



LAKE COUNTY FOREST PRESERVES  
www.LCFPD.org

Preservation, Restoration, Education and Recreation

**DATE:** September 23, 2019  
**MEMO TO:** John Wasik, Chair  
Planning Committee  
**FROM:** Randall L. Seebach  
Director of Planning and Land Preservation

**RECOMMENDATION:** Recommend approval of a Resolution approving an Intergovernmental Agreement with Wauconda Township for the termination of an existing easement, grant of a new easement, and conveyance of property at Hope Grove Cemetery and Kettle Grove Forest Preserve.

**STRATEGIC DIRECTIONS SUPPORTED:** Conservation

**FINANCIAL DATA:** The District will receive (i) approximately 0.65 acres of fee-simple property, (ii) a conservation easement to maintain the recently completed natural resource restoration on Wauconda Township's (the "Township") approximately 0.35-acre Hope Grove Cemetery, and (iii) the release of an existing cemetery access easement that crosses District (and private) property in exchange for granting a replacement cemetery access easement. It has been determined that the value of the fee simple conveyance, the new conservation easement, and the release of the existing cemetery access easement are appropriate compensation for the granting of a replacement cemetery access easement.

**BACKGROUND:** In early 2016, the Township and District staff began discussing the possibility of the District taking over natural resource management of the Township's Hope Grove Cemetery (also known as the Shaw family cemetery) in conjunction with the District's restoration activities on the surrounding Kettle Grove Forest Preserve. Without the ability to control natural resources within the cemetery, the invasive species within the cemetery would be an ongoing challenge to the District's restoration of Kettle Grove. In 2017, the Township granted the District a license agreement, to allow the District to complete natural resource restoration work within the cemetery.

The Township requested the granting of a new access easement through District property, from Wilson Road to the cemetery, to replace the existing easement by which the Township has the right to cross District and private property to reach the cemetery from Route 120, some of which passes through ADID wetlands and close to privately owned structures making the route unfeasible for access.

The Township has determined that the northern two-thirds of its one-acre parcel did not contain any grave sites, and that such northern portion was therefore excess property. The District staff and Township have negotiated an intergovernmental agreement that would provide for: (i) the conveyance of the northern portion of the Township's parcel to the District, (ii) the granting of a conservation easement over the remainder of the Township's parcel (the cemetery parcel) for restoration purposes and (iii) the release of the existing access easement over District and private property, in exchange for granting the Township an easement for improved access to the cemetery across District property from Wilson Road.

**REVIEW BY OTHERS:** Executive Director, Chief Operations Officer, Director of Finance, Corporate Counsel.

STATE OF ILLINOIS     )  
                                  ) SS  
COUNTY OF LAKE        )

**BOARD OF COMMISSIONERS  
LAKE COUNTY FOREST PRESERVE DISTRICT  
REGULAR OCTOBER MEETING  
OCTOBER 8, 2019**

**MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:**

Your **PLANNING COMMITTEE** presents herewith “A Resolution Approving an Intergovernmental Agreement with Wauconda Township regarding Hope Grove Cemetery and Kettle Grove Forest Preserve,” and requests its approval.

**PLANNING COMMITTEE:**

Date: \_\_\_\_\_  Roll Call Vote: Ayes:\_\_\_\_ Nays:\_\_\_\_  
 Voice Vote Majority Ayes; Nays:\_\_\_\_

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

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT  
WITH WAUCONDA TOWNSHIP REGARDING HOPE GROVE CEMETERY  
AND KETTLE GROVE FOREST PRESERVE**

**WHEREAS**, Wauconda Township (the “Township”) owns property (the “Township Parcel”), that which is completely surrounded by property owned by the Lake County Forest Preserve District (the “District”), commonly known as Kettle Grove Forest Preserve (“Kettle Grove”); and

**WHEREAS**, the Township Parcel is comprised of (i) an approximately 15,600 square foot parcel used as a burial site and commonly known as Hope Grove Cemetery (also known as the Shaw family cemetery) (the “Cemetery Parcel ”) and (ii) an approximately 27,768 square foot parcel that does not contain any grave sites (the “Vacant Land Parcel”); and

**WHEREAS**, the District’s Planning Committee has recommended that the District acquire (i) fee simple interest in the Township’s Vacant Land Parcel and (ii) a conservation easement across the Cemetery Parcel, because such acquisitions will advance the goals and policies of the District; and

**WHEREAS**, it is in the best interests of the District to acquire (i) fee simple interest in the Vacant Land Parcel and (ii) a conservation easement across the Cemetery Parcel; and

**WHEREAS**, the Township Parcel is legally accessed only by an existing easement extending southeast, from a point on Route 120 to the northwest corner of the Cemetery, across property owned by the District and private property (the “Existing Cemetery Access Easement”); and

**WHEREAS**, the Existing Cemetery Access Easement is impractical, because it crosses Advanced Identification (ADID) Wetlands and ADID Buffer on District property, and passes within 25 feet of the residence on the privately-owned parcel; and

**WHEREAS**, the Township has requested that the District grant a new access easement across Kettle Grove Forest Preserve to the Cemetery from Wilson Road to replace the Existing Cemetery Access Easement; and

**WHEREAS**, the District and the Township have negotiated an intergovernmental agreement (the “Intergovernmental Agreement”), pursuant to which

- (i) the Township would transfer to the District fee title to the Vacant Land Parcel,
- (ii) the Township would release and terminate the entire Existing Cemetery Access Easement,

- (iii) the District would grant to the Township new, non-exclusive easements across the District Property for vehicular and pedestrian access to the Cemetery Parcel and for parking,
- (iv) the Township would grant to the District a conservation easement allowing the District to perform natural resource restoration and maintenance activities on the Cemetery Parcel, and requiring the District to perform certain maintenance within the Cemetery Parcel, and
- (v) the District would construct a split rail fence within the Cemetery Parcel; and

**WHEREAS**, at its annual Town Meeting held on April 9, 2019, the Township determined that the Vacant Land Parcel is surplus property and approved the Intergovernmental Agreement, including the conveyance of the land to the District; and

**WHEREAS**, pursuant to Section 10 of Article VII of the Illinois Constitution of 1970, units of local government, such as the District and the Township may contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and

**WHEREAS**, pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., any power, privilege, function, or authority exercised by a public agency, including the District and the Township, may be exercised, combined, transferred, and enjoyed jointly with any other public agency to the extent not prohibited by law; and

**WHEREAS**, pursuant to Section 6 of the Downstate Forest Preserve District Act, 70 ILCS 805/6, the District is authorized to grant easements for public access; and

**WHEREAS**, the Forest Preserve District has adopted an Ordinance Regarding Licenses and Easements for Public Services (the "Easement Ordinance") which sets forth the District's general requirements for granting easements; and

**WHEREAS**, it is in the best interests of the District to enter into the Intergovernmental Agreement with the Township in substantially the form attached to this Resolution;

**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 a part of this Resolution by this reference.

**Section 2: Approval of Intergovernmental Agreement.** The Intergovernmental Agreement is hereby approved in substantially the form attached hereto. The President, Executive Director and Secretary are authorized and directed to execute on behalf of the District the Intergovernmental Agreement, in substantially the form attached hereto, and whatever other documents are necessary to effectuate the transactions contemplated by the Intergovernmental Agreement.

**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 \_\_\_\_\_, 2019

AYES:

NAYS:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2019

---

Angelo D. Kyle, President  
Lake County Forest Preserve District

ATTEST:

---

Julie Gragnani, Secretary  
Lake County Forest Preserve District

Exhibit No. \_\_\_\_\_

**Intergovernmental Agreement**  
**by and between**  
**Lake County Forest Preserve District**  
**and**  
**Wauconda Township**

This Intergovernmental Agreement (“Agreement”) is dated as of the Effective Date (as defined in Section 11.D.1 below), which is \_\_\_\_\_, 2019, and is by and between the **Lake County Forest Preserve District**, a body politic and corporate, organized and existing under the Downstate Forest Preserve District Act, 70 ILCS 805/0.01 *et seq.* (the “District”), and **Wauconda Township**, an Illinois Township organized and existing under the Illinois Township Code, 60 ILCS 1/1-1 *et seq.* (the “Township”).

In consideration of the recitals and the mutual covenants and agreements set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Township (together, the “Parties”) agree as follows:

**Section 1. Recitals.**

**A.** The District owns fee simple title to that certain real property generally located on the west side of North Wilson Road, north of Illinois Route 60 and south of Illinois Route 120, and commonly known as “Kettle Grove Forest Preserve” (the “District Property”), which is generally depicted on Exhibit A attached hereto.

