

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village**  
**6/19/2018**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Agreements with the Forest Preserve District of DuPage County for the Conveyance of Property and Easements	Nan Newlon Director of Public Works

**SYNOPSIS**

Ordinances have been prepared to authorize approval of the following:

- An Intergovernmental Agreement with the Forest Preserve District of DuPage County that would convey properties and easements to the Village to allow the Village to provide pedestrian and vehicular access;
- An Easement Agreement for a portion of sidewalk on the north side of Maple Avenue in the Maple Grove Forest Preserve;
- An Easement Agreement for Gilbert Avenue Improvements within the Maple Grove Forest Preserve.

A resolution has also been prepared to authorize approval of a License Agreement providing for grading work on a portion of Hidden Lake Forest Preserve.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2017-2019 include *Top Quality Infrastructure*.

**FISCAL IMPACT**

N/A

**UPDATE & RECOMMENDATION**

This item was discussed at the June 12, 2018 Village Council meeting. Staff recommends approval on the June 19, 2018 active agenda.

**BACKGROUND**

The purpose of these agreements between the Village and the Forest Preserve District of DuPage County Forest Preserve District is to provide for the conveyance of certain property within Hidden Lake Forest Preserve and to grant easements within the Maple Grove Forest Preserve. The agreements include the following four components:

- Convey property within the Hidden Lake Forest Preserve for the purpose of right-of-way along Lacey Road adjacent to 3600 Lacey Road. This additional right-of-way will allow for the improvement of Lacey Road by the developer, including a four-lane cross section with a median and public sidewalk. The conveyance fee of \$4,500 will be paid by the developer.

- Provide a license for a temporary grading easement within the Hidden Lake Preserve adjacent to 3600 Lacey Road. This temporary grading easement will allow for the grading work needed to construct a public sidewalk along Lacey Road. The license fee of \$1,444.69 will be paid by the developer.
- Provide an easement within the Maple Grove Forest Preserve for Gilbert Road for the existing public sidewalk and guardrail along Gilbert Road, which were constructed by the Village. There is no cost associated with this easement.
- Provide an easement within the Maple Grove Forest Preserve for the public sidewalk on the north side of Maple Avenue for the existing public sidewalk. There is no cost associated with this easement.

## **ATTACHMENTS**

Ordinances

Resolution

Agreements

VILLAGE OF DOWNERS GROVE  
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: June 19, 2018  
(Name)

RECOMMENDATION FROM: \_\_\_\_\_ FILE REF: \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

**STEPS NEEDED TO IMPLEMENT ACTION:**

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY AND THE VILLAGE OF DOWNERS GROVE PROVIDING FOR THE CONVEYANCE OF CERTAIN PROPERTY WITHIN HIDDEN LAKE FOREST PRESERVE, GRANTING EASEMENTS WITHIN MAPLE GROVE FOREST PRESERVE AND GRANTING A LICENSE WITHIN HIDDEN LAKE FOREST PRESERVE", as presented.

**SUMMARY OF ITEM:**



Adoption of this ordinance shall authorize an Intergovernmental Agreement between the Forest Preserve District of DuPage County and the Village of Downers Grove providing for the conveyance of certain property within Hidden Lake Forest Preserve, granting easements within Maple Grove Forest Preserve and granting a license within Hidden Lake Forest Preserve.

**RECORD OF ACTION TAKEN:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE FOREST PRESERVE DISTRICT OF DU PAGE COUNTY AND  
THE VILLAGE OF DOWNERS GROVE PROVIDING FOR THE CONVEYANCE OF  
CERTAIN PROPERTY WITHIN HIDDEN LAKE FOREST PRESERVE, GRANTING  
EASEMENTS WITHIN MAPLE GROVE FOREST PRESERVE AND GRANTING A  
LICENSE WITHIN HIDDEN LAKE FOREST PRESERVE**

WHEREAS, the DISTRICT owns a forest preserve named Hidden Lake Forest Preserve, which is located on the south side of Butterfield Road in Downers Grove (hereinafter "Hidden Lake"), Illinois; and

WHEREAS, the VILLAGE is in the planning stages for a road widening project for Lacey Road that will include the Hidden Lake Property; and

WHEREAS, the VILLAGE has requested that the DISTRICT convey the Hidden Lake Property to the VILLAGE; and

WHEREAS, the VILLAGE has determined that it is necessary for it to use, occupy and/or improve the Hidden Lake Property as part of the Lacey Road widening project; and

WHEREAS, the DISTRICT and VILLAGE have determined that it is reasonable and appropriate for the DISTRICT to convey the Hidden Lake Property to the VILLAGE in conformance with the Agreement; and

WHEREAS, the DISTRICT and the VILLAGE have determined that it is reasonable, appropriate and necessary for the DISTRICT to grant to the VILLAGE a perpetual easement for the VILAGE to maintain a portion of sidewalk on the north side of Maple Avenue within the Maple Grove Forest Preserve; and

WHEREAS, the DISTRICT and the VILLAGE have determined that it is reasonable, appropriate and necessary for the DISTRICT to grant to the VILLAGE a perpetual easement for the VILLAGE to maintain Gilbert Avenue Improvements within the Maple Grove Forest Preserve; and

WHEREAS, the DISTRICT and the VILLAGE have determined that it is necessary and appropriate for the DISTRICT to grant a license to the VILLAGE to allow the VILLAGE to perform grading work within Hidden Lake Forest Preserve; and

WHEREAS, the DISTRICT and the VILLAGE are empowered to enter into an Intergovernmental Agreement pursuant to the authority granted in Article VII, Section 10, of the Illinois Constitution of 1970 and the Local Government Property Transfer Act; and

WHEREAS, the DISTRICT and VILLAGE are municipalities as defined in Section 1(c) of the Local Government Property Transfer Act, 50 ILCS 605/1(c) (hereinafter "Transfer Act"); and

WHEREAS, Section 2 of the Transfer Act, authorizes municipalities, pursuant to a two-thirds vote of the members of its corporate authority, to convey real estate to another municipality for any municipal or public purpose of the transferring municipality and upon such terms and conditions as may be agreed to by the municipalities; and

NOW, THEREFORE, be it ORDAINED by the Village Council of the Village of Downers Grove;

SECTION 1. That the recitals set forth herein above are incorporated herein by reference as the factual basis for this transaction.

SECTION 2. That the Mayor is hereby authorized to execute and the Village Clerk attest the approval of the attached Intergovernmental Agreement relating to the conveyance of certain property.

SECTION 3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Intergovernmental Agreement.

SECTION 4. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. This ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_  
Village Clerk

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE FOREST  
PRESERVE DISTRICT OF DU PAGE COUNTY AND VILLAGE OF DOWNERS  
GROVE PROVIDING FOR THE CONVEYANCE OF CERTAIN PROPERTY  
WITHIN HIDDEN LAKE FOREST PRESERVE, GRANTING EASEMENTS WITHIN  
MAPLE GROVE FOREST PRESERVE AND GRANTING A LICENSE WITHIN  
HIDDEN LAKE FOREST PRESERVE**

This Intergovernmental Agreement (hereinafter "Agreement") is made and entered into by and between the Forest Preserve District of DuPage County, a body corporate and politic, (hereinafter "DISTRICT") and Village of Downers Grove, a municipal corporation (hereinafter "VILLAGE"). The DISTRICT and VILLAGE are hereinafter sometimes individually referred to as a "Party" or together as the "Parties."

**RECITALS**

WHEREAS, the DISTRICT owns a forest preserve named Hidden Lake Forest Preserve, which is located on the south side of Butterfield Road in Downers Grove (hereinafter "Hidden Lake"), Illinois; and

WHEREAS, within Hidden Lake there is an approximately 0.09 +/- acre property that is within Lacey Road and legally described in **Exhibit A** and depicted in **Exhibit B** attached hereto and incorporated herein (hereinafter "Hidden Lake Property"); and

WHEREAS, the VILLAGE is in the planning stages for a road widening project for Lacey Road that will include the Hidden Lake Property; and

WHEREAS, the VILLAGE has requested that the DISTRICT convey the Hidden Lake Property to the VILLAGE; and

WHEREAS, the DISTRICT and VILLAGE have determined that it is reasonable and appropriate for the DISTRICT to convey the Hidden Lake Property to the VILLAGE in conformance with this Agreement; and

WHEREAS, the DISTRICT and the VILLAGE are empowered to enter into this Intergovernmental Agreement pursuant to the authority granted in Article VII, Section 10, of the Illinois Constitution of 1970 and the Local Government Property Transfer Act; and

WHEREAS, the DISTRICT and VILLAGE are municipalities as defined in Section 1(c) of the Local Government Property Transfer Act, 50 ILCS 605/1(c) (hereinafter "Transfer Act"); and

WHEREAS, Section 2 of the Transfer Act, authorizes municipalities, pursuant to a two-thirds vote of the members of its corporate authority, to convey real estate to another municipality for any municipal or public purpose of the transferring municipality and upon such terms and conditions as may be agreed to by the municipalities; and

WHEREAS, as a condition precedent to conveyance under Section 2 of the Transfer Act, the transferee municipality must first declare by ordinance “that it is necessary or convenient for it to use, occupy or improve the real estate held by the transferor municipality”; and

WHEREAS, the VILLAGE, through its corporate authorities by ordinance, has determined that it is necessary or convenient for it to use, occupy or improve the Hidden Lake Property; and

WHEREAS, as part of the road widening project for Lacey Road there is a certain portion of Hidden Lake that the VILLAGE wishes to utilize for grading work; and the VILLAGE has requested that the DISTRICT grant a temporary license for the grading work within Hidden Lake. Said certain portion of Hidden Lake is approximately 0.055 +/- acres and depicted in **Exhibit C** attached hereto and incorporated herein (hereinafter “License Area”); and

WHEREAS, the DISTRICT, pursuant to Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, is empowered to grant licenses for public services; and

WHEREAS, the DISTRICT has determined that it is reasonable and appropriate for the DISTRICT to grant the VILLAGE a temporary license for grading work in the License Area, in conformance with this Agreement and the License Agreement titled “A License Agreement Between the Forest Preserve District of DuPage County and the Village of Downers Grove Providing for Grading Work on a Portion of Hidden Lake Forest Preserve” attached hereto and incorporated herein as **Exhibit D**; and

WHEREAS, the District owns a forest preserve named Maple Grove Forest Preserve, which is located on the north side of Maple Avenue in Downers Grove (hereinafter “Maple Grove”); and

