



LAKE COUNTY FOREST PRESERVES  
www.LCFPD.org

Preservation, Restoration, Education and Recreation

**DATE:** October 5, 2015

**MEMO TO:** Carol Calabresa, Chair  
Land Preservation and Acquisition Committee

S. Michael Rummel, Chair  
Finance and Administrative Committee

**FROM:** Randall L. Seebach  
Director of Planning and Land Preservation

**SUBJECT:** Amendment to a Recreational Lease Agreement with Commonwealth Edison.

**RECOMMENDATION:** Recommend approval of a Resolution authorizing an amendment to a Recreational Lease Agreement with Commonwealth Edison (“ComEd”) to permit the District to construct, operate, and maintain a multi-use public trail on the ComEd right-of-way as a part of a regional trail system linking Lyons Woods to Waukegan Savanna Forest Preserve.

**BACKGROUND:** In 2010, the Board approved a Conceptual Master Plan for Waukegan Savanna Forest Preserve that included the identification of a key trail connection linking together two regional trails, three Forest Preserves, two parks and large residential areas in Beach Park and Waukegan. When complete, this important connection will stretch 6.9-miles from the Robert McClory Bike Path at Lyons Woods through Waukegan Savanna to the Des Plaines River Trail at Sedge Meadow Forest Preserve. The easternmost 2.4-mile section of the proposed trail will traverse the ComEd right-of-way and also travel through and connect with Waukegan’s Bevier and Henry Pfau Callahan parks. The District’s engineering consultant, Gewalt Hamilton and Associates (GHA), has reviewed a portion of ComEd right-of-way located between the Waukegan Savanna and Lyons Woods Forest Preserves and determined that the right-of-way is suitable for a multi-use public trail. In staff’s opinion, the right-of-way will meet the District’s adopted land acquisition goals of extending trail corridors, pursuing cooperative agreements with local governments and developing partnerships.

In 2009, the District and ComEd entered into a Recreational Lease Agreement (“Lease”), under which the District leased portions of ComEd property located to the north of Lyons Woods for the purpose of constructing, operating, and maintaining District trail segments. ComEd has agreed to amend the Lease to include the right-of-way for the planned trail segments. The amendment would extend the initial term of the Lease through 2035, but delete the District’s right to extension terms, which currently allow the District to extend the Lease through 2039.

**REASON FOR RECOMMENDATION:** Committee recommendation and Board approval are required in accordance with District policy.

**REVIEW BY OTHERS:** Chief Operations Officer, Director of Finance, Legal Counsel

**FINANCIAL DATA:** The fee for the Lease was a one-time payment of \$1500.00. That amount has been paid. There is no additional fee due under the amendment.

**PRESENTER:** Randall L. Seebach



**LAKE COUNTY FOREST PRESERVE DISTRICT  
LAKE COUNTY, ILLINOIS**

**A RESOLUTION APPROVING AN AMENDMENT TO THE RECREATIONAL LEASE  
AGREEMENT WITH COMMONWEALTH EDISON FOR  
PUBLIC TRAILS ON COMED RIGHTS-OF-WAY**

**WHEREAS**, the Land Preservation and Acquisition Committee (the "Committee") of the Lake County Forest Preserve District (the "District") has reviewed certain property owned by the Commonwealth Edison Company (the "Owner") located between Lyons Woods and the Waukegan Savanna Forest Preserve (the "Property"); and

**WHEREAS**, the District desires to use the Property for a public trail; and

**WHEREAS**, in 2009 the District entered into a lease with the Owner, pursuant to which the District leases from the Owner certain land (the "Original Property") for the construction, operation, and maintenance of a public multi-use trail by the District (the "Lease"); and

**WHEREAS**, the District's Department of Planning and Land Preservation has negotiated an amendment to the Lease with the Owner pursuant to which the District would lease the Original Property and the Property from the Owner for a term that extends to September 30, 2035 (the "Amendment"); and

**WHEREAS**, the District is authorized to lease real property from the Owner for public trail purposes pursuant to Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6; and

**WHEREAS**, the Board of Commissioners finds that (i) the Property is suitable for District purposes, (ii) leasing the Property would extend trail corridors, develop partnerships, provide scenic vistas, and serve as a visual, topographic, and ecologic extension of adjoining District Properties; and (iii) it is in the best interests of the District to approve the Amendment and lease the Property;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1. Recitals. The recitals set forth above are incorporated as part of this Resolution by this reference.