**B.** The Township currently owns fee simple title to that certain property commonly known as “Hope Grove Cemetery” (the “Township Property”), which is wholly surrounded by the District Property and which is generally depicted on Exhibit B attached hereto.

**C.** The Township Property is comprised of (i) an approximately 15,600 square foot parcel used as a burial site (the “Cemetery Parcel”) and (ii) an approximately 27,768 square foot parcel of vacant land (the “Vacant Land Parcel”). The Cemetery Parcel and the Vacant Land Parcel are generally depicted on Exhibit C attached hereto.

**D.** The Township has heretofore determined that the Vacant Land Parcel has never been used as a burial site.

**E.** The Township is the current holder of an easement burdening the District Property and certain other private property and providing access across the District Property and such other private property, between the Township Property and Illinois Route 120, created by (i) a deed dated September 24, 1845 and recorded September 30, 1845 in Book “E” of Deeds, page 35, (ii) a quit claim deed dated October 1, 1874 and recorded December 4, 1875 in Book 57 of Deeds, page 197, and (iii) a quit claim deed dated December 4, 1875 and recorded December 4, 1875 in Book 57 of Deeds, page 198 (the “Existing Cemetery Access Easement”). The Existing Easement is generally depicted on Exhibit A. The Existing Cemetery Access Easement does not provide a practical means of ingress and egress between the Township Parcel and Illinois Route 120 because (i) it traverses wetlands that are classified as Advanced Identification wetlands or Lake County Wetland Inventory wetlands and, under Applicable Laws (defined in

Section 11.B.2), such wetlands can be filled with a road, if at all, only through a lengthy and potentially expensive and uncertain permitting process and (ii) it traverses more than 2,610 feet of District and private property, even though there is a potentially shorter and easier route available for ingress and egress between the Cemetery Parcel and North Wilson Road. Accordingly, the Township has asked the District to grant the Township new easements across the District Property, between the Cemetery Parcel and North Wilson Road providing shorter and easier ingress and egress between the Cemetery Parcel and North Wilson Road and providing parking for, and pedestrian access to, the Cemetery Parcel.

F. The District has undertaken, and will undertake in the future, natural resource restoration of portions of the District Property. The District desires (i) to acquire the Vacant Land Parcel, to make it part of Kettle Grove Forest Preserve, and (ii) that, contemporaneous therewith, the Township grant to the District a conservation easement, allowing the District to undertake natural resource restoration activities, and other maintenance activities, within the Cemetery Parcel, which would then be wholly surrounded by Kettle Grove Forest Preserve. Such acquisition and restoration and maintenance rights will allow the District to enhance the effectiveness and long-term benefits of its restoration of Kettle Grove Forest Preserve and allow the Township to avoid certain long-term maintenance and operations obligations related to the Vacant Land Parcel and the Cemetery Parcel.

G. The Parties desire that:

- (i) at Closing (as defined in Section 7.D.1), the Township transfer to the District fee title to the Vacant Land Parcel,
- (ii) at Closing, the Township release and terminate the entire Existing Cemetery Access Easement,
- (iii) at Closing, the District grant to the Township the following new, non-exclusive easements across the District Property:
  - a. an unpaved 25-foot wide ingress and egress easement between North Wilson Road and the Cemetery Parking Easement Premises (defined in Section 1.G.(iii)b) (the “Cemetery Ingress/Egress Easement”), within the “Cemetery Ingress/Egress Easement Premises” generally depicted on Exhibit D, and
  - b. an unpaved 45-foot wide parking easement at the west terminus of the Cemetery Ingress/Egress Easement Premises (the “Cemetery Parking Easement”), within the “Cemetery Parking Easement Premises” generally depicted on Exhibit E,
  - c. an unpaved easement for pedestrian ingress and egress between the Cemetery Parking Easement Premises and the planned entrance to the Cemetery Parcel (the “Cemetery Walkway Easement”), within the “Cemetery Walkway Easement Premises” generally depicted on Exhibit E

attached hereto (the Cemetery Ingress/Egress Easement, the Cemetery Parking Easement and the Cemetery Walkway Easement are, collectively, the “New Cemetery Access Easements”; the “Cemetery Ingress/Egress Premises”, the “Cemetery Parking Easement Premises” and the “Cemetery Walkway Easement Premises” are, collectively the “New Cemetery Access Easement Premises”),

- d. at Closing, the Township grant to the District a conservation easement allowing the District to perform natural resource restoration and maintenance activities on the Cemetery Parcel, and requiring the District to perform certain maintenance within the Cemetery Parcel (the “Cemetery Conservation Easement”) (the New Cemetery Access Easements and the Cemetery Conservation Easement are, collectively, the “New Easements”, the New Cemetery Access Easement Premises and the Cemetery Parcel are, collectively the “New Easement Premises”), and
- e. after Closing, the District construct the Split Rail Fence (as defined in Section 8.B.1.a.) within the Cemetery Parcel, and
- f. after Closing, the Township use the New Cemetery Access Easements in accordance with the requirements of this Agreement.

H. The Township has approved this Agreement and the conveyance of the Vacant Land Parcel to the District pursuant to the Township Code, including Section 30-50 (60 ILCS 1/30-50) and other applicable provisions of the Township Code, by a motion duly made and seconded, and a vote of the Township residents taken, at the Township’s annual meeting held on April 9, 2019.

I. The Parties enter into this Agreement pursuant to the Downstate Forest Preserve District Act, 70 ILCS 805/0.01 *et seq.*, the Illinois Township Code, 60 ILCS 1/1-1 *et seq.*, Article VII, Section 10 of the Illinois Constitution, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, and all other applicable authority.

**Section 2. Legal Descriptions; Title Commitment; Boundary Survey.**

A. **Plat of New Cemetery Access Easements.** Within five (5) days after the Effective Date, the District’s Executive Director and the Township Supervisor (or their designees) shall meet and confer to identify and approve the locations of the New Cemetery Access Easement Premises, to a specificity greater than the level of specificity shown on the Exhibits to this Agreement, but not as specific as a legal description. Each shall cooperate in good faith to identify and approve such locations that are consistent with this Agreement, but otherwise will have discretion to approve or reject such locations. If, within thirty (30) days after the Effective Date, the District’s Executive Director and the Township Supervisor (or their designees) have not approved such locations, then either Party may terminate this Agreement by written notice to the other Party and, upon such termination, neither Party will have any further obligations under this Agreement. If the District’s Executive Director and the Township



Supervisor (or their designees) approve such locations, the District shall request a surveyor of its choice (the "Surveyor") to prepare a plat of easements for the New Cemetery Access Easements that (i) depicts the New Cemetery Access Easement Premises within such mutually approved locations, (ii) will be attached as an exhibit to the Grant of New Cemetery Access Easements (Exhibit H), (iii) is dated not more than sixty (60) days (or such longer time period as is agreed to by the District, the Township, and the Title Company) prior to the Closing Date (as defined in Section 7.D.1 below), (iv) is certified in favor of the District and the Township, (v) contains certifications as to the total acreage and square footage of each of the New Cemetery Access Easement Premises, and (vi) is provided to the District in MicroStation design file format (or compatible AutoCad digital format that can be converted to MicroStation design file format) in NAD 83 State Plane Coordinates (the "Plat of New Cemetery Access Easements"). The District shall submit the Plat of New Cemetery Access Easements to the Township Supervisor for his or her review and written approval (which will not be delayed or withheld so long as the Plat of New Cemetery Access Easements complies with this Section 2.A). The Parties shall share equally the cost to obtain the Plat of New Cemetery Access Easements.

**B. Title Commitment for Vacant Land Parcel.** The District shall obtain from Chicago Title Insurance Company (the "Title Company") a commitment (the "Title Commitment") to issue to the District at Closing (as defined in Section 7.D.1 below) an ALTA Owner's Title Insurance Policy (2016 version) (i) in the amount of the fair market value of the Vacant Land Parcel (as reasonably determined by the District's Executive Director), (ii) with an extended coverage endorsement over all standard exceptions, (iii) with such other endorsements as the District deems appropriate, (iv) insuring good, marketable, and insurable title to the Vacant Land Parcel, and (v) with coverage over any "gap" period, all subject only to Permitted Exceptions (as defined in Section 3.D below) (the "Title Policy"). The Parties shall share equally the cost for the Title Policy and Title Commitment plus the cost incurred by the District prior to the Effective Date in the amount of four hundred fifty dollars (\$450) related to title work for the Vacant Land Parcel.