WHEREAS, within Maple Grove there is an existing sidewalk on the north side of Maple Avenue. Said sidewalk was constructed by the VILLAGE after the DISTRICT granted a 20 year License to the VILLAGE. The License for the sidewalk on the north side of Maple Avenue has expired; and

WHEREAS, the VILLAGE has requested that the DISTRICT grant a perpetual easement for the existing sidewalk on the north side of Maple Avenue; and

WHEREAS, the land encompassing the sidewalk measures approximately 0.37 +/- acres and is legally described in **Exhibit E** and depicted in **Exhibit F** attached hereto and incorporated herein (hereinafter “Maple Avenue Sidewalk”); and

WHEREAS, the DISTRICT has determined that it is reasonable and appropriate for the DISTRICT to grant a perpetual easement for the Maple Avenue Sidewalk to the VILLAGE in conformance with this Agreement and the Easement Agreement titled “An Easement Agreement for a Public Sidewalk on the North Side of Maple Avenue Within the Maple Grove Forest Preserve” attached hereto and incorporated herein as **Exhibit G**; and

WHEREAS, within Maple Grove there is an existing public road commonly known as Gilbert Avenue and an existing guard rail and sidewalk south of Gilbert Avenue. The land encompassing the road, guard rail and sidewalk measures approximately 0.45 +/- acres and is legally described in **Exhibit H** and depicted in **Exhibit I** attached hereto and incorporated herein (hereinafter “Gilbert Avenue Improvements”); and

WHEREAS, the VILLAGE has requested that the DISTRICT grant a perpetual easement for the Gilbert Avenue Improvements to the VILLAGE; and

WHEREAS, the DISTRICT has determined that it is reasonable and appropriate for the DISTRICT to grant a perpetual easement for the Gilbert Avenue Improvements to the VILLAGE in conformance with this Agreement and the Easement Agreement titled “An Easement Agreement for a Public Road and Sidewalk for Gilbert Avenue Within the Maple Grove Forest Preserve” attached hereto and incorporated herein as **Exhibit J**; and

WHEREAS, the DISTRICT and VILLAGE are municipalities as defined in Section 1(c) of the Local Government Property Transfer Act, 50 ILCS 605/1(c), hereinafter referred to as the “Transfer Act”; and

WHEREAS, Section 2 of the Transfer Act authorizes transfers of real estate, or interests therein, between municipalities for any public purpose upon such terms as are agreed to by the corporate authorities of the respective municipalities; and

WHEREAS, in accordance with Section 2 of the Transfer Act, the VILLAGE, pursuant to a duly passed ordinance, has determined that it is necessary to attain a permanent easement for the Maple Avenue Sidewalk legally described in Exhibit E and depicted in Exhibit F; and

WHEREAS, in accordance with Section 2 of the Transfer Act, the VILLAGE, pursuant to a duly passed ordinance, has determined that it is necessary to attain a permanent easement for the Gilbert Avenue Improvements legally described in Exhibit H and depicted in Exhibit I; and

WHEREAS, the DISTRICT has determined that it is reasonable, necessary and in the public interest and welfare to grant the VILLAGE permanent easements for the Maple Avenue Sidewalk and Gilbert Avenue Improvements, subject to the terms and conditions set forth herein and the Easement Agreements attached hereto and incorporated herein as Exhibit G and Exhibit J;

NOW, THEREFORE, in consideration of the mutual promises, terms, considerations and conditions set forth herein, and in the spirit of intergovernmental cooperation, the Parties agree as follows:



## **1.0 INCORPORATION OF RECITALS.**

- 1.1. The recitals set forth above are incorporated herein and made part hereof as substantive terms and conditions and evidencing the intent of the Parties.
- 1.2. The headings of the paragraphs and subparagraphs of this Agreement are inserted for convenience of reference only and shall not be deemed to constitute part of this Agreement or to affect the construction hereof.

## **2.0 CONVEYANCE**

- 2.1 Within thirty (30) days of the date of this Agreement the DISTRICT shall convey to the VILLAGE by quit claim deed the title to the Hidden Lake Property. The conveyance shall be in “as is” condition.

## **3.0 TITLE INSURANCE AND BOUNDARY SURVEY**

- 3.1 The VILLAGE shall be responsible for obtaining title insurance for the Hidden Lake Property if it so elects, at its sole expense.
- 3.2 The VILLAGE shall be responsible for obtaining a boundary survey for the Hidden Lake Property if it so elects, at its sole expense.

## **4.0 COMPENSATION**

- 4.1 For the sum of Four Thousand Five Hundred And No/100 Dollars (\$4,500.00) and other valuable considerations, the DISTRICT will convey the Hidden Lake Property to the VILLAGE.

## **5.0 INDEMNIFICATION**

- 5.1 Each Party shall defend, hold harmless and indemnify the other Party, its elected officials, officers, employees and agents from and against all claims, liabilities, causes of action, losses, judgments, settlements, damages and expenses (including, but not limited to, reasonable expert witness and attorney fees) that may at any time arise or be claimed by any person or entity as a result of bodily injury, sickness, death or property damage, or as a result of any other claim or suit of any nature whatsoever, allegedly arising out of, or in any manner connected with, directly or indirectly, the negligent or intentional acts or omissions of the indemnifying Party’s performance of its obligations under this Agreement. This provision is not intended to waive any statutory or common law privileges or immunities as they relate to other persons or entities. There are no third party beneficiaries of this Indemnity.

## **6.0 CLOSING**

- 6.1 The payment of the compensation by the VILLAGE to the DISTRICT shall occur at a closing at a location designated by the DISTRICT provided that the closing shall occur within the period referred to above unless agreed to in writing by the Parties. All rights of possession of the Hidden Lake Property shall be granted by the DISTRICT to the VILLAGE at the time of closing.

## **7.0 LICENSE GRANTED**

- 7.1 The DISTRICT hereby grants a license to the VILLAGE within Hidden Lake on the terms and conditions as provided for in the License Agreement attached hereto as EXHIBIT D, which includes all associated exhibits.

## **8.0 EASEMENTS GRANTED**

- 8.1 The DISTRICT hereby grants an easement to the VILLAGE within Maple Grove for the Maple Avenue Sidewalk on the terms and conditions as provided for in the Easement Agreement attached hereto as EXHIBIT G, which includes all associated exhibits.
- 8.2 The DISTRICT hereby grants an easement to the VILLAGE within Maple Grove for the Gilbert Avenue Improvements on the terms and conditions as provided for in the Easement Agreement attached hereto as EXHIBIT J, which includes all associated exhibits.

## **9.0 NOTICES**

- 9.1 All notices required to be given under the terms of this Agreement shall be served by certified or registered mail, return receipt requested, properly addressed with postage pre-paid and deposited in the United States mail. Notices served by mail shall be effective upon receipt as verified by the United States Postal Service.
- 9.2 Notices served upon the DISTRICT shall be directed to the Executive Director, Forest Preserve District of DuPage County, P.O. Box 5000, Wheaton, Illinois 60189-5000.
- 9.3 Notices served upon the VILLAGE shall be directed to the Village Manager, Village of Downers Grove, 801 Burlington Avenue, Downers Grove, Illinois, 60515.
- 9.4 Either Party may designate a new location for service of notices by serving notice thereof in accordance with the requirements of this paragraph.

## **10.0 RECOVERY OF COSTS**

- 10.1 In the event either Party is required to institute any action or proceeding, whether at law or in equity, to enforce any provision of this Agreement, the prevailing

Party (as determined in the reasonable discretion of the court) shall be entitled to recover all costs and expenses incurred by the prevailing Party in connection with the action or proceeding, including but not limited to, reasonable expert witness and attorney's fees.

## **11.0 MERGER**

11.1 The provisions of this Agreement shall not merge with the quit claim deed executed by the DISTRICT pursuant to section 2.1 of this Agreement.

## **12.0 ENTIRE AGREEMENT**

12.1 The provisions set forth herein represent the entire Agreement between the Parties and supersede any and all previous oral or written agreements, understandings or discussions, as it is the intention of the Parties to provide for complete integration of the terms of this Agreement. No provisions may be modified in any respect unless the modification is in writing, duly approved and signed by both Parties.

## **13.0 EXECUTION**

13.1 This Agreement shall be executed in duplicate and each Party shall retain a fully executed copy each of which shall be deemed an original.

IN WITNESS whereof, the Parties have entered into this Intergovernmental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**FOREST PRESERVE DISTRICT OF  
DUPAGE COUNTY**

**VILLAGE OF DOWNERS GROVE**

By: \_\_\_\_\_  
Joseph Cantore, President

By: \_\_\_\_\_  
Martin T. Tully, Mayor

Attest: \_\_\_\_\_  
Judith Malahy, Secretary

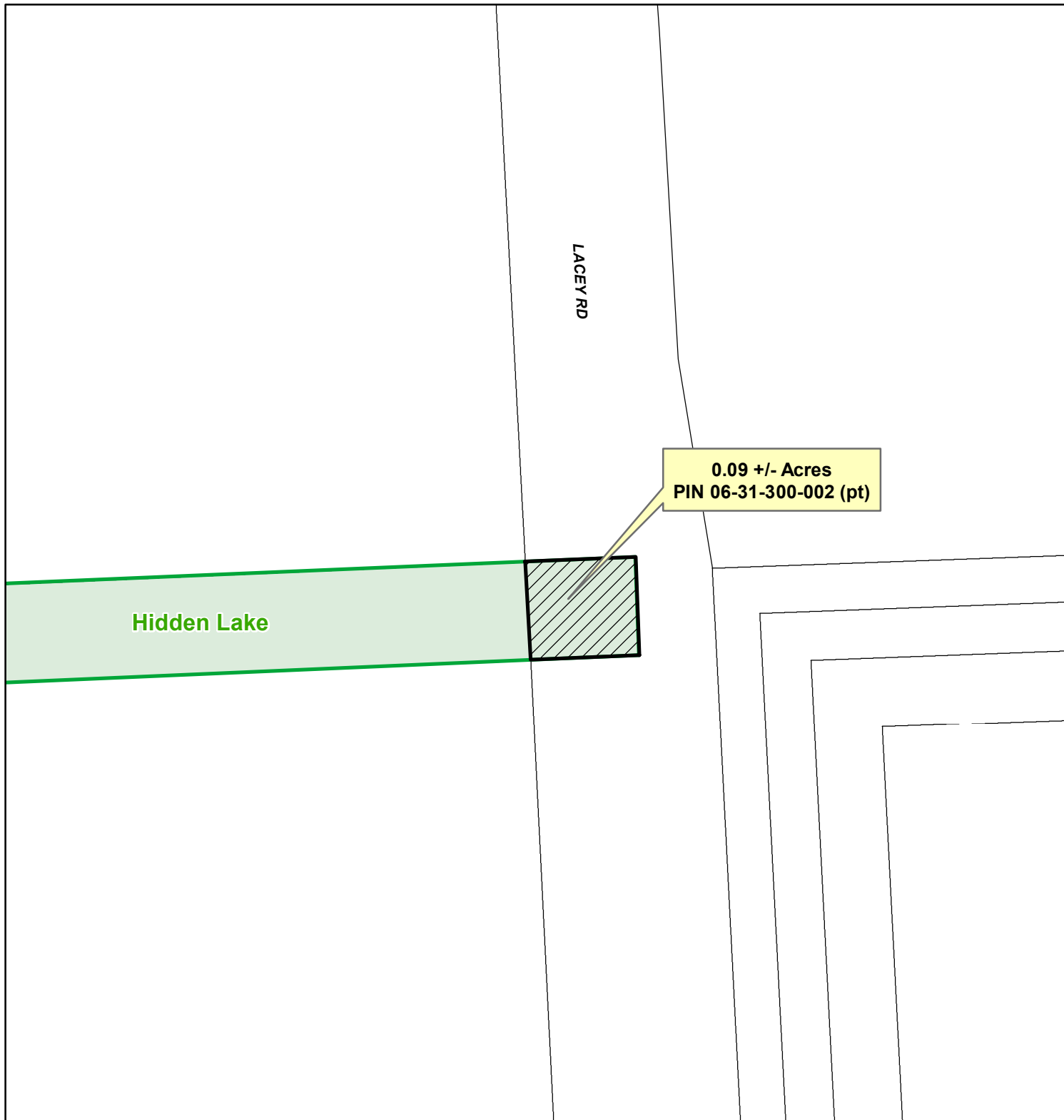
Attest: \_\_\_\_\_  
April Holden, Clerk

