal delivery, at the following addresses:

CITY OF WARRENVILLE
28W701 Stafford Place
Warrenville, IL 60555

Attn: City Administrator

CITY OF AURORA
44 E. Downer Place
Downers Grove, IL 60505

Attn: Corporate Counsel

SECTION TEN: This Agreement incorporates the full and complete understanding of the parties to the exclusion of any terms and conditions not expressly set forth herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

(SIGNATURE PAGES TO FOLLOW)

SIGNED BY CITY OF WARRENVILLE on the ____ day of _____, _____.
CITY OF WARRENVILLE, an Illinois
Municipal Corporation

By: _____
Mayor

Attest: _____
City Clerk

SIGNED BY CITY OF AURORA on the ____ day of _____, _____.
CITY OF AURORA, an Illinois
Municipal Corporation

By: _____
Mayor

Attest: _____
City Clerk

ATTACHMENT 1

Duke Parkway / Route 59 Intersection Area

ATTACHMENT 2

State of Illinois Statute 65 ILCS 5/7-1-25

(65 ILCS 5/7-1-25) (from Ch. 24, par. 7-1-25)

Sec. 7-1-25. Any unoccupied territory, lying along the boundary line between 2 adjoining municipalities, may be excluded from one of the adjoining municipalities and annexed to the other adjoining municipality, as follows:

The corporate authorities of the excluding municipality shall adopt an ordinance providing for such exclusion, and the corporate authorities of the annexing municipality shall adopt an ordinance providing for the annexation of this territory. Upon the adoption of these ordinances, the territory is thereby excluded from the one municipality and annexed to the other. The chief executive officer of each municipality thereupon shall file for recordation an accurate map of the excluded or added territory, as the case may be, together with a certified copy of the ordinance for exclusion or annexation with the recorder of the county in which the excluded or added territory, as the case may be, is situated.

(Source: P.A. 83-358.)

ATTACHMENT 3

Vehicular Access Points