**C. Boundary Survey.** The District shall request that the Surveyor prepare a boundary plat of survey (boundary survey) of the Vacant Land Parcel that (i) is to be dated not more than sixty (60) days (or such longer time period as is agreed to by the District, the Township, and the Title Company) prior to the Closing Date (as defined in Section 7.D.1 below), (ii) is certified in favor of the District, the Township and the Title Company, (iii) complies with all requirements of the Title Company that are conditions to the removal of the survey exception from the standard printed exceptions in the Title Commitment, (iv) is sufficient for the issuance of the Title Policy, (v) contains a certification as to the total acreage and square footage of the Vacant Land Parcel, (vi) is provided to the District in MicroStation design file format (or compatible AutoCad digital format that can be converted to MicroStation design file format) in NAD 83 State Plane Coordinates, (the "Survey"). The Parties shall share equally the cost of the Survey.

### **Section 3. Due Diligence Period; Review of Title Commitment and Survey.**

**A. Period and License.** During the period which begins on the Effective Date and ends on the ninetieth (90<sup>th</sup>) day after the Effective Date (the "Due Diligence Period"), District

may conduct such investigations, inspections, reviews, and analyses of or with respect to the Vacant Land Parcel as District desires, in its sole discretion (the "Due Diligence Activities"). Township hereby grants to District a license (irrevocable during the Due Diligence Period), for the use of District and its agents and contractors, to conduct Due Diligence Activities on the Parcel at any time during the Due Diligence Period. Not later than the last day of the Due Diligence Period, District may deliver to Seller a written notice stating that, based on the results of the Due Diligence Activities, the Vacant Land Parcel is not suitable for District's intended uses, as determined by District in its sole and absolute discretion and that District has elected to terminate this Agreement.

**B. Title Objection Notice.** No later than ten (10) days prior to the scheduled expiration of the Due Diligence Period, the District shall identify to the Township in writing (a "Title Objection Notice") any matter in the Title Commitment or Survey that it determines, in its sole discretion, will adversely affect its intended use of the Vacant Land Parcel (an "Unpermitted Exception").

**C. Commitment to Clear Exceptions; Updated Title Commitment.** Within five (5) days after its receipt of a Title Objection Notice, the Township shall either: (a) commit, at its cost, to either: (1) cure or remove the Unpermitted Exception, or (2) cause the Title Company to insure over the Unpermitted Exception in a manner satisfactory to the District (a "Commitment to Clear Exceptions"), or (b) notify the District that it will not cure, remove, or cause the Title Company to commit to insure over the Unpermitted Exception. If the District has identified an Unpermitted Exception, and the Township has not made a Commitment to Clear Exceptions with respect to such Unpermitted Exception within said five (5) day period, the District may send the Township a written notice (a "Closing/Termination Notice"), no later than the third (3<sup>rd</sup>) business day after the expiration of such five (5) day period, electing to either: (a) proceed with the Closing, in which it will be deemed to have accepted the uncleared or uninsured Unpermitted Exception, or (b) terminate this Agreement. If the District fails to give a Closing/Termination Notice as provided above, it will be deemed to have elected to proceed with the Closing and accept the uncleared or uninsured Unpermitted Exception. If the Township makes a Commitment to Clear Exceptions with respect to some or all Unpermitted Exceptions, then, at least one (1) business day prior to the Closing, it shall cause the Title Company to deliver to the District an updated Title Commitment describing the Vacant Land Parcel, showing that all Unpermitted Exceptions that it committed to clear in the Commitment to Clear Exceptions have been cleared. If it fails to do so, then the District, at any time, may either (i) proceed with the Closing and accept the Deed (as defined in Section 7.A below) at Closing subject to the uncleared or uninsured Unpermitted Exception or (ii) terminate this Agreement.

**D. Permitted Exceptions.** Any matter of record shown in the Title Commitments that is (i) not objected to in a Title Objection Notice, or (ii) an uncleared or uninsured Unpermitted Exception that is deemed accepted pursuant to Section 3.C is a "Permitted Exception."

#### **Section 4. Representations and Warranties.**

**A. General Representations and Warranties.** The Township represents and warrants to the District that as of the Effective Date and as of the Closing Date:

- (i) the Township has not entered into any agreements or granted any options pursuant to which any third party has the right to acquire all or any portion of the Vacant Land Parcel or any interest therein;
- (ii) there are not now and will not be at the Closing, any leases, tenancies, licenses, concessions, franchises, options or rights of occupancy or purchase, service or maintenance contracts or other contracts which will be binding upon the District or the Vacant Land Parcel after the Closing;
- (iii) the Vacant Land Parcel is not affected by or subject to: (a) any pending or, to the best of the Township's actual knowledge, threatened condemnation suits or similar proceedings or (b) other pending or, to the best of the Township's actual knowledge, threatened claims, charges, actions, suits, complaints, petitions or unsatisfied orders by or before any administrative agency or court or by or in favor of any party whatsoever;
- (iv) to the best of the Township's actual knowledge, there are no pending, scheduled, or noticed, requests, applications or proceedings to alter or restrict the zoning or other use restrictions applicable to the Vacant Land Parcel;
- (v) to the best of the Township's actual knowledge, there are no unrecorded easements, liens or encumbrances affecting the Vacant Land Parcel;
- (vi) to the best of the Township's actual knowledge, after diligent inquiry, the Vacant Land Parcel has never been used for the burial of human remains;
- (vii) the Township has received no written notice of, and to the best of the Township's actual knowledge, there is not any violation of any law, ordinance, order, regulation or requirement, including, but not limited to, building, zoning, environmental, safety and health ordinances, statutes, regulations and requirements issued by any governmental or municipal body or agency having jurisdiction over the Vacant Land Parcel;
- (viii) the Township has received no written notice of: (a) any pending or threatened action or proceeding arising out of the presence of (1) asbestos, (2) petroleum, (3) explosives, (4) radioactive materials, wastes or substances, or (5) any substance defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601, et seq., the Hazardous Materials Transportation Act (49 U.S.C. 1802), the Resource Conservation and Recovery Act (42 U.S.C. 6901), or in any other Applicable Law (as hereinafter defined) governing environmental matters ("Environmental Laws") (collectively, "Hazardous Materials") on the Vacant Land Parcel or (b) any alleged violation of any Environmental Laws; and

- (ix) the Township is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986.

**B. Survival; Indemnification.** The Township shall reconfirm all of its representations and warranties set forth in this Section 4 as true, accurate, and complete on and as of the Closing Date. The Township's representations and warranties shall survive the Closing. The Township shall indemnify, hold harmless, and defend the District and its successors and assigns, from and against any and all claims, demands, losses, liens, costs, expenses (including reasonable attorneys' fees and court costs), damages, liabilities, judgments or decrees of whatsoever kind or nature which, directly or indirectly, are caused by, result from, arise out of, or occur in any manner in connection with any material inaccuracy of the Township's representations or warranties contained herein. The preceding indemnity and hold harmless shall not apply to matters attributable to acts or omissions of the indemnitee or third parties.

**Section 5. Covenants and Agreements.** The Township covenants and agrees with the District that, from the Effective Date until and through the Closing:

- (i) the Township will not make, enter into, grant, amend, extend, renew or grant any waiver or consent under any lease, tenancy, easement, license or other agreement allowing the use or occupancy of all or any portion of the Vacant Land Parcel, without the District's prior written consent;
- (ii) the Township will not enter into or amend any contracts, agreements or undertakings that will be binding upon the District or the Vacant Land Parcel, without the District's prior written consent;
- (iii) the Township will not create, or allow the creation of, any encumbrance on the title of the Vacant Land Parcel, without the District's prior written consent (except for any Permitted Exceptions, as applicable);
- (iv) the Township will not take any action, directly or indirectly, to encourage, initiate, or engage or participate in discussions or negotiations with any third party concerning a potential sale of all or any portion of, or any interest in, the Vacant Land Parcel;
- (v) the Township will promptly inform the District of any developments which would cause any of its representations or warranties contained in this Agreement to be no longer materially accurate;
- (vi) the Township, at its sole cost, shall, before the Closing, completely remove or cause the removal of all materials, equipment, improvements, signs, personal property, garbage and debris located at, on or within the Vacant Land Parcel, in accordance with all Applicable Laws; and

- (vii) the Township shall continue to maintain and keep the Vacant Land Parcel in its current condition, will use commercially reasonable efforts to comply with all Applicable Laws affecting the same, and will pay or cause to be paid (a) mortgage payments (if any) as they become due and (b) all installments of real estate taxes (if any) in full, promptly following receipt of any real estate tax bills, even if such amounts are not yet due or payable.