**LEGAL DESCRIPTION**

THAT PART OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST  $\frac{1}{4}$  OF SAID SECTION 31; THENCE SOUTH 89 DEGREES 54 MINUTES 10 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST  $\frac{1}{4}$ , 1037.28 FEET TO THE CENTER LINE OF OLD LACEY ROAD; THENCE SOUTH 00 DEGREES 49 MINUTES 13 SECONDS EAST ALONG SAID CENTER LINE OF OLD LACEY ROAD, 435.42 FEET TO AN INTERSECTION WITH A LINE 60.00 FEET, AS MEASURED AT RIGHT ANGLES, NORTH OF AND PARALLEL WITH THE NORTH LINE OF LACEY'S TRACT, SAID POINT OF INTERSECTION BEING THE PLACE OF BEGINNING; THENCE SOUTH 00 DEGREES 49 MINUTES 13 SECONDS EAST ALONG SAID CENTER LINE OF OLD LACEY ROAD, 60.00 FEET TO THE NORTH LINE OF LACEY'S TRACT; THENCE SOUTH 89 DEGREES 45 MINUTES 17 SECONDS WEST ALONG THE NORTH LINE OF LACEY'S TRACT, 67.00 FEET TO AN INTERSECTION WITH A LINE 67.00 FEET, AS MEASURED AT RIGHT ANGLES, WEST OF AND PARALLEL WITH THE CENTER LINE OF OLD LACEY ROAD; THENCE NORTH 00 DEGREES 49 MINUTES 13 SECONDS WEST ALONG SAID LAST DESCRIBED PARALLEL LINE, 60.00 FEET TO AN INTERSECTION WITH A LINE 60.00 FEET, AS MEASURED AT RIGHT ANGLES, NORTH OF AND PARALLEL WITH THE NORTH LINE OF LACEY'S TRACT; THENCE NORTH 89 DEGREES 45 MINUTES 12 SECONDS EAST ALONG SAID LAST DESCRIBED PARALLEL LINE, 67.00 FEET TO THE PLACE OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

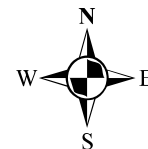
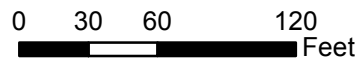
P.I.N.: 06-31-300-002 (PART)

# HIDDEN LAKE FOREST PRESERVE LACEY ROAD CONVEYANCE - TO VILLAGE OF DOWNERS GROVE



FPD Bounds

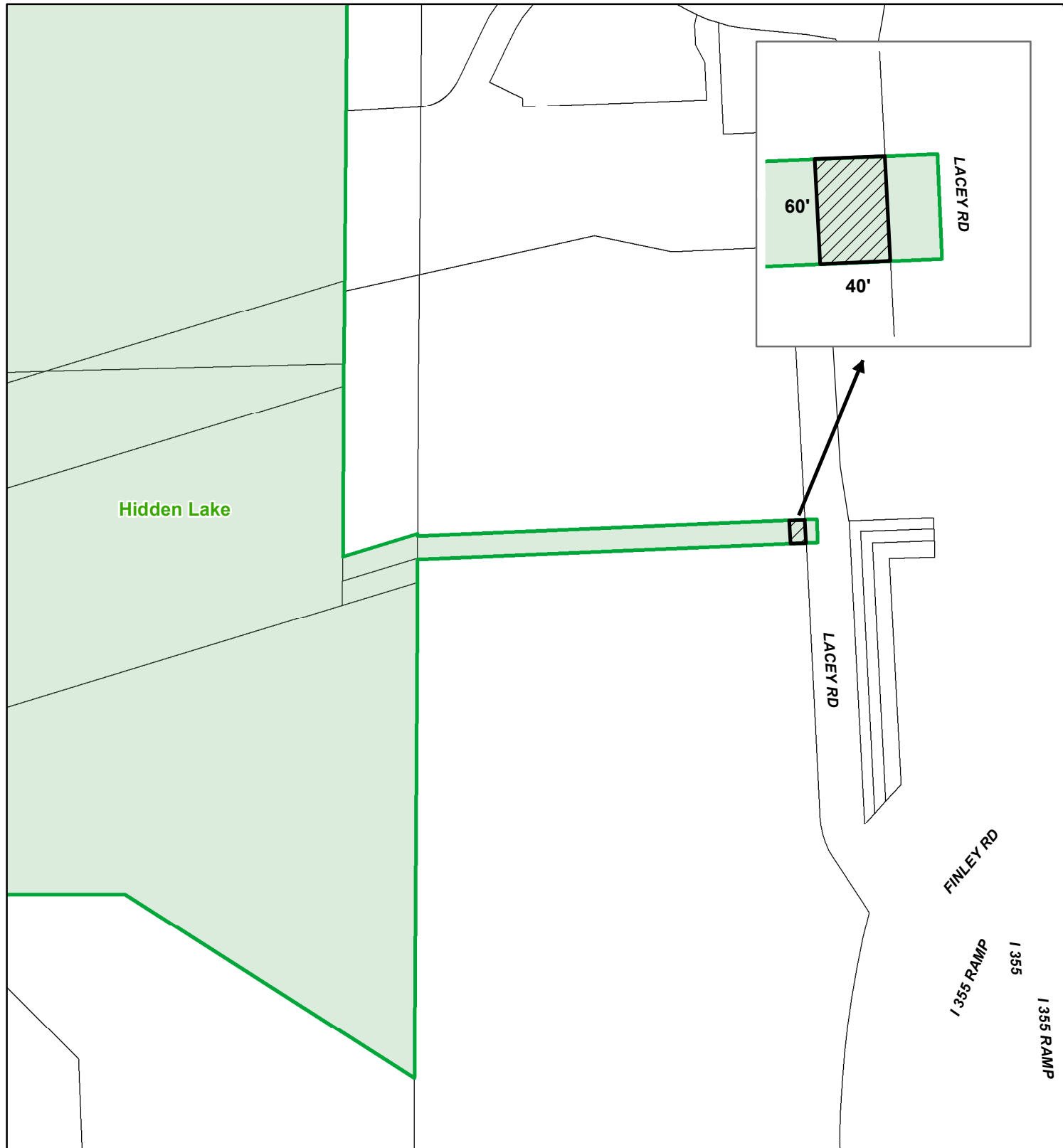
Lacey Road Conveyance Property





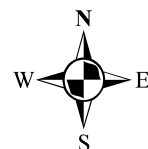
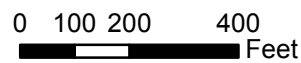
Land Preservation Department

**EXHIBIT B to IGA**

# HIDDEN LAKE VILLAGE OF DOWNERS GROVE - TEMPORARY GRADING LICENSE



-  FPD Bounds
-  License Area (60' X 40')



Land Preservation Department

**EXHIBIT C to IGA**

LICENSE NO. X-170-018L

NOT TO BE RECORDED

**A LICENSE AGREEMENT BETWEEN THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY AND THE VILLAGE OF DOWNERS GROVE PROVIDING FOR GRADING WORK ON A PORTION OF HIDDEN LAKE FOREST PRESERVE**

THIS LICENSE AGREEMENT (hereinafter “Agreement”) is made and entered into by and between the Forest Preserve District of DuPage County, a body politic and corporate (hereinafter "DISTRICT"), and the Village of Downers Grove, a municipal corporation (hereinafter "LICENSEE").

WITNESSETH:

WHEREAS, the DISTRICT owns certain property commonly known as the Hidden Lake Forest Preserve (hereinafter “Hidden Lake”); and

WHEREAS, LICENSEE will be installing a sidewalk along Lacey Road adjacent to a portion of Hidden Lake; and

WHEREAS, LICENSEE has requested permission to conduct grading work on a portion of Hidden Lake in order to provide the necessary level area for the proposed sidewalk; and

WHEREAS, the DISTRICT, pursuant to Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, is empowered to grant licenses for public services; and

WHEREAS, the DISTRICT finds that it is reasonable, necessary and desirable to grant LICENSEE a temporary license within Hidden Lake, subject to the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the promises, terms and conditions set forth herein, the parties agree as follows:

**1.0 INCORPORATION OF RECITALS**

1.1 The recitals set forth above are incorporated herein and made a part of this Agreement.

**2.0 LICENSE GRANTED**

2.1 The DISTRICT hereby grants LICENSEE a temporary License within a portion of Hidden Lake as depicted in **Exhibit “A”**, attached hereto and made a part hereof (hereinafter referred to as the "License Area"), for the purpose of providing LICENSEE with the necessary level area for a sidewalk along Lacey Road.

2.2 The license granted herein shall automatically terminate upon the completion of the grading

work to be performed by LICENSEE within the License Area and DISTRICT approval of any restoration work in accordance with Paragraph 4.0 herein.