Section 2. Approval of Amendment. The Amendment, in substantially the form attached hereto, is hereby approved. The District shall lease the Property from the Owner, upon the terms and conditions of the Amendment. The President, Secretary and Executive Director of the District are hereby authorized and directed to execute and attest to, on behalf of the District, the Amendment and all other documents that are necessary to complete the lease of the Property, provided that any documents have first been approved by the District's Land Acquisition Counsel.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2015

AYES:

NAYS:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2015

---

Ann B. Maine, President  
Lake County Forest Preserve District

ATTEST:

---

Julie Gragnani, Secretary  
Lake County Forest Preserve District

Exhibit # \_\_\_\_\_

**LEASE # 20090032**

**R/W NAME: N ½ DES PLAINES-WAUKEGAN R/W**

**PARCELS: T32-21-23, 26-A, 26-34, 36-A, 36-38, 38-A, 39, 39-A, 40-42, 43(PT), 43-A, 43-B, 61A, 61-65, 65A, 66-71, 71-A, 72-73, 73-A, 74-75, 75-A, 76-78, 78-A, 79, 79-A, 80-87, 87-A, 88, 88-A, 89-92, 92-A, 93-109, 109-A, 110-111, 111-A, 112-113, 113-A, 114-132, 132-A, 133-134, 134-A, 135-146 AND 159**

**SEC: 4, 5 & 6 TWP: 45N RANGE: 12E**

**OF THE THIRD PRINCIPAL MERIDIAN**

**LAKE COUNTY, ILLINOIS**

**PIN #: 08-04-300-001, 08-04-400-001, 08-05-211-046, 08-05-100-010, 08-06-402-001 (PT), 08-06-301-001**

LEASE AMENDMENT

This Lease Amendment (this "**Amendment**") is made September 29, 2015 (the "**Effective Date**"), by and between COMMONWEALTH EDISON COMPANY ("**Landlord**") and LAKE COUNTY FOREST PRESERVE DISTRICT ("**Tenant**").

RECITALS

- A. Pursuant to that certain Recreational Lease (the "**Lease**") dated April 1, 2009, Landlord leased to Tenant the Leased Premises, as therein described, commonly known as an area of ground consisting of 605,484 square feet located approximately at the southwest corner of N. Sheridan Road and W. Hendee Road, Beach Park, Illinois. Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Lease.
- B. Tenant desires to lease additional space adjacent to the Leased Premises, and Landlord has agreed to lease such additional space to Tenant, subject to the terms and conditions contained herein.
- C. Landlord and Tenant desire to amend the Lease as set forth herein.

NOW, THEREFORE, for and in consideration of the recitals set forth above, which are incorporated herein and made a part hereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree that the Lease is hereby amended and modified as follows:

1. LEASED PREMISES:

The Leased Premises under the Lease is hereby amended to add the approximately 679,536 square feet depicted on Exhibit A attached hereto.

2. TERM; RENEWAL TERM.

The term of the Lease is hereby extended for an additional sixteen (16) year period, terminating on September 30, 2035 (the "Extended Term"). Tenant's right to a extend the Term pursuant to Section 29 of the Lease is hereby terminated as of the Effective Date and Section 29 of the Lease is hereby deleted in its entirety.

2. LEASE:

All references in the Lease or this Amendment to the term "Lease" shall mean the Lease as modified by this Amendment.