**Section 6. Conditions Precedent to Closing.** Each Party's obligation to Close is subject to each and all of the following conditions being satisfied by the other Party or waived, in writing, by said Party (the "Closing Contingencies"):

- (i) all of the Township's representations and warranties contained in this Agreement must be materially true and correct on the date hereof and as of the Closing Date;
- (ii) the other Party must have performed all of its obligations under this Agreement;
- (iii) all conditions precedent to the Party's obligation to close on the transactions contemplated in this Agreement must have been satisfied or waived as of the Closing Date;
- (iv) the other Party must have delivered all items required to be delivered by said other Party pursuant to Section 7.E below; and
- (v) the Title Company has issued or is irrevocably committed to issue the Title Policy.

If a Closing Contingency is not satisfied because of a default by the other Party, each Party will have all of its rights under Section 11.C.1 below.

**Section 7. Closing.**

**A. Conveyance and Possession of the Vacant Land Parcel.** The Township shall convey fee simple title to the Vacant Land Parcel to the District at the Closing by executing and delivering a general warranty deed in substantially the form attached hereto as Exhibit F (the "Deed"). The Township shall cause the Deed to be in recordable form and to convey fee simple title to the Vacant Land Parcel, subject only to Permitted Exceptions. The Township shall deliver full and complete possession of the Vacant Land Parcel to the District upon the Closing.

**B. Release and Termination of Existing Cemetery Access Easement.** The Township shall release and terminate the Existing Cemetery Access Easement at the Closing by executing and delivering a release substantially in the form attached hereto as Exhibit G ("Release of Existing Cemetery Access Easement").

**C. Grant of Easements.** The District shall grant the New Cemetery Access Easements at the Closing by executing and delivering the Grant of New Cemetery Access Easements substantially in the form attached hereto as Exhibits H. The Township shall grant the Cemetery Conservation Easement at the Closing by executing and delivering the Grant of

Cemetery Conservation Easement substantially in the form attached hereto as Exhibit 1.

**D. Time, Place; Closing Escrow.**

1. **Time.** The consummation of the transactions contemplated by this Agreement (the "Closing") will occur (i) no later than the tenth (10<sup>th</sup>) business day following the expiration of the Due Diligence Period or (ii) on another date mutually agreed to in writing by the Parties (the "Closing Date").

2. **Place.** Unless otherwise agreed by the Parties, the Closing will be at the office of the Title Company located at 175 E. Hawthorn Parkway, Suite 225, Vernon Hills, Illinois, 60061. The Parties need not physically attend the Closing.

3. **Closing Escrow.** On or before the Closing, the Parties shall establish an escrow in the usual form of deed and money escrow agreement then in use by Title Company with such changes made as may be necessary to conform with the provisions of this Agreement (a "Closing Escrow"). The Closing will be a "New York" style closing.

**E. Deliveries.** The following deliveries shall be made at the Closing and in the form reasonably required by the other Party or the Title Company:

- (i) each Party shall deliver evidence reasonably satisfactory to the Title Company of the Party's authority to consummate the Closing;
- (ii) the Township shall deliver the executed Deed and other instruments of transfer and conveyance transferring the Vacant Land Parcel, free of all liens other than the Permitted Exceptions;
- (iii) the Township shall deliver the executed Release of Existing Cemetery Access Easement;
- (iv) the Township shall deliver the executed or Grant of Cemetery Conservation Easement;
- (v) the District shall deliver the executed Grant of New Cemetery Access Easements;
- (vi) the Township shall deliver a "gap" undertaking with respect to the Vacant Land Parcel in customary form and substance for the "gap" period" through the Closing Date or the date of recording, as the case may be;
- (vii) each Party shall deliver a counterpart to the closing statement prepared by the Title Company;
- (viii) the Township shall deliver the real estate transfer declarations or exemptions required by Applicable Laws with respect to the transfer of the Vacant Land Parcel;

- (ix) the Township shall deliver a certification that all of its representations or warranties contained in Section 4.A are true, accurate, and complete as of the Closing Date;
- (x) the Township shall deliver a Certification of Voluntary Transaction Involving Land Sale in the form required by the Illinois Department of Natural Resources with respect to the Vacant Land Parcel substantially in the form attached hereto as Exhibit J;
- (xi) each Party shall deliver all other documents, certificates, forms and agreements, including a plat act affidavit, required by this Agreement or Applicable Law or customarily required by the Title Company, in order to close the transaction herein contemplated;
- (xii) the Township shall deliver a non-foreign affidavit sufficient in form and substance to relieve the District of any and all withholding obligations under Section 1445 of the Internal Revenue Code with respect to the Vacant Land Parcel; and
- (xiii) the Township shall cause the Title Company to deliver to the District a marked-up signed Title Commitment or Title Policy insuring the Vacant Land Parcel.

**F. Closing Costs.** At the Closing, the District shall pay (i) 100% of the costs incurred in recording the Deed, (ii) 50% of the Title Company's closing fees related to the Closing, (iii) the District's attorneys' fees related to the Closing, (iv) 50% of the cost of the Title Commitment and the Title Policy (with a credit for any amount already paid by the District for the Title Commitment) or prior title work for the Vacant Land Parcel, (v) 50% of the cost of the Survey, (vi) 50% of the cost of the Plat of New Cemetery Easements, (vii) 100% of the costs incurred in recording the Grant of Cemetery Conservation Easement, and (viii) any costs incurred in connection with the District's Due Diligence Activities. At the Closing, the Township shall pay (z) 50% of the Title Company's closing fees related to the Closing, (y) the Township's attorneys' fees related to the Closing, (x) 50% of the cost of the Title Commitment and the Title Policy (plus any prior title work paid for by the District for the Vacant Parcel), (w) 50% of the cost of the Survey, (v) 50 % of the cost of the Plat of New Cemetery Easements; (u) 100% of the costs incurred in recording the Release of Existing Cemetery Access Easement; and (t) 100% of the costs incurred in recording the Grant of New Cemetery Access Easements. The Parties agree and acknowledge that, as of the Effective Date, Applicable Laws exempt the conveyances herein contemplated from the payment of any real estate transfer taxes.

**Section 8. Post-Closing Rights and Obligations Regarding Cemetery Parcel, New Cemetery Access Easements, and Cemetery Conservation Easement**

**A. Effectiveness.** The rights and obligations in this Section 8 will become effective upon Closing.

**B. Cemetery Parcel.**

## **1. Split Rail Fence.**

**a. Construction.** If the Township Supervisor sends the District a written notice, within 10 calendar days after the Effective Date, that the Township has sufficient funds to reimburse the District, as provided in Section 8.B.1.b below (the “Split Rail Fence Notice”), the District shall install, or cause installation of, a two-rail split rail fence (the “Split Rail Fence”) (i) along the entire east side of the Cemetery Parcel as depicted on Exhibit K, except for an opening contiguous to the Cemetery Walkway Easement Premises (the width and location of such opening will be approved, in writing, by the District’s Executive Director and the Township Supervisor, who shall not unreasonably withhold or delay such approval, prior to installation of the Split Rail Fence), (ii) with corner posts at each corner of the Cemetery Parcel in the locations identified on Exhibit K as the “Cemetery Parcel Corner Posts,” and (iii) with (except for the east boundary of the Cemetery Parcel) fence segments (six to eight feet in length) projecting from each corner post, in the locations identified on Exhibit K as the “Cemetery Split Rail Fence”. The District shall install the Split Rail Fence on or before (i) if the District receives the Split Rail Fence Notice in November, December, January, February or March, the first June 30 following the date of such receipt, or (ii) if the District receives the Split Rail Fence Notice in any other month, the 90th day following the date of such receipt, plus, in either case, one day for each day of the applicable period that had weather conditions making scheduled work on the Split Rail Fence impractical. The Township hereby grants to the District and its agents and contractors a license across the Cemetery Parcel to construct the Split Rail Fence, irrevocable during the time that such installation is occurring.

**b. Cost.** The Township shall reimburse the District for the costs of materials and labor (including work performed by District employees) incurred by the District for installation of the Split Rail Fence within 30 calendar days after its receipt from the District of an invoice itemizing such costs, including any supporting material evidencing the District’s payment for or incurrence of such costs.