- 2.3 The LICENSEE shall notify the DISTRICT'S designated project representative (Kevin Stough, [kstough@dupageforest.org](mailto:kstough@dupageforest.org)) no less than five (5) business days prior to the first access to the License Area. LICENSEE shall make any independent contractor accessing the License Area aware of the terms and conditions of this Agreement. Should the DISTRICT'S project representative determine that the LICENSEE or any of its independent contractor's activities in the License Area are inconsistent with, or in violation with the terms of this Agreement, the LICENSEE will stop the use of the License Area at the direction of the DISTRICT'S project representative until the issue(s) associated with activities are fully resolved.
- 2.4 The LICENSEE shall notify the DISTRICT'S designated project representative (Kevin Stough, [kstough@dupageforest.org](mailto:kstough@dupageforest.org)) within two (2) business days after the completion of the restoration work on the License Area.

### **3.0 LICENSE FEE**

- 3.1 LICENSEE shall pay the fees as provided for in this Agreement. The license fee to be paid by LICENSEE to the DISTRICT for the granting of the License shall be based on the license fee requirements in the DISTRICT'S Easement and License Ordinance (No. 96-096). The fee is \$1,444.69, which is based on \$26,267 per acre ( $\$26,267 \times 0.055 \text{ acres} [40' \times 60' = 2,400 \text{ Sq. Ft.} = 0.055 \text{ acres}] = \$1,444.69$ ). The license fee shall be paid to the DISTRICT prior to execution of this Agreement by the DISTRICT.

### **4.0 RESTORATION**

- 4.1 Except as the parties may otherwise agree in writing, LICENSEE shall promptly repair any damage to the License Area or other DISTRICT property resulting from LICENSEE's use of Hidden Lake. The required seed mix and seed amount per acre shall be in conformance with **Exhibit "B"**, attached hereto and incorporated herein. All repairs shall be subject to the approval of the DISTRICT'S Executive Director. In order to ensure that all affected areas are properly restored, including any damage occurring outside the boundaries of the License Area, LICENSEE shall provide the DISTRICT with a restoration deposit in the form of a certified or cashier's check made payable to the Forest Preserve District of DuPage County in the amount of \$1,000.00. Such funds shall be refunded, without interest, upon the satisfactory restoration of all affected areas and the acceptance thereof by the DISTRICT'S Executive Director. In the event LICENSEE fails to properly repair any damage within 14 business days of the effective date of written notice from the DISTRICT demanding the repair, the DISTRICT shall have the right to take such action as it deems necessary to repair the damage, which shall include the authority to engage the services of an independent contractor and to utilize the funds deposited with the DISTRICT. If the costs and expenses incurred by the DISTRICT in repairing the damage exceed the amount of the restoration deposit provided to the DISTRICT, LICENSEE shall be responsible for reimbursing the DISTRICT for the additional costs and expenses in excess of the amount deposited with the DISTRICT under this paragraph that are related to the repair work within 10 business days of service of the DISTRICT'S written demand for payment.



## **5.0 INSURANCE**

5.1 Except as otherwise required by the DISTRICT'S Executive Director, LICENSEE and its independent contractors shall purchase and maintain or be self-insured during this Agreement insurance coverage which will satisfactorily insure LICENSEE, its independent contractors and, where appropriate, the DISTRICT against claims and liabilities which may arise out of the use of DISTRICT property. Such insurance shall be issued by companies licensed to do business in the State of Illinois and having an A.M. Best Rating of A minus or better. LICENSEE shall provide Certificates of Insurance naming the DISTRICT and any of its officers, trustees, agents or employees as additionally insured on all coverages in this Agreement except Workers' Compensation and Employer's Liability. The insurance coverages shall include the following:

- (A) Workers' compensation insurance with limits as required by the applicable workers' compensation statutes. The employer's liability coverage under the workers' compensation policy shall have limits of not less than \$500,000 each accident/injury; \$500,000 each employee/disease; \$500,000 policy limit.
- (B) Commercial general liability insurance protecting LICENSEE against public liability claims which may arise in the course of using the License Area. The limits of liability shall be not be less than \$1,000,000 each occurrence bodily injury/property damage combined single limit and \$2,000,000 aggregate bodily injury/property damage combined single limit. The policy of commercial general liability insurance shall include contractual liability coverage and an endorsement naming the DISTRICT as an additional insured.
- (C) Commercial automobile liability insurance covering LICENSEE's owned, non-owned and leased vehicles which protects LICENSEE against automobile liability claims whether on or off the DISTRICT'S premises with coverage limits of not less than \$1,000,000 each accident bodily injury/property damage combined single limit.
- (D) Umbrella or Excess liability insurance with limits of not less than \$1,000,000 each occurrence bodily injury/property damage combined single limit and \$1,000,000 aggregate bodily injury/property damage combined single limit. The Umbrella or Excess coverage shall apply in excess of the limits stated in subparagraphs (B) and (C) above, and shall either include an endorsement naming the DISTRICT as an additional insured or provide "following form" coverage.

5.2. LICENSEE and its independent contractors shall furnish the DISTRICT with certificates of insurance and, upon the DISTRICT's request, copies of all insurance policies and endorsements thereto evidencing the coverages required under paragraph 5.0. The LICENSEE shall provide that no cancellation or modification of the policy or policies shall occur without at least 30 days' prior written notice to the DISTRICT. LICENSEE and its independent contractors shall not enter upon the License Area until evidence of the required insurance has been received and approved by the DISTRICT.

## **6.0 INDEMNIFICATION**

6.1 LICENSEE shall defend, hold harmless, and indemnify the DISTRICT and all of its officers, agents, employees and elected officials from any loss, damage, demand, liability, cause of action, fine, judgment or settlement, together with all costs and expenses related thereto (including reasonable expert witness and attorney fees), that may be incurred by the

DISTRICT as a result of bodily injury, death or property damage or as a result of any other claim or suit of any nature whatsoever arising from or in any manner connected with the negligent or intentional acts or omissions of LICENSEE pertaining to the use of the License Area or the negligent or intentional acts or omissions of any independent contractor or subcontractor that is engaged by LICENSEE and permitted to utilize the License Area. LICENSEE shall require all such contractors or subcontractors to agree to defend, hold harmless and indemnify the DISTRICT to the same extent required of LICENSEE under this paragraph.

## **7.0 BREACH OF AGREEMENT**

7.1 In the event LICENSEE breaches any provision contained herein, the DISTRICT may immediately terminate this Agreement by serving written notice as provided for in paragraph 8.0. A waiver by the DISTRICT of any breach of one or more of the terms of this Agreement on the part of LICENSEE shall not constitute a waiver of any subsequent or other breach of the same or other term, nor shall the failure on the part of the DISTRICT to require exact, full and complete compliance with any of the terms contained herein be construed as changing the terms of this Agreement or estopping the DISTRICT from enforcing full compliance with the provisions herein. No delay, failure or omission of the DISTRICT to exercise any right, power, privilege or option arising from any breach shall impair any right, privilege or option, or be construed as a waiver or acquiescence in such breach or as a relinquishment of any right. No option, right, power, remedy or privilege of the DISTRICT shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, privileges and remedies given the DISTRICT under this Agreement and by law shall be cumulative.

## **8.0 NOTICES**

8.1 All notices required to be provided under this Agreement shall be in writing and served either by registered or certified mail, return receipt requested, properly addressed with postage prepaid and deposited in the United States mail. Notices served upon the DISTRICT shall be directed to the Executive Director, Forest Preserve District of DuPage County, P.O. Box 5000, Wheaton, IL 60189-5000. Notices served upon LICENSEE shall be directed to Village Manager, Village of Downers Grove, 801 Burlington Avenue, Downers Grove, Illinois, 60515. Notices served by mail shall be effective upon receipt as verified by the United States Postal Service.

## **9.0 MISCELLANEOUS PROVISIONS**

9.1 LICENSEE shall not record this Agreement or any memorandum or other document referring hereto, without the written consent of the DISTRICT'S Executive Director.

9.2 This Agreement shall be construed in accordance with the laws of the State of Illinois.

9.3 The provisions set forth herein represent the entire agreement between the parties and may not be modified or changed in any respect unless such modification or change is in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have entered into this License Agreement as of the \_\_\_\_\_ of \_\_\_\_\_, 2018.

**FOREST PRESERVE DISTRICT OF  
DUPAGE COUNTY**

**VILLAGE OF DOWNERS GROVE**

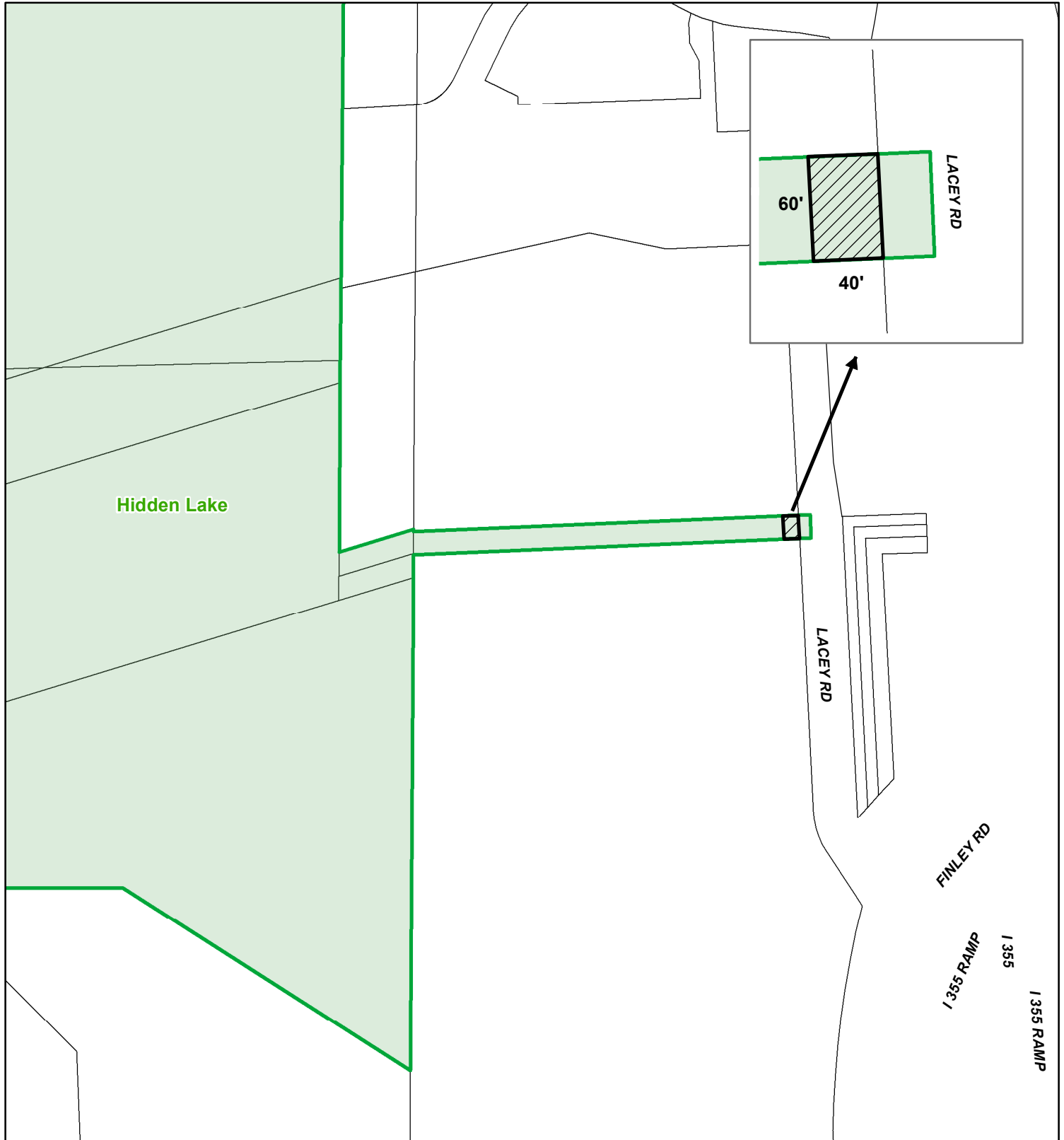
BY: \_\_\_\_\_  
Joseph Cantore, President

