

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

SUBJECT:	SUBMITTED BY:
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 "A RESOLUTION AUTHORIZING EXECUTION OF 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", as presented.



SUMMARY OF ITEM:

Adoption of this resolution shall authorize execution of 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.

RECORD OF ACTION TAKEN:

RESOLUTION NO. ____

**A RESOLUTION AUTHORIZING EXECUTION OF 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**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain License Agreement (the "Agreement"), between the Village of Downers Grove (the "Licensee") and the Forest Preserve District of DuPage County (the "District"), for grading work on a portion of Hidden Lake Forest Preserve, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Mayor and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

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 Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

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) 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) 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

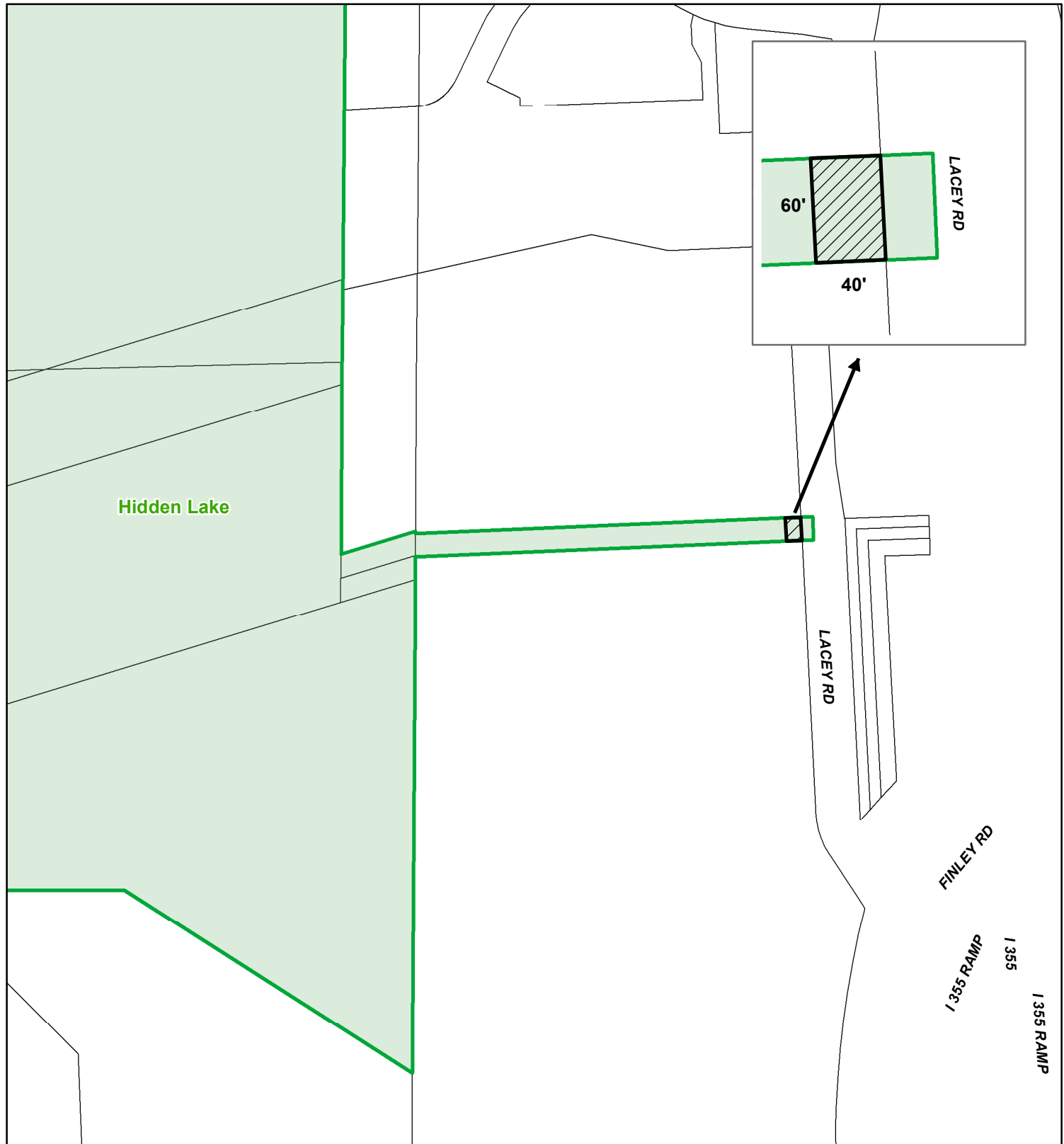
BY: _____
Joseph Cantore, President

BY: _____
Martin T. Tully, Mayor

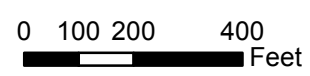
ATTEST: _____
Judith Malahy, Secretary

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