**c. Maintenance.** After the Split Rail Fence is installed, (i) the Township shall maintain, repair, and replace the Split Rail Fence in a manner that does not interfere with the District’s use of the Cemetery Conservation Easement and (ii) the District will have no obligation to maintain, repair, or replace the Split Rail Fence.

## **2. Maintenance and Natural Resource Management**

**a. Natural Areas.** The District shall (i) and shall have the exclusive right to, maintain the natural resources and features within the Cemetery Parcel as a short grass prairie area, consistent with the surrounding area of the District Property and (ii) periodically remove debris, garbage, and fallen limbs or trees from the Cemetery Parcel. The District may, but is not obligated to, restore the natural areas within the Cemetery Parcel as provided in the Cemetery Conservation Easement. The Township shall not mow the grass, pull or remove weeds or other plants, apply chemicals to any area of the Cemetery Parcel, or otherwise maintain the natural resources and features within the Cemetery Parcel, unless such maintenance is approved in writing by the District Executive Director.



**b. Headstones and Structures.** The District will have no obligations to perform any maintenance within the Cemetery Parcel, except for those obligations specifically set forth in Section 8.B.2.a. Without limiting the preceding sentence, the District will have no obligation to maintain, repair, or replace any or structures or improvements within the Cemetery Parcel, including the Split Rail Fence, headstones, or sunken graves.

**C. New Cemetery Easement Premises.**

**1. Use and Maintenance.** The Township shall use the New Cemetery Access Easement Premises at no cost or expense to the District and in accordance with Applicable Laws, including without limitation all Applicable Laws that prohibit, restrict, or regulate any hazardous materials. The Township may operate each New Cemetery Access Easement Premises as (i) a mowed area or (ii) an area improved with a gravel or other permeable surface approved by the District Executive Director that, within the Cemetery Ingress/Egress Easement Premises, is not more than 12 feet wide, within the Cemetery Parking Easement Premises is not more than 32 feet wide, and within the Cemetery Walkway Easement Premises is not more than \_\_\_\_\_ feet wide. The Township, (i) shall periodically mow the mowed areas within the New Cemetery Access Easement Premises and (ii) and maintain the gravel or other surfaces within the New Cemetery Access Easement Premises in a good and workmanlike manner. The Township shall not use a plow or any other tool or equipment to remove snow from the New Cemetery Access Easement Premises. The Township shall otherwise maintain the New Cemetery Access Easement Premises in a safe, good and clean condition without hazard to public use.

**2. Security.** The District may install a gate or lock on the entrance to the Cemetery Ingress/Egress Easement from North Wilson Road, so long as the District provides to the Township the means of opening and locking such gate and lock. The Township shall cause the gate and lock to be locked at such times as the Township, or its invitees, are not using the Cemetery Ingress/Egress Easement.

**D. Obligations Applicable to All New Easements.**

**1. No Liens.** Each Party, as a grantee of a New Easement, shall (a) not assess or impose, or allow to be assessed or imposed, against the New Easement Premises any special assessment, special service area tax, recapture fee, or similar assessment, tax, or fee (an "Assessment"), (b) indemnify the other Party from any Assessment that is imposed, (c) take all necessary action to keep the New Easement Premises free and clear of all liens, claims, and demands, including without limitation mechanic's liens, in connection with any work thereon, and (d) cause, at its cost and expense, (i) any lien that is filed against the New Easement Premises in connection with such work to be discharged and released, and (ii) evidence of this discharge and release to be recorded against the New Easement Premises, all within 30 days after the date of filing of the lien.

**2. Indemnification.** Each Party, as a grantee of a New Easement (i) assumes sole and complete responsibility for any personal injury, including death, and damage to the New Easement Premises that may arise directly or indirectly from the use of the New Easement

Premises by such Party, or its officers, directors, trustees, board members, partners, employees, agents and contractors, (ii) shall indemnify, hold harmless, defend, and release the other Party, its commissioners, supervisors, trustees, officers, agents, and employees from and against any alleged loss, claim, damage, and expense (including, without limitation, attorneys' fees and litigation costs) that may be alleged or asserted against any of those parties in connection with (a) negligent acts or omissions of the grantee Party or its agents or contractors in connection with the use, operation, construction on, or maintenance of, the New Easement Premises (collectively, the "Indemnified Claims"); however, this indemnity will not apply to the extent any Indemnified Claims are caused by the willful misconduct or negligence of the other Party.

**3. Insurance.** Each Party, as grantee of a New Easement, shall, at no cost or expense to the other Party (i) procure and maintain insurance policies or self-insurance (or a combination of policies and self-insurance) with coverages and limits that are sufficient to protect the other Party and the New Easement Premises from the Indemnified Claims and (ii) cause the other Party to be named as an additional insured on, and provide to the other Party (upon its request) certificates of insurance reasonably acceptable to it evidencing, the insurance required by this Section.

**4. Incorporation Into New Easements.** The Grant of New Cemetery Access Easements and the Grant of Cemetery Conservation Easement shall incorporate the requirements of this Section 8.D. by specific reference to this Section 8.D and this Agreement.

**Section 9. Brokers.** Each Party represents and warrants to the other Party that it knows of no broker or other person or entity who has been instrumental in causing the consummation of the transaction contemplated by this Agreement. If any broker or other person asserts a claim against a Party, through or under the other Party, for a broker's commission, finder's fee, or similar payment in connection with the transactions contemplated in this Agreement, said other Party shall indemnify and hold harmless the Party from and against any damage, liability or expense, including costs and reasonable attorneys' fees that the Party incurs because of such claim.

**Section 10. Patriot Act.**

**A. Definitions.** All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "Patriot Act") and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001, are collectively referred to as the "Patriot Rules" and are incorporated into this Section.

**B. Representations and Warranties.** The District and the Township hereby represent and warrant, each to the other, that each and every "person" or "entity" affiliated with each respective Party or that has an economic interest in each respective Party or that has or will have an interest in the transaction contemplated by this Agreement or in any property that is the subject matter of this Agreement or will participate, in any manner whatsoever, in the conveyance of the Vacant Land Parcel is, to the best of such Party's knowledge:

- (i) not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and 13224,
- (ii) in full compliance with the requirements of the Patriot Rules and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("OFAC"),
- (iii) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Rules and available to each other for review and inspection during normal business hours and upon reasonable prior notice,
- (iv) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Rules,
- (v) not listed as a Specially Designated Terrorist or as a blocked person on any lists maintained by the OFAC pursuant to the Patriot Rules or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Rules or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Rules,
- (vi) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Rules, and
- (vii) not owned or controlled by or now acting or will in the future act for or on behalf of any person or entity named in the Annex or any other list promulgated under the Patriot Rules or any other person who has been determined to be subject to the prohibitions contained in the Patriot Rules.

**C. Mutual Notice; Termination.** Each Party covenants and agrees that in the event it receives any notice that it or any of its beneficial owners or affiliates or participants become listed on the Annex or any other list promulgated under the Patriot Rules or indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, the Party that receives such notice shall immediately notify the other (the "Non-Blocked Party") and the effect of the issuance of a notice pursuant to the Patriot Rules is that the Non-Blocked Party may elect to either: (i) obtain permission from OFAC to proceed with the Closing, in which case, the Closing Date shall be delayed until such permission is obtained, or (ii) send written notice to the other Party terminating this Agreement, in which event the Parties shall have no further rights or obligations under this Agreement, except for those rights, liabilities or obligations that survive a termination of this Agreement.

## **Section 11. General Provisions.**

**A. Integration; Modification.** This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, and negotiations pertaining

thereto. This Agreement may be modified only by a written amendment or other agreement that is lawfully approved and executed by the Parties.

## **B. Interpretation.**

**1. Construction.** There is no presumption that this Agreement is to be construed for or against the District or the Township, or either Party as the principal author of the Agreement. Instead, this Agreement shall be interpreted in accordance with the general tenor of the language in an effort to reach the intended result.

**2. Applicable Laws.** In performing their obligations under this Agreement, the Parties shall comply with all applicable federal, state, and local statutes, regulations, requirements, ordinances, and other laws ("Applicable Laws").