BY: \_\_\_\_\_  
Martin T. Tully, Mayor

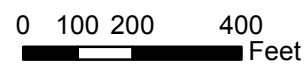
ATTEST: \_\_\_\_\_  
Judith Malahy, Secretary

ATTEST: \_\_\_\_\_  
April Holden, Clerk

# HIDDEN LAKE VILLAGE OF DOWNERS GROVE - TEMPORARY GRADING LICENSE



- FPD Bounds
- License Area (60' X 40')



Land Preservation Department

**EXHIBIT "A"**

**SEED MIX – HIDDEN LAKE FOREST PRESERVE – VILLAGE OF DOWNERS GROVE LICENSE**

25% Improved Creeping Red Fescue (ex. Epic, Audubon, etc.)

25% Improved Chewings Fescue (ex. J-5, Culumbra II, Ambrose, etc.)

25% Improved Hard Fescue (ex. Rescue 911, Reliant IV, Spartan II, etc.)

25% Improved Sheep Fescue (ex. Marco Polo, MX-86, Quatro, etc.)

Seeding Rate:

New seeding: 6 lbs./1,000 square feet

Seed must be covered with S75BN erosion control blanket manufactured by Tensar/North American Green, coupled with biodegradable Wood EcoStakes (12”), also manufactured by Tensar/North American Green

**Legal Description**  
-for-  
**Public Sidewalk**  
Located at  
**North Side of Maple Avenue at**  
**Maple Grove Forest Preserve Number 4**

Parcel 1:

That part of Maple Grove Forest Preserve No. 4, situated in Sections 7 and 18, Township 38 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois, recorded as document No. R1920-145494 W.D., described as follows: Beginning at the intersection of the northwesterly Right-of-Way line of Maple Avenue and the East line of the Northwest Quarter of Section 18 aforesaid; then northerly along the East line of the Northwest Quarter of said Section 18 to a point that is 15-feet northerly of the northwesterly Right-of-Way line of Maple Avenue as measured perpendicular to said Right-of-Way line; thence westerly, along a line 15-feet northerly of and parallel to the north line of said Maple Avenue to the east line of Marshall Field Woodland Homes 1<sup>st</sup> Addition Subdivision, recorded as document no. R1920-144597; thence southerly, along the east line of said subdivision to the northwesterly Right-of-Way line of Maple Avenue; thence easterly, Along the northwesterly Right-of-Way line of Maple Avenue to the point of beginning, all in DuPage County, Illinois.



Parcel 2:

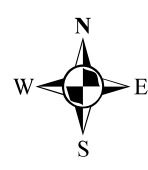
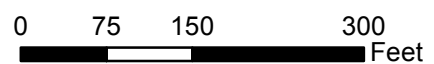
That part of Maple Grove Forest Preserve No. 4, situated in Sections 7 and 18, Township 38 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois, recorded as document No. R1920-145494 W.D., described as follows: Commencing at the Southeasterly corner of said Maple Grove Forest Preserve No. 4, being a point on the northwesterly Right-of-Way line of Maple Avenue (as shown on the "Resolution Authorizing a Permanent Easement for Maple Avenue" recorded as document R2009-044121); Thence southwestwardly along the northwesterly Right-of-Way line of Maple Avenue a distance of 14.42 feet to a bend point; thence westerly along the northwesterly Right-of-Way line of Maple Avenue a distance of 240.00 feet to the southwest corner of the permanent easement granted by document R2009-044121 aforesaid for the Point of Beginning; thence westerly, along the northwesterly Right-of-Way line of Maple Avenue to the West line of the Northeast Quarter of Section 18 aforesaid; then northerly along the West line of the Northeast Quarter of said Section 18 to a point that is 15-feet northerly of the northwesterly Right-of-Way line of Maple Avenue as measured perpendicular to said Right-of-Way line; thence Northeasterly, along a line 15-feet northerly of and parallel to the north line of said Maple Avenue to the northerly permanent easement line granted by document R2009-044121 aforesaid; thence southwestwardly, along said northerly permanent easement line; to the point of beginning, all in DuPage County, Illinois.

See two attached "Easement Exhibits" for graphical representation of easement premises.

# MAPLE GROVE VILLAGE OF DOWNERS GROVE SIDEWALK EASEMENT MAPLE AVENUE



-  FPD Bounds
-  Easement Area (15' wide)



Land Preservation Department

**EXHIBIT F to IGA**

**Prepared by: Forest Preserve  
District of DuPage County  
Return to: Village of Downers Grove  
C/O Village Manager  
801 Burlington Ave  
Downers Grove, IL 60515**

**VACANT LAND North side of Maple  
Avenue and East of Lee Avenue  
Downers Grove, Illinois  
P.I.N.: 09-18-104-007 & 09-18-200-001**

**AN EASEMENT AGREEMENT FOR A PUBLIC SIDEWALK ON THE NORTH SIDE OF  
MAPLE AVENUE WITHIN THE MAPLE GROVE FOREST PRESERVE**

THIS EASEMENT AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into by and between the Forest Preserve District of DuPage County, a body politic and corporate (hereinafter referred to as the "FOREST PRESERVE DISTRICT") and the Village of Downers Grove, a municipal corporation (hereinafter referred to as "DOWNERS GROVE"). The FOREST PRESERVE DISTRICT and DOWNERS GROVE are sometimes referred herein individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the FOREST PRESERVE DISTRICT owns Maple Grove Forest Preserve (hereinafter referred to as "Maple Grove"); and

WHEREAS, the FOREST PRESERVE DISTRICT granted a license to DOWNERS GROVE on October 4, 1983 for the purpose of constructing and maintaining a public sidewalk on the north side of Maple Avenue and on a certain portion of Maple Grove (hereinafter referred to as the "Maple Avenue Sidewalk"), which license has now expired; and

WHEREAS, DOWNERS GROVE requests the granting of a perpetual easement for the continued maintenance of the Maple Avenue Sidewalk; and

WHEREAS, the FOREST PRESERVE DISTRICT and DOWNERS GROVE are municipalities as defined in Section 1(c) of the Local Government Property Transfer Act, 50 ILCS 605/1(c) (hereinafter "Transfer Act"); and

WHEREAS, Section 2 of the Transfer Act authorizes transfers of real estate, or interests therein, between municipalities for any public purpose upon such terms as are agreed to by the corporate authorities of the respective municipalities; and

WHEREAS, in accordance with Section 2 of the Transfer Act, DOWNERS GROVE, pursuant



to a duly passed ordinance, has determined that it is necessary to acquire an easement for the continued maintenance of the Maple Avenue Sidewalk; and

WHEREAS, the FOREST PRESERVE DISTRICT has determined that it is reasonable, necessary and in the public interest and welfare to grant DOWNERS GROVE an easement for the continued maintenance of the Maple Avenue Sidewalk, subject to the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the foregoing preambles and the promises, terms and conditions set forth herein, the Parties agree as follows:

#### **1.0 INCORPORATION OF RECITALS**

1.1 The recitals set forth above are incorporated herein and made a part of this Agreement.

#### **2.0 EASEMENT GRANTED**

2.1 The FOREST PRESERVE DISTRICT hereby grants a non-exclusive, perpetual easement to DOWNERS GROVE for the maintenance of the Maple Avenue Sidewalk within that portion of Maple Grove Forest Preserve legally described on **Exhibit "A"** and depicted on **Exhibit "B"** attached hereto and incorporated herein (hereinafter "Easement Premises") and on the terms and conditions as provided for in this Agreement.

2.2 DOWNERS GROVE shall notify the FOREST PRESERVE DISTRICT no less than six (6) weeks prior to any construction project within the Easement Premises in accordance with the notice provisions in paragraph 7.0 herein. DOWNERS GROVE shall make any independent contractor accessing the Easement Premises aware of the terms and conditions of this Agreement.

#### **3.0 FEES**

3.1 Given the long existence of the Maple Avenue Sidewalk, the public sidewalk provides public access to Maple Grove, and that DOWNERS GROVE has continued to maintain the Maple Avenue Sidewalk in a quality manner at their sole cost, the easement fee is hereby waived.

#### **4.0 RESTORATION**

4.1 If DOWNERS GROVE damages the Easement Premises, DOWNERS GROVE shall restore all damaged areas according to the FOREST PRESERVE DISTRICT'S specifications. If DOWNERS GROVE fails to properly restore the Easement Premises within 30 days of service of the FOREST PRESERVE DISTRICT'S written demand for the restoration work, the FOREST PRESERVE DISTRICT shall have the right to take such action as it deems necessary to perform the restoration or corrective work, which shall include the authority to (a) perform the work with its own personnel and/or; (b) engage the services of an independent contractor to perform the work. DOWNERS GROVE shall reimburse the FOREST PRESERVE DISTRICT for costs associated with said restoration or corrective work within 30 days of service of the FOREST PRESERVE DISTRICT's written demand for payment.