3. INSURANCE:

Section 16 of the Lease is hereby amended to provide that Tenant shall comply with the insurance provisions contained in Exhibit B attached hereto and made a part hereof.

4. FULL FORCE AND EFFECT:

Except as expressly modified in this Amendment, all of the terms and conditions of the Lease shall remain in full force and effect, the parties hereto ratifying and confirming the same.

4. COUNTERPARTS:

This Amendment may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but, in making proof hereof, it shall only be necessary to produce one such counterpart.

EXECUTED as of the day and year first above written.

**LANDLORD:**

COMMONWEALTH EDISON COMPANY

BY: \_\_\_\_\_

Timothy Hughes  
Director, Real Estate & Facilities

**TENANT:**

\_\_\_\_\_

BY: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



# EXHIBIT A

## Legend

- Forest Preserve Property
- Forest Preserve Easements & Leases
- Subject Com Ed ROW Parcels
- Waukegan Park District
- District Trail
- McClary Trail - North Shore Path
- Planned New Trail

Courtesy Copy Only  
 Property boundaries indicated are provided for general location purposes. Wetland and flood limits shown are approximate and should not be used to determine setbacks for structure or as a basis for purchasing property.

Lake County Forest Preserve District  
 1899 W Winchester Rd  
 Libertyville, Illinois 60048  
 847-988-3351  
[www.lcfpd.org](http://www.lcfpd.org)

Prepared using information from:  
 Lake County Department of Information & Technology: GIS/Mapping Division  
 18 North County Street  
 Waukegan, Illinois 60085-4357  
 847-377-2373  
 Map Prepared 9 March 2015





## **Exhibit B**

### **Insurance Requirements**

A. Tenant agrees to require its contractors, before commencing any work on the Leased Premises to purchase and maintain a policy or policies of insurance issued by insurance companies authorized to do business in the State of Illinois, having ratings of A-/VII or better in the Best's Key Rating Insurance Guide (latest edition in effect at the latest date stated in the Certificates of Insurance) and in a form satisfactory to Landlord as follows:

B. Tenant agrees to require its contractors, before commencing any work on the Leased Premises to purchase and maintain a policy or policies of insurance issued by insurance companies authorized to do business in the State of Illinois, having ratings of A-/VII or better in the Best's Key Rating Insurance Guide (latest edition in effect at the latest date stated in the Certificates of Insurance) and in a form satisfactory to Landlord as follows:

#### **COVERAGE #1**

Workers' Compensation Insurance with statutory limits, as required by the state in which the work is to be performed, and Employers' Liability Insurance with limits not less than One Million dollars (\$1,000,000.00) each accident for bodily injury by accident, one million dollars (\$1,000,000) each employee for bodily injury by disease, and one million dollars (\$1,000,000) policy limit.

#### **COVERAGE #2**

Commercial General Liability (CGL) Policy or Policies (with coverage consistent with ISO CG 0001 (12 07 or its equivalent)) covering all contractors, subcontractors and all their subcontractors with limits of not less than two million dollars (\$2,000,000.00) per occurrence and per project or per location aggregate covering liability for bodily injury and property damage arising from premises, operations, independent contractors, personal injury/advertising injury, blanket contractual liability and products/ completed operations for not less than three (3) years from the date Landlord and Tenant terminate the lease. (CGL insurance includes, but is not limited to coverage for claims against Landlord for injuries to employees of Tenant and its contractors or any subcontractors).

Additional Insured Endorsement. All liability insurance policies shall name Landlord, its officers, directors, employees, agents, representatives, Affiliates, subsidiaries, successors, and assigns, as additional insureds, shall be primary to any other insurance carried by Landlord, and shall provide coverage consistent with ISO Form CG 2026 (11/85), or the combination of ISO Form CG 20 10 07 04 and CG 20 37 07 04, or their equivalents, and shall maintain the required coverages (including but not limited to coverage for claims against Landlord for injuries to employees of Tenant and its contractors or any subcontractors), for a period of not less than three (3) years from the date the Lease is terminated.