**3. Exhibits.** The following Exhibits attached hereto are incorporated herein as an integral part of this Agreement:

- Exhibit A: Depiction of District Property and Existing Cemetery Access Easement
- Exhibit B: Depiction of Township Property
- Exhibit C: Depiction of Cemetery Parcel and Vacant Land Parcel
- Exhibit D: Depiction of Cemetery Ingress/Egress Easement Premises and Cemetery Parking Easement Premises
- Exhibit E: Depiction of Cemetery Parking Easement Premises and Cemetery Walkway Easement Premises
- Exhibit F: Form of Deed
- Exhibit G: Form of Release of Existing Cemetery Access Easement
- Exhibit H: Form of Grant of Easements
- Exhibit I: Form of Grant of Cemetery Conservation Easement
- Exhibit J: Form of Certification of Voluntary Transaction Involving Land Sale
- Exhibit K: Depiction of Split Rail Fence

**4. Time of the Essence.** Time is of the essence in the performance of this Agreement. If any date upon which action is required under this Agreement is a Saturday, Sunday, or legal holiday, the date will be extended to the first business day after such date that is not a Saturday, Sunday or legal holiday.

## **C. Enforcement.**

**1. Termination.** If (i) either Party fails to perform an obligation under this Agreement or (ii) any representation or warranty made by a Party hereunder is or becomes materially untrue as the result of an act or omission of said Party, and said Party does not, within five (5) days after receiving written notice from the other Party of such failure, either (i) cure such failure or take action to cause such representation or warranty to become materially true or (ii) if such failure cannot reasonably be cured within five (5) days or if such action cannot reasonably be completed within five (5) days, commence and diligently pursue a cure for such failure or such

action, then, the other Party may (i) terminate this Agreement, and (ii) pursue any other remedy available at law or equity, including without limitation an action for specific performance.

**2. Binding on Parties.** This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and assigns, if any.

**D. Execution of Agreement.**

**1. Approval Required.** The Parties agree and acknowledge that this Agreement shall not be binding upon either Party until such Agreement has been approved by both Parties' respective corporate authorities in accordance with Applicable Laws (the "Effective Date").

**2. Counterparts.** The Parties may execute this Agreement in multiple counterparts, all of which taken together will constitute a single Agreement binding on the Parties, notwithstanding that the Parties are not signatories to the same counterpart. This Agreement will be deemed fully executed, and effective as of the Effective Date, when each Party has executed at least one counterpart. Any signature of a Party to this Agreement that is sent by that Party to the other Party via a telefax transmission or via an email transmission in a PDF format shall be deemed a binding signature hereto. Each Party shall deliver an original signature to the other Party upon the other Party's request.

**3. Corporate Authority.** The District and the Township each represents and warrants to the other that (i) it has the requisite power and authority to enter into and perform the terms of this Agreement, (ii) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby (a) have been duly authorized by all necessary action and authority and (b) do not violate any agreement to which it is a party, and (iii) no other proceedings on its part are necessary in order to permit it to consummate the transactions contemplated hereby, and (iv) the person executing this Agreement on its behalf, is fully authorized to execute this Agreement, and, by doing so, to bind it to the obligations under this Agreement.

**E. Notices.** Notices under this Agreement must be delivered (i) personally, (ii) by overnight delivery by a nationally recognized courier service, or (iii) by email, with the notice also being sent personally, by overnight delivery as set forth above, or by regular U.S. mail. Notices under this agreement must be sent to the following addresses or to such other or further addresses as a Party may hereafter designate by notice:

Notices and communications to the District shall be addressed to, and delivered at, the following addresses:

Lake County Forest Preserve District  
1899 W. Winchester Road  
Libertyville, IL 60048  
Attention: Executive Director  
akovach@lcfpd.org

With a copy to:

Matthew E. Norton, Esq.  
Burke, Warren, MacKay & Serritella, P.C.  
330 North Wabash Street  
Suite 2100  
Chicago, Illinois 60611  
mnorton@burkelaw.com

Notices and communications to the Township shall be addressed to, and delivered at, the following addresses:

Wauconda Township  
505 W. Bonner Road  
Wauconda, IL 60084  
Attention: Supervisor  
gswanson@waucondatownship.com

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_

Any notice shall be deemed given upon actual receipt. Nothing in this Section will be deemed to invalidate a notice that is actually received, even if it is not given in strict accordance with this Section.

[Signature Page Follows]

The undersigned execute this Agreement and acknowledge that this Agreement will become effective as of the Effective Date.

ATTEST:

**Lake County Forest Preserve District**

By: \_\_\_\_\_  
Julie Gragnani, Secretary

By: \_\_\_\_\_  
Angelo D. Kyle, President

ATTEST:

**Wauconda Township**



By: Stephane Mioriello

By: [Signature]  
Glenn L. Swanson, Supervisor

**Exhibit A**  
**Depiction of District Property and Existing Cemetery Access Easement**

**Exhibit  
A**

**Legend**

 District Property     Existing Easement



Lake County Forest Preserve District  
 1899 W Winchester Rd  
 Libertyville, IL 60048  
 847-367-8840  
 www.lcfd.org

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.

Prepared using information from:  
 Lake County Department of Information  
 & Technology: GIS/Mapping Division  
 18 North County Street  
 Waukegan, Illinois 60085-4357  
 and Nearmap US, Inc

0      350      700      1,400      Feet

2018 Aerial Photo

Map Prepared 20 June 2019





**Exhibit B**  
**Depiction of Township Property**

**Exhibit  
B**

**Legend**



**District Property**

**Township Property**

Lake County Forest Preserve District  
1899 W Winchester Rd  
Libertyville, IL 60048  
847-367-2640  
www.lcfpd.org

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.

Prepared using information from:  
Lake County Department of Information  
& Technology: GIS/Mapping Division  
18 North County Street  
Waukegan, Illinois 60085-4357  
and Nearmap US, Inc



0 150 300 600 Feet

2018 Aerial Photo

Map Prepared 15 April 2019



**Exhibit C**  
**Depiction of Cemetery Parcel and Vacant Land Parcel**

**Exhibit  
C**

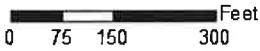
Lake County Forest Preserve District  
1899 W Winchester Rd  
Libertyville, IL 60048  
847-367-8840  
www.lcfpd.org

**Legend**

-  District Property
-  Vacant Land Parcel
-  Cemetery Parcel

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.

Prepared using information from:  
Lake County Department of Information  
& Technology: GIS/Mapping Division  
18 North County Street  
Waukegan, Illinois 60085-4357  
and Nearmap US, Inc



2018 Aerial Photo

Map Prepared 15 April 2019








# Exhibit D

## Depiction of Cemetery Ingress-Egress Easement Premises and Cemetery Parking Easement Premises

### Exhibit D

#### Legend

-  District Property
-  Cemetery Ingress/Egress Easement Premises
-  Cemetery Parcel
-  Cemetery Parking Easement Premises
-  Vacant Land Parcel

Lake County Forest Preserves  
1899 W Winchester Rd  
Libertyville, IL 60048  
847-367-6640  
www.lcfdp.org

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.

Prepared using information from:  
Lake County Department of Information  
& Technology: GIS/Mapping Division  
18 North County Street  
Waukegan, Illinois 60085-4357  
and Nearmap US, Inc



0 75 150 300 Feet

2018 Aerial Photo

Map Prepared 20 June 2019



**Exhibit E**  
**Depiction of Cemetery Parking Easement**  
**Premises and Cemetery Walkway Easement Premises**

**Exhibit E**

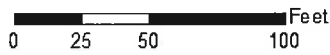
**Legend**

- |   |   |  |
|---|---|--|
|  District Property |  Vacant Land Parcel                        |  Cemetery Parking Easement Premises |
|  Cemetery Parcel   |  Cemetery Ingress/Egress Easement Premises |  Cemetery Walkway Easement Premises |

Lake County Forest Preserve District  
 1899 W Winchester Rd  
 Libertyville, IL 60048  
 847-267-8840  
 www.lcfpd.org

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.