## **5.0 INDEMNIFICATION**

- 5.1 To the extent permitted by law, DOWNERS GROVE shall defend, save, and hold harmless the FOREST PRESERVE DISTRICT, its elected officials, officers, employees and agents from any and all claims, liabilities, causes of action, losses and damages that may at any time arise or be claimed by any person or entity as a result of bodily injury, sickness, death or property damage, or as a result of any other claim or suit of any nature whatsoever, allegedly arising out of or in any manner connected with the use and maintenance of the Maple Avenue Sidewalk, when such bodily injury, sickness, death, property damage or other claim is allegedly caused by a negligent or intentional act or omission on the part of DOWNERS GROVE or its contractors, subcontractors, engineers, consultants, employees, or agents. In the event any person or entity obtains a judgment or settlement against the FOREST PRESERVE DISTRICT or any of its elected officials, officers, employees or agents, by reason of any negligent or intentional act or omission on the part of DOWNERS GROVE or its contractors, subcontractors, consultants, employees or agents, DOWNERS GROVE shall promptly, to the extent allowed by law, indemnify the FOREST PRESERVE DISTRICT or the elected official, officer, employee or agent, as the case may be, in the amount of said judgment or settlement and for all costs and expenses related thereto, including, without limitation, reasonable attorney and expert witness fees.
- 5.2 The obligation on the part of DOWNERS GROVE to defend, hold harmless and indemnify the FOREST PRESERVE DISTRICT shall survive the expiration or termination of this Agreement.
- 5.3 DOWNERS GROVE shall require each contractor who performs any work on the Easement Premises, to defend, hold harmless and indemnify the FOREST PRESERVE DISTRICT to the same extent as required of DOWNERS GROVE under paragraph 5.0, and DOWNERS GROVE shall include in all of its contracts a statement expressly declaring the FOREST PRESERVE DISTRICT to be a third-party beneficiary of the indemnification provision.
- 5.4 DOWNERS GROVE shall promptly pay all costs and expenses relating to any and all work within the Easement Premises performed by, or at the request of, DOWNERS GROVE, and shall not allow any liens on FOREST PRESERVE DISTRICT property as a result of the work. To the extent permitted by law, DOWNERS GROVE shall defend, indemnify and hold the FOREST PRESERVE DISTRICT harmless from any and all liens, costs and expenses arising from any work performed by, or at the request of DOWNERS GROVE, on the Easement Premises or related to the use and maintenance of the Maple Avenue Sidewalk.

## **6.0 BREACH OF AGREEMENT**

- 6.1 If a Party reasonably believes that a breach of this Agreement has occurred or is occurring, the Party shall serve written notice thereof upon the Party committing or permitting such breach to occur, specifying in detail the breach and the facts supporting such claim. The Party alleged to have committed the breach shall have 30 days within which to cure the violation. If the Party in violation is DOWNERS GROVE, and DOWNERS GROVE fails to cure the breach within the 30-day period, the FOREST

PRESERVE DISTRICT may pursue monetary damages or specific performance provided that the 30-day cure period shall be extended for a reasonable time if DOWNERS GROVE has undertaken to cure the breach within the 30-day period and continues to diligently and in good faith to complete the corrective action. Given the importance of the Maple Avenue Sidewalk to the public, remedies available to the FOREST PRESERVE DISTRICT do not and shall not include termination of this Agreement.

- 6.2 Action by any Party to enforce this Agreement shall be without prejudice to the exercise of any other rights provided herein or by law or in equity to remedy a breach of this Agreement, subject to the terms of the preceding Paragraph 6.1.
- 6.3 A waiver by any Party of any breach of one or more of the terms of this Agreement on the part of one of the other Parties shall not constitute a waiver of any subsequent or other breach of the same or other term, nor shall the failure on the part of a Party to require exact, full and complete compliance with any of the terms contained herein be construed as changing the terms of this Agreement or estopping a Party from enforcing full compliance with the provisions set forth herein. No delay, failure or omission of a Party to exercise any right, power, privilege or option arising from a breach shall impair any right, privilege or option, or be construed as a waiver or acquiescence in such breach or as a relinquishment of any right. No option, right, power, remedy or privilege of the Parties shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, power, privileges and remedies given the Parties under this Agreement and by law shall be cumulative.

## **7.0 NOTICES**

- 7.1 All notices required to be given under the terms of this Agreement shall be in writing and either served by certified or registered mail, return receipt requested, properly addressed with the postage prepaid and deposited in the United States mail. Notices served upon the FOREST PRESERVE DISTRICT shall be directed to the Executive Director, Forest Preserve District of DuPage County, P.O. Box 5000, Wheaton, IL 60189-5000. Notices served upon DOWNERS GROVE shall be directed to the Village Manager, Village of Downers Grove, 801 Burlington Avenue, Downers Grove, IL 60515. Notices served by mail shall be effective upon receipt as verified by the United States Postal Service. Notwithstanding anything to the contrary, any notice by a Party alleging a breach of this Agreement shall be either served by certified or registered mail as set forth above. Either Party may designate a new location for service of notices by serving notice of the change in accordance with the requirements of this paragraph

## **8.0 MISCELLANEOUS TERMS**

- 8.1 All rights, title and privileges herein granted for the Easement Premises, including all benefits and burdens, shall be perpetual and shall be binding upon and inure to the benefit of the Parties hereto, their respective successors and assigns.
- 8.2 The FOREST PRESERVE DISTRICT hereby reserves the right to use, or permit to be used, the Easement Premises in any manner that will not prevent or materially interfere with the exercise by DOWNERS GROVE of the rights granted herein.
- 8.3 If any Party initiates any legal proceeding or action, whether at law or in equity, to

enforce any provision of this Agreement, the prevailing Party (as determined by the court) shall be entitled to recover its reasonable costs and expenses incurred in connection with said proceeding or action, including, but not limited to, reasonable expert witness and attorney fees.

- 8.4 DOWNERS GROVE shall be responsible for recording this Agreement, at its expense, in the Office of the Recorder of Deeds, DuPage County, and for providing the FOREST PRESERVE DISTRICT with a recorded copy.
- 8.5 The provisions set forth herein represent the entire agreement between the Parties and supersede any previous oral or written agreements, as it is the intent of the Parties to provide for a complete integration within the terms of this Agreement. No provision may be modified in any respect unless such modification is in writing, duly approved and signed by all Parties.
- 8.6 This Agreement shall be construed in accordance with the laws of the State of Illinois.
- 8.7 This Agreement shall be executed in duplicate, and each Party shall retain a fully executed original, both of which shall be deemed to be one Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**FOREST PRESERVE DISTRICT OF  
DU PAGE COUNTY**

**VILLAGE OF DOWNERS GROVE**

BY: \_\_\_\_\_  
Joseph Cantore, President

BY: \_\_\_\_\_  
Martin T. Tully, Mayor

ATTEST: \_\_\_\_\_  
Judith Malahy, Secretary

ATTEST: \_\_\_\_\_  
April Holden, Village Clerk

**Legal Description**  
-for-  
**Public Sidewalk**  
Located at  
**North Side of Maple Avenue at**  
**Maple Grove Forest Preserve Number 4**

Parcel 1:

That part of Maple Grove Forest Preserve No. 4, situated in Sections 7 and 18, Township 38 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois, recorded as document No. R1920-145494 W.D., described as follows: Beginning at the intersection of the northwesterly Right-of-Way line of Maple Avenue and the East line of the Northwest Quarter of Section 18 aforesaid; then northerly along the East line of the Northwest Quarter of said Section 18 to a point that is 15-feet northerly of the northwesterly Right-of-Way line of Maple Avenue as measured perpendicular to said Right-of-Way line; thence westerly, along a line 15-feet northerly of and parallel to the north line of said Maple Avenue to the east line of Marshall Field Woodland Homes 1<sup>st</sup> Addition Subdivision, recorded as document no. R1920-144597; thence southerly, along the east line of said subdivision to the northwesterly Right-of-Way line of Maple Avenue; thence easterly, Along the northwesterly Right-of-Way line of Maple Avenue to the point of beginning, all in DuPage County, Illinois.



Parcel 2:

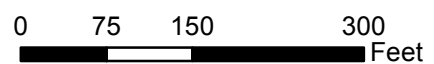
That part of Maple Grove Forest Preserve No. 4, situated in Sections 7 and 18, Township 38 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois, recorded as document No. R1920-145494 W.D., described as follows: Commencing at the Southeasterly corner of said Maple Grove Forest Preserve No. 4, being a point on the northwesterly Right-of-Way line of Maple Avenue (as shown on the "Resolution Authorizing a Permanent Easement for Maple Avenue" recorded as document R2009-044121); Thence southwesterly along the northwesterly Right-of-Way line of Maple Avenue a distance of 14.42 feet to a bend point; thence westerly along the northwesterly Right-of-Way line of Maple Avenue a distance of 240.00 feet to the southwest corner of the permanent easement granted by document R2009-044121 aforesaid for the Point of Beginning; thence westerly, along the northwesterly Right-of-Way line of Maple Avenue to the West line of the Northeast Quarter of Section 18 aforesaid; then northerly along the West line of the Northeast Quarter of said Section 18 to a point that is 15-feet northerly of the northwesterly Right-of-Way line of Maple Avenue as measured perpendicular to said Right-of-Way line; thence Northeasterly, along a line 15-feet northerly of and parallel to the north line of said Maple Avenue to the northerly permanent easement line granted by document R2009-044121 aforesaid; thence southwesterly, along said northerly permanent easement line; to the point of beginning, all in DuPage County, Illinois.

See two attached "Easement Exhibits" for graphical representation of easement premises.