### COVERAGE #3

Automobile Liability coverage (including coverage for claims against Landlord for injuries to employees of Tenant and its contractors or any subcontractors in an amount of not less than one million dollars (\$1,000,000) per accident for bodily injury and property damage, for owned non-owned and hired, vehicles.

### COVERAGE 4

Excess or Umbrella liability insurance coverage in an amount that in combination with Commercial General Liability coverage and Automobile Liability coverage totals six million dollars (\$6,000,000) of liability insurance per occurrence.

Tenant's Insurance during the Term shall be the following:

Tenant self-insures for losses which are not greater than \$2,000,000 and shall continue to do so as long as this agreement is in effect. The Tenant carries excess liability insurance in an amount of not less than \$5,000,000 per occurrence and, with an aggregate of not less than \$10,000,000 per annual period and shall maintain such insurance so long as this agreement is in effect.

These policies do not contain any provisions excluding coverage for injury, loss, or damage arising out of or resulting from (a) doing business on, near, or adjacent to Landlord's facilities, or (b) surface or subsurface pollution, contamination or seepage, or from handling treatment, disposal, or dumping of waste materials or substances. There shall be furnished to Landlord, prior to commencing the work above described a certificate of insurance evidencing the foregoing coverage.

All policies shall contain a provision that coverages afforded under the policies will not be canceled or materially changed until at least thirty (30) days prior written notice (ten (10) days in the case of nonpayment of premium) has been given to Landlord.

Tenant shall provide evidence of the required insurance coverage which shall be delivered to Landlord upon execution of this document. The insurance shall be kept in force through the Term hereof through the above-referred policy, or such subsequent or substitute policy or policies as Tenant may, at its discretion, obtain. Tenant shall also provide Landlord with evidence of all of the insurance required hereunder prior to the effective date of the Lease whenever any insurance policy procured by Tenant hereunder is renewed and whenever Tenant obtains a new insurance policy hereunder.

If any policy is written on a claims made basis, the retroactive date may not be advanced beyond the date of the Lease and coverage shall be maintained in full force and effect for two (2) years after termination of the Lease, which coverage may be in the form of tail coverage or

extended reporting period coverage if agreed by the parties.

Insurance coverage provided by Tenant shall not include any claims made insurance policy or any policy or endorsement language that limits the scope of coverage for liability assumed under a contract.

To the extent permitted by applicable Laws, all above-mentioned insurance policies shall provide the following:

(2) (1) Provide for a waiver of all rights of subrogation which Tenant's insurance carrier might exercise against Landlord; and

(2) Any Excess or Umbrella liability coverage will not require contribution before it will apply

Landlord hereby reserves the right to amend, correct and change from time-to-time the limits, coverages and forms of policies as may be required from Tenant's contractors. If Tenant receives notice that Landlord has amended, corrected or changed the limits, coverages, and forms of policies, Tenant will require agreements with Contractors, signed subsequent to said notice to include such changes. In no event will notice of changes to insurance requirements affect the agreements that Tenant is currently bound to with Contractors.

#### WAIVER OF SUBROGATION

Tenant and its contractors shall waive all rights of subrogation against Landlord under those policies procured in accordance with this Lease.



## **EXHIBIT C**

### **Additional Requirements**

Tenant shall adhere to the following requirements:

1. Tenant shall maintain the Leased Premises and Additional Area to be Maintained (which includes the open grass way area) of the Landlord right of way property.
2. The metallic goal structures are not to be permanent fixtures and must be removed after each use. It is suggested the metallic structures be grounded to guard against induced voltages.
3. No part of the field or goal structures shall be located within ten (10) feet of any Landlord equipment or facilities.
4. Care must be used when mowing the fields such that no Landlord structures are touched.
5. If lighting and landscaping is required, plans and details must be provided to ComEd for review to ensure safety clearances are not violated.
6. Tenant's facilities on Landlord's property should be designed for HS20 axle loading per AASHTO highway specifications in order to withstand Landlord's construction traffic.
7. Tenant must not excavate and /or store material or construction equipment within 10 feet of the existing metallic and/or wood structures installed on Landlord property. Tenant shall contact the Overhead Transmission Engineering department with any questions concerning this request.
8. Tenant must use care when working on Landlord property to avoid damage to existing facilities and equipment. The owners of the various pipelines and /or owners of underground facilities shall be contacted by the Tenant to provide any restrictions such as grade cover and/ or specific protection and/or restrictions during any penetration and/or disturbing of the Landlord property and surface.
9. There are existing buried hand holes for the LLR fiber in the area. If these hand holes were paved over during the installation of the bike path it poses a maintenance concern. Slack coils exist in the hand holes for emergency restoration purposes. The cable route should be located to verify the newly installed bike path is not over the cable or hand holes. If it is over the hand holes access to those hand holes needs to be addressed by either rerouting the path or other means. This applies to plan se 05-655 and 06-689.
10. Staging and stockpiling of material during construction must not exceed ten (10) feet in elevation above grade. Construction equipment shall not be placed on the upper-most sections of the stockpiles.
11. Tenant must remove all scrub brush, limbs and/or tree trunks from the Leased Premises. Burning of vegetation, scrub brush, limbs and/or tree trunks is not permitted.
12. Tenant must not plant trees within fifteen (15) feet of existing overhead transmission facilities, distribution structures or other Landlord's Facilities.
13. Tenant shall only plant vegetation and /or trees that will not exceed ten (10) feet in elevation at maturity.
14. Landlord reserves the right to trim vegetation and /or trees and remove any vegetation or trees to (i) assure National Electrical Safety Code (NESC) electrical clearances are met (ii) perform maintenance and/or repairs to Landlord's Facilities.
15. The path shall not meander, but it may curve around existing structures and shall maintain fifteen (15) foot spacing from all existing transmission structures.



16. At all path access points, Tenant must post highly visible signs indicating that motorized vehicular use of the path is prohibited. Further, Tenant shall take responsibility to ensure that motorized vehicular use does not occur.
17. The path surface for Tenant's project cannot use aggregate concrete or curbs. A crushed limestone or asphalt surface is acceptable.
18. Tenant's proposed grade change cannot exceed eight (8) inches within the Landlord's property and must ensure that the existing drainage and storm water will not pool on the Leased Premises or adjacent properties.
19. Any damage to Landlord's property caused by Tenant shall be repaired at Tenant's expense.
20. Tenant shall not place obstructions on the Leased Premises that may restrict Landlord's ability to access, operate and maintain existing and future transmission and distribution facilities. Tenant shall not leave trenches open overnight.
21. Due to the presence of Landlord's electrical wires located on the Leased Premises, no vehicles, equipment or anything else having a height more than fourteen (14) feet from grade level including, but not limited to any equipment attached to vehicles or equipment such as antennas, shall be placed, driven, moved or transported thereon. Tenant shall not permit any activity which could result in a wire to ground electrical contact or damage to Landlord's Facilities. Such activities include, but are not limited to flying kites, model airplanes, driving minibikes, go carts and snowmobiles.
22. Tenant shall not leave construction equipment and materials on Leased Premises when there is no work activity actually in progress, including overnight.
23. When working in the vicinity of Landlord's electric distribution/transmission lines during installation, operation, maintenance or otherwise, Tenant shall comply with OSHA requirements of a minimum twenty (20) feet working clearance distance to be maintained between the booms, arms or other parts that can be raised on the equipment of Tenant or Tenant's contractor and Landlord's existing 138,000 and 345,000 volt electric transmission conductors. Under no circumstances shall truck beds be raised underneath Landlord's distribution and /or transmissions lines. This paragraph shall be added to any construction drawings.
24. Tenant acknowledges that the Landlord does use heavy equipment and that Landlord will not be responsible for any damage to the Tenant's facilities that may occur due to the Landlord's right to access Landlord's property to operate and maintain new and existing transmission and distribution facilities.
25. Upon completion of Tenant's project, Tenant must remove any equipment, construction debris and material from Landlord's property and restore any other disturbed areas of the Landlord's property to their pre-construction condition.
26. All applicable environmental permits must be obtained by Tenant at Tenant's sole cost, including, if required, Wetlands and National Pollutant Discharge Elimination System (NPDES) stormwater permits as required under the Clean Water Act as well as any other applicable environmental permits.
27. Tenant shall comply with requirements of all permits, which may include site monitoring, reporting and restoration extending well beyond the construction time period.
28. Tenant shall comply with all applicable regulations including implementation of a Stormwater Pollution Prevention Plan (SWPPP) and a Soil Erosion and Sediment Control Plan (SESC) to minimize sediment pollution in stormwater runoff as well as any other required practices.
29. If the project requires excavation of soil on the Leased Premises, such work shall be performed at Tenant's cost with a contractor selected by Landlord.