Prepared using information from:  
 Lake County Department of Information & Technology: GIS/Mapping Division  
 18 North County Street  
 Waukegan, Illinois 60085-4357  
 and Nearmap US, Inc



2018 Aerial Photo

Map Prepared 20 June 2019

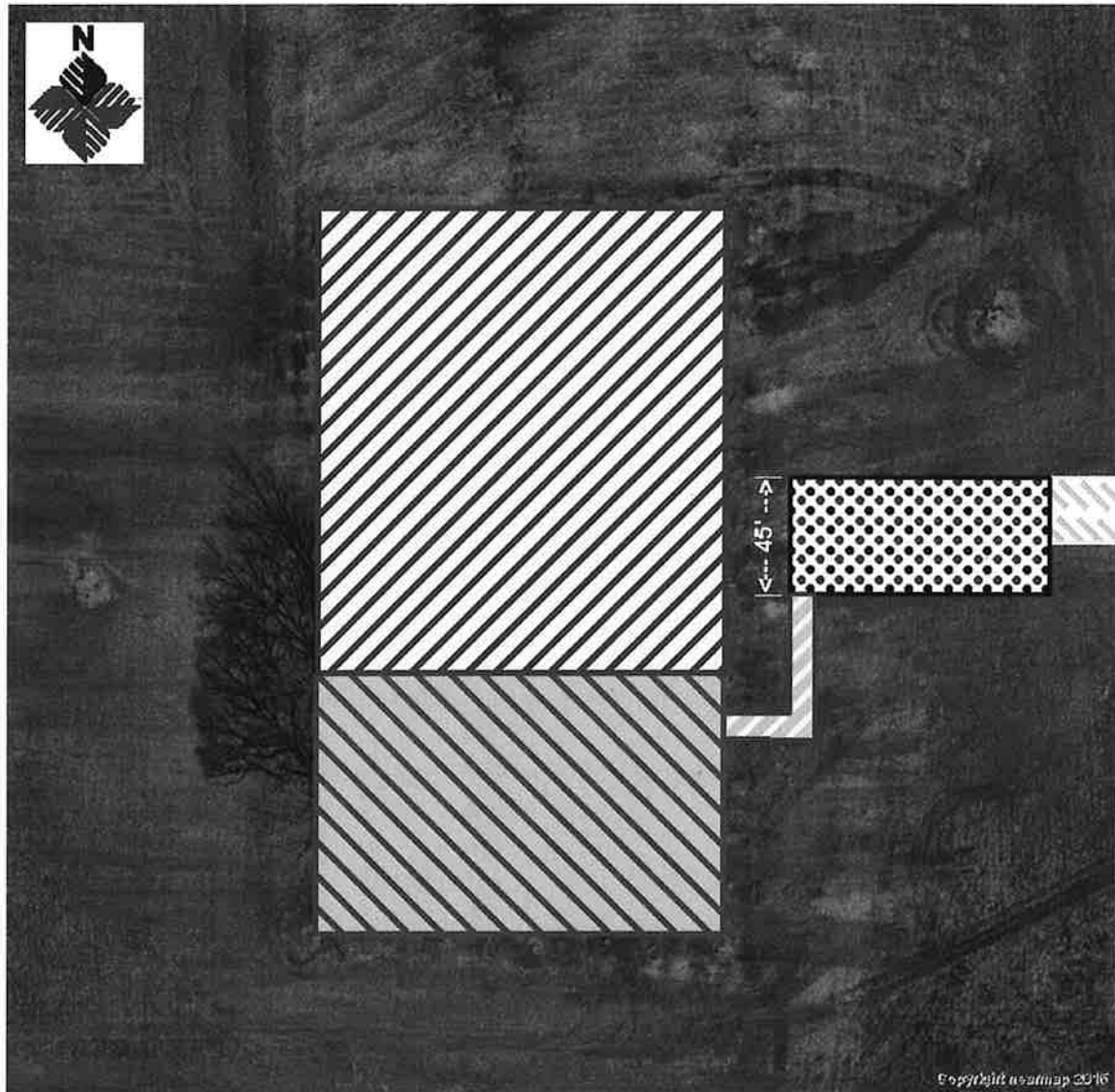


Exhibit E map 2019

**Exhibit F**  
**Form of Deed**

**This Instrument was Prepared by  
and after Recording Return to:**

Matthew E. Norton, Esq.  
Burke, Warren, MacKay & Serritella, P.C.  
330 North Wabash Street  
Suite 2100  
Chicago, Illinois 60611

**Warranty Deed**

This Warranty Deed is made this \_\_\_ day of \_\_\_\_\_, 2019 by **Wauconda Township**, an Illinois Township organized and existing under the Illinois Township Code (“**Grantor**”), having an address of 505 W. Bonner Road, Wauconda, Illinois 60084 to **Lake County Forest Preserve District**, a body politic and corporate, organized and existing under the Downstate Forest Preserve District Act (“**Grantee**”), having an address of 1899 W. Winchester Road, Libertyville, IL 60048.

**Witnesseth**, that the Grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars and other good and valuable consideration in hand paid by the Grantee, the receipt whereof is hereby acknowledged, by these presents does remise, release, alien and convey unto the Grantee, its successors and assigns, **forever**, all the land, situated in the County of Lake and State of Illinois known and described on **Exhibit A** attached hereto and made a part hereof (the “**Premises**”).

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, of the Grantor, either in law or equity, of, in and to the Premises, with the hereditaments and appurtenances: **to have and to hold** the Premises as above described, with the appurtenances, unto the Grantee, his heirs/successors and assigns forever.

And the Grantor, for itself, and its successors and assigns, does covenant, promise and agree, to and with the Grantee, his heirs/successors and assigns, that Grantor has not done or suffered to be done anything whereby the Premises hereby granted are, or may be, in any manner encumbered or charged, except as set forth as “Permitted Title Exceptions” on **Exhibit B** attached hereto and made a part hereof; and that subject to such Permitted Title Exceptions, the Grantor will warrant and forever defend the Premises against all persons lawfully claiming rights to the same.

**Mail Tax Bills to:**  
Lake County Forest Preserve District  
1899 W. Winchester Road  
Libertyville, IL 60048

Grantor has caused its name to be signed to these presents the day and year first above written.

**Wauconda Township, an Illinois Township**

By: \_\_\_\_\_  
Name: Glenn L. Swanson  
Its: Supervisor

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a notary public in and for said County, in the State aforesaid, do hereby certify that Glenn L. Swanson, the Supervisor of **Wauconda Township**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act in his capacity as Supervisor, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_ {SEAL}

Exempt under 35 ILCS 200/31-45(b), Real Estate Transfer Tax Law.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Buyer, Seller or Representative

*[Exhibits to be attached]*

**Exhibit G**  
**Form of Release of Existing Cemetery Access Easement**

**This Instrument was Prepared by  
and after Recording Return to:**

Matthew E. Norton, Esq.  
Burke, Warren, MacKay & Serritella, P.C.  
330 North Wabash Street  
Suite 2100  
Chicago, Illinois 60611

**Release of Easement**

**Wauconda Township**, an Illinois Township organized and existing under the Illinois Township Code, having an address of 505 W. Bonner Road, Wauconda, Illinois 60084, for itself, as successor-in-interest to the Hope Grove Cemetery Association, and on behalf of its successors and assigns, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby, without recourse, forever remise, release, terminate and cancel any and all easement rights created by Deed dated September 24, 1845 and recorded September 30, 1845 in Book "E" of Deeds, page 35, by Quit Claim Deed dated October 1, 1874 and recorded December 4, 1875 in Book 57 of Deeds, page 197, and by Quit Claim Deed dated December 4, 1875 and recorded December 4, 1875 in Book 57 of Deeds, page 198, affecting the real estate described in the attached Exhibit A.

[Signature Page Follows]

**Wauconda Township, an Illinois Township**

By: \_\_\_\_\_  
Name: Glenn L. Swanson  
Its: Supervisor

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a notary public in and for said County, in the State aforesaid, do hereby certify that Glenn L. Swanson, the Supervisor of **Wauconda Township**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act in his capacity as Supervisor, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_ {SEAL}

*[Exhibit to be attached]*



**Exhibit H**  
**Form of Grant of New Cemetery Access Easements**

**This Instrument was Prepared by  
and after Recording Return to:**

Matthew E. Norton, Esq.  
Burke, Warren, MacKay & Serritella, P.C.  
330 North Wabash Street  
Suite 2100  
Chicago, Illinois 60611

**Grant of Easements**

This Grant of Easements (the “Grant”) is made as of the \_\_\_ day of \_\_\_\_\_, 2019 (the “Effective Date”), by the **Lake County Forest Preserve District**, a body politic and corporate, organized and existing under the Downstate Forest Preserve District Act, having an address of 1899 W. Winchester Road, Libertyville, IL 60048 (the “District”), for the benefit of **Wauconda Township**, an Illinois Township organized and existing under the Illinois Township Code, having an address of 505 W. Bonner Road, Wauconda, Illinois 60084 (the “Township”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District hereby grants the following rights to the Township:

**Section 1. Recitals.**

A. The District owns fee simple title to that certain property generally located on the west side of Wilson Road, north of Illinois Route 60 and south of Illinois Route 120 and commonly known as “Kettle Grove Forest Preserve” (the “District Property”), which is legally described on Exhibit A attached hereto. The District Property includes that certain property hereinafter defined as the “Easement Premises”, and generally depicted on Exhibit B and Exhibit C attached hereto.