# MAPLE GROVE VILLAGE OF DOWNERS GROVE SIDEWALK EASEMENT MAPLE AVENUE



-  FPD Bounds
-  Easement Area (15' wide)



Land Preservation Department

**EXHIBIT "B"**

## Legal Description

-for-

Public Roadway

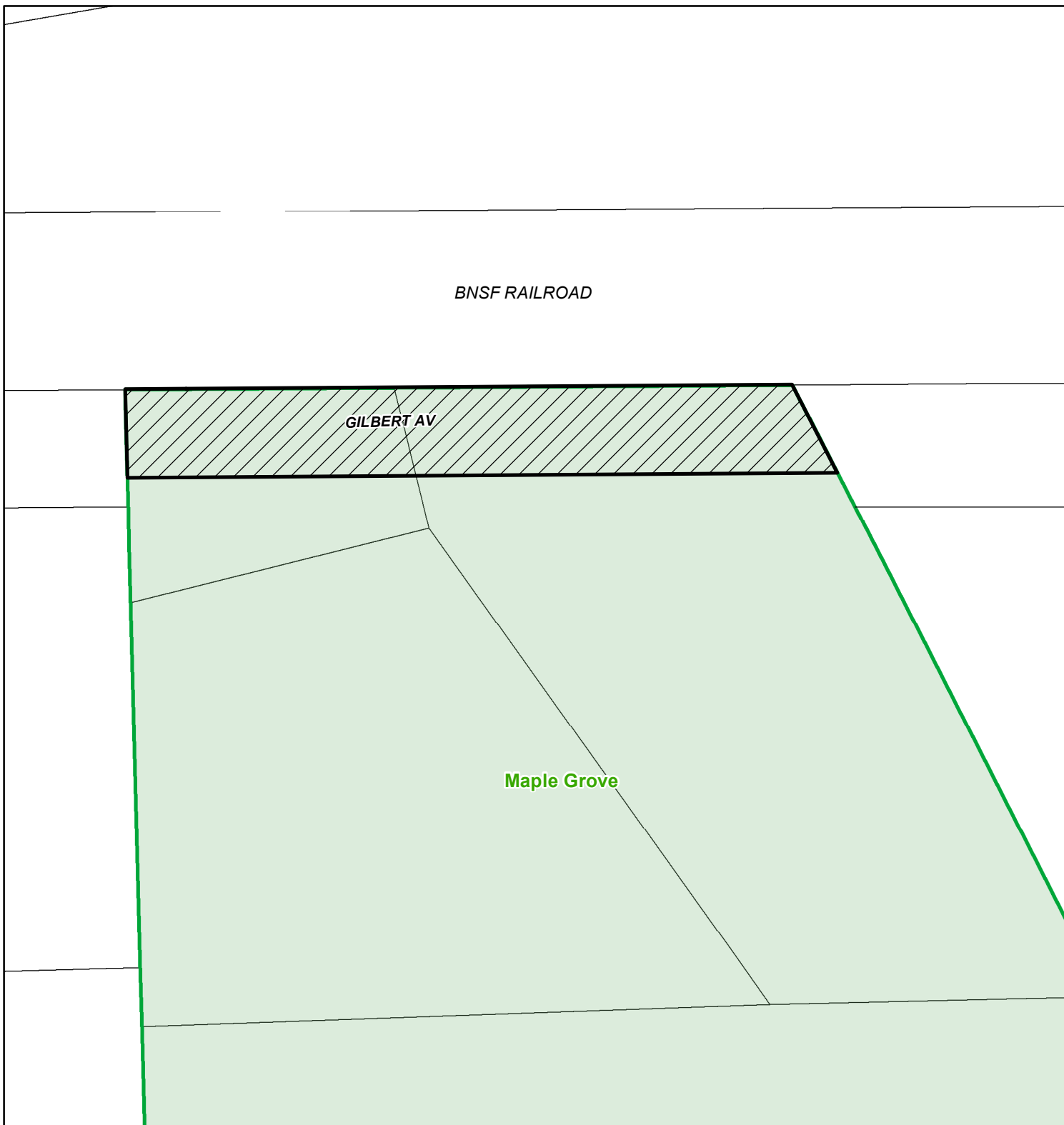
Located at



Gilbert Avenue at Maple Grove Forest Preserve Number 4

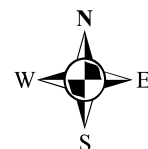
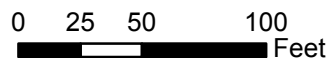
Gilbert Avenue Right-of-Way Easement:

That part of Maple Grove Forest Preserve No. 4 situated in Sections 7 and 18, Township 38 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois, recorded as Document Number R1920-145494 W.D., described as follows: Beginning at the northwest corner of said Maple Grove Forest Preserve No. 4, thence southerly along the west property line a distance of 50.00 feet, thence easterly along a line parallel to the north property line of said Maple Grove Forest Preserve No. 4 a distance of 401.13 feet to the east property line of said parcel, thence northwesterly along the east property line of said parcel a distance of 55.98 feet to the northeast corner of said property, thence west along the north property line a distance of 376.8 feet, to the point of beginning, all in DuPage County, Illinois.

# MAPLE GROVE VILLAGE OF DOWNERS GROVE EASEMENT FOR GILBERT AVENUE IMPROVEMENTS



-  FPD Bounds
-  Easement Premises (50' wide)



Land Preservation Department

**EXHIBIT I to IGA**



**Prepared by: Forest Preserve  
District of DuPage County  
Return to: Village of Downers Grove  
C/O Village Manager  
801 Burlington Ave  
Downers Grove, IL 60515**

**VACANT LAND North side of Maple  
Avenue and East of Lee Avenue  
Downers Grove, Illinois  
P.I.N.: 09-07-113-005 & 09-07-113-009**

**AN EASEMENT AGREEMENT FOR GILBERT AVENUE IMPROVEMENTS WITHIN  
THE MAPLE GROVE FOREST PRESERVE**

THIS EASEMENT AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into by and between the Forest Preserve District of DuPage County, a body politic and corporate (hereinafter referred to as the "FOREST PRESERVE DISTRICT") and the Village of Downers Grove, a municipal corporation (hereinafter referred to as "DOWNERS GROVE"). The FOREST PRESERVE DISTRICT and DOWNERS GROVE are sometimes referred herein individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the FOREST PRESERVE DISTRICT owns Maple Grove Forest Preserve (hereinafter referred to as "Maple Grove"); and

WHEREAS, a roadway commonly known as Gilbert Avenue has been in existence in the northern portion of Maple Grove (and south of the railroad tracks) for many years; and

WHEREAS, in 2005, DOWNERS GROVE constructed a sidewalk and guardrail south of Gilbert Avenue to provide for pedestrian access to Maple Grove and Gilbert Park; and

WHEREAS, in addition to the sidewalk and guardrail, DOWNERS GROVE also completed other improvements within Maple Grove at their sole cost and at the request of the FOREST PRESERVE DISTRICT; and

WHEREAS, DOWNERS GROVE requests the granting of a perpetual easement for the continued maintenance of all of the above-mentioned improvement (hereinafter referred to as the "Gilbert Avenue Improvements"); and

WHEREAS, the FOREST PRESERVE DISTRICT and DOWNERS GROVE are municipalities as defined in Section 1(c) of the Local Government Property Transfer Act, 50 ILCS 605/1(c) (hereinafter "Transfer Act"); and

WHEREAS, Section 2 of the Transfer Act authorizes transfers of real estate, or interests therein, between municipalities for any public purpose upon such terms as are agreed to by the corporate authorities of the respective municipalities; and

WHEREAS, in accordance with Section 2 of the Transfer Act, DOWNERS GROVE, pursuant to a duly passed ordinance, has determined that it is necessary to acquire an easement for the continued maintenance of Gilbert Avenue Improvements within Maple Grove; and

WHEREAS, the FOREST PRESERVE DISTRICT has determined that it is reasonable, necessary and in the public interest and welfare to grant DOWNERS GROVE an easement for the continued maintenance of the Gilbert Avenue Improvements, subject to the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the foregoing preambles and the promises, terms and conditions set forth herein, the Parties agree as follows:

#### **1.0 INCORPORATION OF RECITALS**

1.1 The recitals set forth above are incorporated herein and made a part of this Agreement.

#### **2.0 EASEMENT GRANTED**

2.1 The FOREST PRESERVE DISTRICT hereby grants a non-exclusive, perpetual easement to DOWNERS GROVE for the maintenance of Gilbert Avenue Improvements within that portion of Maple Grove Forest Preserve legally described on **Exhibit "A"** and depicted on **Exhibit "B"** attached hereto and incorporated herein (hereinafter "Easement Premises") and on the terms and conditions as provided for in this Agreement.

2.2 DOWNERS GROVE shall notify the FOREST PRESERVE DISTRICT no less than six (6) weeks prior to any construction project within the Easement Premises in accordance with the notice provisions in paragraph 7.0 herein. DOWNERS GROVE shall make any independent contractor accessing the Easement Premises aware of the terms and conditions of this Agreement.

#### **3.0 FEES**

3.1 Given the long existence of the Gilbert Avenue roadway, the improvements provided by DOWNERS GROVE within Maple Grove as part of the sidewalk and guardrail project, and the continued maintenance of the Gilbert Avenue Improvements by DOWNERS GROVE in a quality manner, the easement fee is hereby waived.

#### **4.0 RESTORATION**

4.1 If DOWNERS GROVE damages the Easement Premises, DOWNERS GROVE shall restore all damaged areas according to the FOREST PRESERVE DISTRICT'S specifications. If DOWNERS GROVE fails to properly restore the Easement Premises within 30 days of service of the FOREST PRESERVE DISTRICT'S written demand for the restoration work, the FOREST PRESERVE DISTRICT shall have the right to take

such action as it deems necessary to perform the restoration or corrective work, which shall include the authority to (a) perform the work with its own personnel and/or; (b) engage the services of an independent contractor to perform the work. DOWNERS GROVE shall reimburse the FOREST PRESERVE DISTRICT for costs associated with said restoration or corrective work within 30 days of service of the FOREST PRESERVE DISTRICT's written demand for payment.

## **5.0 INDEMNIFICATION**

- 5.1 To the extent permitted by law, DOWNERS GROVE shall defend, save, and hold harmless the FOREST PRESERVE DISTRICT, its elected officials, officers, employees and agents from any and all claims, liabilities, causes of action, losses and damages that may at any time arise or be claimed by any person or entity as a result of bodily injury, sickness, death or property damage, or as a result of any other claim or suit of any nature whatsoever, allegedly arising out of or in any manner connected with the use and maintenance of the Gilbert Avenue Improvements, when such bodily injury, sickness, death, property damage or other claim is allegedly caused by a negligent or intentional act or omission on the part of DOWNERS GROVE or its contractors, subcontractors, engineers, consultants, employees, or agents. In the event any person or entity obtains a judgment or settlement against the FOREST PRESERVE DISTRICT or any of its elected officials, officers, employees or agents, by reason of any negligent or intentional act or omission on the part of DOWNERS GROVE or its contractors, subcontractors, consultants, employees or agents, DOWNERS GROVE shall promptly, to the extent allowed by law, indemnify the FOREST PRESERVE DISTRICT or the elected official, officer, employee or agent, as the case may be, in the amount of said judgment or settlement and for all costs and expenses related thereto, including, without limitation, reasonable attorney and expert witness fees.
- 5.2 The obligation on the part of DOWNERS GROVE to defend, hold harmless and indemnify the FOREST PRESERVE DISTRICT shall survive the expiration or termination of this Agreement.
- 5.3 DOWNERS GROVE shall require each contractor who performs any work on the Easement Premises, to defend, hold harmless and indemnify the FOREST PRESERVE DISTRICT to the same extent as required of DOWNERS GROVE under paragraph 5.0, and DOWNERS GROVE shall include in all of its contracts a statement expressly declaring the FOREST PRESERVE DISTRICT to be a third-party beneficiary of the indemnification provision.
- 5.4 DOWNERS GROVE shall promptly pay all costs and expenses relating to any and all work within the Easement Premises performed by, or at the request of, DOWNERS GROVE, and shall not allow any liens on FOREST PRESERVE DISTRICT property as a result of the work. To the extent permitted by law, DOWNERS GROVE shall defend, indemnify and hold the FOREST PRESERVE DISTRICT harmless from any and all liens, costs and expenses arising from any work performed by, or at the request of, DOWNERS GROVE, on the Easement Premises or related to the use and maintenance of the Gilbert Avenue Improvements.