30. If the project requires additional soil, only clean fill shall be used.
31. No hazardous materials may be stored on Landlord's property including in any vehicle.
32. Pervious materials shall be used in the construction of any paths on the Leased Premises.
33. A high level summary of the project plans shall be provided by Tenant to Landlord for Landlord's review and approval prior to any construction, including the following:
  - A letter that summarizes the results of Tenant's analysis of what types of environmental permits, plans, and controls are required (e.g., wetlands, SWPPP, SESC, threatened and endangered species impacts, etc.)
  - A copy of any required environmental permits
  - A copy of any environmental reports required by the permits
34. Tenant shall, at its expense, pay for all costs associated with any of the above items (consulting, permitting, cleanup, audit, etc.).
35. If the project requires additional soil, only clean fill shall be used.
36. No hazardous materials may be stored on Landlord's property including in any vehicle.
37. Pervious materials shall be used in the construction of any paths on the Leased Premises.
38. A high level summary of the project plans shall be provided by Tenant to Landlord for Landlord's review and approval prior to any construction, including the following:
  - A letter that summarizes the results of Tenant's analysis of what types of environmental permits, plans, and controls are required (e.g., wetlands, SWPPP, SESC, threatened and endangered species impacts, etc.)
  - A copy of any required environmental permits
  - A copy of any environmental reports required by the permits
39. Tenant shall, at its expense, pay for all costs associated with any of the above items (consulting, permitting, cleanup, audit, etc.).
40. Prior to and at completion of the project, the Petitioner shall contact ComEd representative Tina Kowalczyk (224) 244-1826.
41. It should be noted that no plans were provided for the installation of any benches, fencing, gates, lighting and vegetation. ComEd Engineering must be contact for written approval of said appurtenances.
42. Petitioner must present access routes for use during project construction activities for review and approval by Environmental Services Dept.
43. Stormwater detention and compensatory storage is not permitted on ComEd property. Petitioner is required to provide Environmental Services Dept. with a plan for stormwater detention and/or compensatory storage or justification that it is not required for this project.
44. Petitioner is required to provide a kmz file of the newly installed multi-path.
45. Soil Erosion and Sediment Control Plan must be provided to Environmental Services Dept.
46. Petitioner will need to submit copies of any required environmental permits and plans to Environmental Services Dept. prior to project start.
47. Environmental Services Dept. is requesting a kmz of the delineated wetlands.
48. Prior to any work commencing, any wetland permits must be provided to Environmental Services Dept.
49. Petitioner must provide documentation of inspections to Environmental Services Dept.
50. Prescribed prairie burns must be submitted to Environmental Services Dept. for review and approval. Prescribed prairie burns must be completed by a ComEd Contractor of Choice and paid for by the Petitioner.