## **6.0 BREACH OF AGREEMENT**

- 6.1 If a Party reasonably believes that a breach of this Agreement has occurred or is occurring, the Party shall serve written notice thereof upon the Party committing or permitting such breach to occur, specifying in detail the breach and the facts supporting such claim. The Party alleged to have committed the breach shall have 30 days within which to cure the violation. If the Party in violation is DOWNERS GROVE, and DOWNERS GROVE fails to cure the breach within the 30-day period, the FOREST PRESERVE DISTRICT may pursue monetary damages or specific performance provided that the 30-day cure period shall be extended for a reasonable time if DOWNERS GROVE has undertaken to cure the breach within the 30-day period and continues to diligently and in good faith to complete the corrective action. Given the importance of the Gilbert Avenue Improvements to the public, remedies available to the FOREST PRESERVE DISTRICT do not and shall not include termination of this Agreement.
- 6.2 Action by any Party to enforce this Agreement shall be without prejudice to the exercise of any other rights provided herein or by law or in equity to remedy a breach of this Agreement, subject to the terms of the preceding Paragraph 6.1.
- 6.3 A waiver by any Party of any breach of one or more of the terms of this Agreement on the part of one of the other Parties shall not constitute a waiver of any subsequent or other breach of the same or other term, nor shall the failure on the part of a Party to require exact, full and complete compliance with any of the terms contained herein be construed as changing the terms of this Agreement or estopping a Party from enforcing full compliance with the provisions set forth herein. No delay, failure or omission of a Party to exercise any right, power, privilege or option arising from a breach shall impair any right, privilege or option, or be construed as a waiver or acquiescence in such breach or as a relinquishment of any right. No option, right, power, remedy or privilege of the Parties shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, power, privileges and remedies given the Parties under this Agreement and by law shall be cumulative.

## **7.0 NOTICES**

- 7.1 All notices required to be given under the terms of this Agreement shall be in writing and either served by certified or registered mail, return receipt requested, properly addressed with the postage prepaid and deposited in the United States mail. Notices served upon the FOREST PRESERVE DISTRICT shall be directed to the Executive Director, Forest Preserve District of DuPage County, P.O. Box 5000, Wheaton, IL 60189-5000. Notices served upon DOWNERS GROVE shall be directed to the Village Manager, Village of Downers Grove, 801 Burlington Avenue, Downers Grove, IL 60515. Notices served by mail shall be effective upon receipt as verified by the United States Postal Service. Notwithstanding anything to the contrary, any notice by a Party alleging a breach of this Agreement shall be either served by certified or registered mail as set forth above. Either Party may designate a new location for service of notices by serving notice of the change in accordance with the requirements of this paragraph

**8.0 MISCELLANEOUS TERMS**

- 8.1 All rights, title and privileges herein granted for the Easement Premises, including all benefits and burdens, shall be perpetual and shall be binding upon and inure to the benefit of the Parties hereto, their respective successors and assigns.
- 8.2 The FOREST PRESERVE DISTRICT hereby reserves the right to use, or permit to be used, the Easement Premises in any manner that will not prevent or materially interfere with the exercise by DOWNERS GROVE of the rights granted herein.
- 8.3 If any Party initiates any legal proceeding or action, whether at law or in equity, to enforce any provision of this Agreement, the prevailing Party (as determined by the court) shall be entitled to recover its reasonable costs and expenses incurred in connection with said proceeding or action, including, but not limited to, reasonable expert witness and attorney fees.
- 8.4 DOWNERS GROVE shall be responsible for recording this Agreement, at its expense, in the Office of the Recorder of Deeds, DuPage County, and for providing the FOREST PRESERVE DISTRICT with a recorded copy.
- 8.5 The provisions set forth herein represent the entire agreement between the Parties and supersede any previous oral or written agreements, as it is the intent of the Parties to provide for a complete integration within the terms of this Agreement. No provision may be modified in any respect unless such modification is in writing, duly approved and signed by all Parties.
- 8.6 This Agreement shall be construed in accordance with the laws of the State of Illinois.
- 8.7 This Agreement shall be executed in duplicate, and each Party shall retain a fully executed original, both of which shall be deemed to be one Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**FOREST PRESERVE DISTRICT OF  
DU PAGE COUNTY**

**VILLAGE OF DOWNERS GROVE**

BY: \_\_\_\_\_  
Joseph Cantore, President

BY: \_\_\_\_\_  
Martin T. Tully, Mayor

ATTEST: \_\_\_\_\_  
Judith Malahy, Secretary

ATTEST: \_\_\_\_\_  
April Holden, Village Clerk

## Legal Description

-for-

Public Roadway

Located at

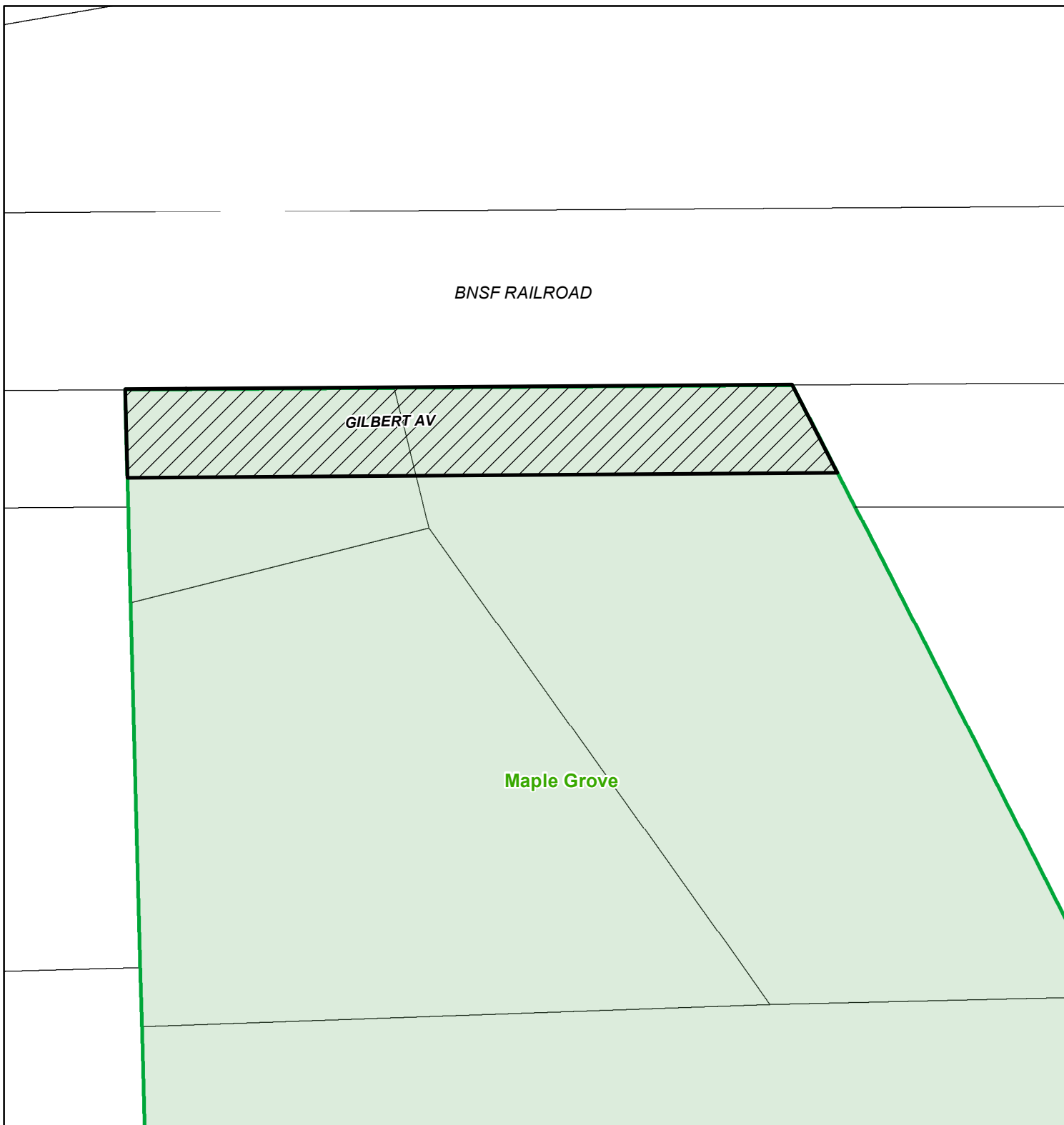
Gilbert Avenue at Maple Grove Forest Preserve Number 4



Gilbert Avenue Right-of-Way Easement:

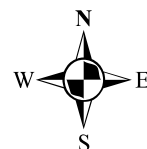
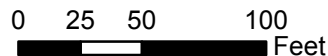
That part of Maple Grove Forest Preserve No. 4 situated in Sections 7 and 18, Township 38 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois, recorded as Document Number R1920-145494 W.D., described as follows: Beginning at the northwest corner of said Maple Grove Forest Preserve No. 4, thence southerly along the west property line a distance of 50.00 feet, thence easterly along a line parallel to the north property line of said Maple Grove Forest Preserve No. 4 a distance of 401.13 feet to the east property line of said parcel, thence northwesterly along the east property line of said parcel a distance of 55.98 feet to the northeast corner of said property, thence west along the north property line a distance of 376.8 feet, to the point of beginning, all in DuPage County, Illinois.

**EXHIBIT "A"**

# MAPLE GROVE VILLAGE OF DOWNERS GROVE EASEMENT FOR GILBERT AVENUE IMPROVEMENTS



-  FPD Bounds
-  Easement Premises (50' wide)



Land Preservation Department

**EXHIBIT "B"**