B. The Township currently owns fee simple title to that certain property commonly known as “Hope Grove Cemetery” (the “Retained Parcel”), which is wholly surrounded by the District Property, and which is legally described on Exhibit D and generally depicted on Exhibit E attached hereto.

C. The District and the Township have entered into a certain Intergovernmental Agreement by and between the District and the Township dated as of \_\_\_\_\_, 2019 (the “Intergovernmental Agreement”).

**Section 2. Recitals Incorporated by Reference; Grant of Easements; Binding Nature; Governing Law; Severability.**

A. Recitals Incorporated by Reference. The above recitals are by this reference incorporated and made a part hereof, the same as if they had been fully set forth in the text of this Grant.

B. Grant of Easements. Subject to the terms of the Intergovernmental Agreement, the District hereby grants to the Township, for the purposes herein stated and for no other purpose, the following non-exclusive easements across the District Property:

- i. an unpaved 25-foot wide ingress and egress easement between North Wilson Road and the Cemetery Parking Easement Premises (defined in Section 2.B.ii below) (the “Cemetery Ingress/Egress Easement”), within the “Cemetery Ingress/Egress Easement Premises” generally depicted on Exhibit B;
- ii. an unpaved 45-foot wide parking easement at the west terminus of the Cemetery Ingress/Egress Easement Premises (the “Cemetery Parking Easement”), within the “Cemetery Parking Easement Premises” generally depicted on Exhibit C; and
- iii. an unpaved easement for pedestrian ingress and egress between the Cemetery Parking Easement Premises and the planned entrance to the Cemetery Parcel (the “Cemetery Walkway Easement”), within the “Cemetery Walkway Easement Premises” generally depicted on Exhibit C attached hereto (the Cemetery Ingress/Egress Easement, the Cemetery Parking Easement and the Cemetery Walkway Easement are, collectively, the “Easements”; the “Cemetery Ingress/Egress Premises”, the “Cemetery Parking Easement Premises” and the “Cemetery Walkway Easement Premises” are, collectively the “Easement Premises”).

C. Binding Nature. This Grant runs with the land and shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Retained Parcel or the Easement Premises, as applicable. The easements and the rights granted in this Grant, the restrictions imposed by this Grant, and the agreements and covenants contained in this Grant shall be easements, rights, restrictions, agreements and covenants running with the land, shall be recorded against the District Property, and shall be binding upon and inure to the benefit of the District and the Township and their respective mortgagees, lessees, heirs, executors, administrators, successors, assigns, agents, licensees, invitees, and representatives, including, without limitation, all subsequent owners of the District Property, or any portion thereof, and all persons claiming under them. If any of the easements, rights, restrictions, agreements or covenants created by this Grant would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such easements, rights, restrictions, agreements or covenants shall continue only until 21 years after the death of the last survivor of the now living lawful descendants of the current Governor of the State of Illinois. Promptly after the full execution and delivery of this Grant by the District and the Township, the Township shall, at no cost to the District, record this Grant against the Easement Premises and the District Property with the office of the Recorder of Deeds of Lake County, Illinois.

D. Governing Law. This Grant shall be governed by, and construed in accordance with, the laws of the State of Illinois without regard to its conflict of law rules.

E. Severability. If any term, restriction, or covenant to this Grant shall be deemed illegal or unenforceable, all of the terms, restrictions, and covenants and the application thereof to all persons and circumstances subject hereto shall remain in effect to the extent permitted by law; and any application of such term, restriction, or covenant to other persons or circumstances shall remain in effect to the extent permitted by law.

[Signature Page Follows]

The District has executed this Grant as of the Effective Date first above written.

**Lake County Forest Preserve District**

By: \_\_\_\_\_  
Name: Angelo D. Kyle  
Its: President

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a notary public in and for said County, in the State aforesaid, do hereby certify that Angelo D. Kyle, the President of **Lake County Forest Preserve District**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act in her capacity as President, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_ {SEAL}

**Accepted:**

**Wauconda Township, an Illinois Township**

By: \_\_\_\_\_  
Name: Glenn L. Swanson  
Its: Supervisor

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a notary public in and for said County, in the State aforesaid, do hereby certify that Glenn L. Swanson, the Supervisor of **Wauconda Township**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act in his capacity as Supervisor, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_ {SEAL}

*[Exhibits to be attached]*

**Exhibit I**  
**Form of Grant of Cemetery Conservation Easement**

Above Space For Recorder's Use Only

**Agreement for Conservation Easement**

**by and between**

**Lake County Forest Preserve District**

**and**

**Wauconda Township**

Prepared by and after recording return to :  
Matthew E. Norton  
Burke, Warren, MacKay & Serritella, P.C.  
330 N. Wabash St.  
21<sup>st</sup> Floor  
Chicago, Illinois 60611  
(312) 840-7085

This Agreement is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and is by and between the **Lake County Forest Preserve District**, a body politic and corporate, organized and existing under the Downstate Forest Preserve District Act, 70 ILCS 805/.001 *et seq.*, ("**Grantee**") and **Wauconda Township**, an Illinois Township organized and existing under the Illinois Township Code, 60 ILCS 1/1-1 *et seq.* ("**Grantor**").

In consideration of the recitals and the mutual covenants and agreements set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Township (together, the "**Parties**") agree as follows:

**Section 1. Recitals.**

**A.** The District owns fee simple title to that certain real property generally located on the west side of North Wilson Road, north of Illinois Route 60 and south of Illinois Route 120, and commonly known as "Kettle Grove Forest Preserve" (the "**District Property**"), which is generally depicted on Exhibit A attached hereto.

**B.** The Township currently owns fee simple title to that certain property commonly known as "Hope Grove Cemetery" (the "**Township Property**"), which is wholly surrounded by the District Property and which is generally depicted on Exhibit B attached hereto.

**C.** The Township Property is comprised of (i) an approximately 15,600 square foot parcel used as a burial site (the "**Cemetery Parcel**") and (ii) an approximately 27,768 square foot parcel of vacant land (the "**Vacant Land Parcel**"). The Cemetery Parcel and the Vacant Land Parcel are generally depicted on Exhibit C attached hereto.

**D.** Pursuant to the Parties' intergovernmental agreement dated as of \_\_\_\_\_, 2019 (the "**Intergovernmental Agreement**"), the Township (i) has conveyed the Vacant Land Parcel to the District, and the Vacant Land Parcel is now part of Kettle Grove Forest Preserve and (ii) agreed to grant to the District a conservation easement across the Cemetery Parcel, allowing the District to undertake natural resource restoration activities, and other maintenance activities, within the Cemetery Parcel, which is now wholly surrounded by Kettle Grove Forest Preserve.

**E.** The Cemetery Parcel has significant scenic and aesthetic value to Grantor, Grantee, and to the general public, and includes a variety of natural features including without limitation native grasses and native prairie features (collectively, "**Conservation Values**"). As contemplated in the Intergovernmental Agreement, Grantor and Grantee desire and intend that the Conservation Values of the Cemetery Parcel be preserved and maintained in perpetuity.

**F.** To ensure the protection of the Cemetery Parcel's Conservation Values, pursuant to his Agreement, Grantor will convey to Grantee the right to preserve and protect the Conservation Values of the Cemetery Parcel, pursuant to the Real Property Conservation Rights Act, 765 ILCS 120/.01 *et seq.*

**Section 2. Grant of Easement.** Grantor grants and conveys to Grantee a perpetual easement over the Cemetery Parcel according to the terms set forth in this Agreement (the "**Easement**"), and subjects the Cemetery Parcel perpetually to the covenants and restrictions of this Agreement.

**Section 3. Purpose and Intent.** It is the purpose and intent of this Agreement that (i) the Cemetery Parcel be retained forever in its scenic and open space condition, (ii) the Cemetery Parcel be operated as a cemetery or open space (or both) and a native grassland prairie and (iii) any plant and animal communities located on the Cemetery Parcel which are indigenous to northeastern Illinois be

preserved to the extent reasonably feasible.

**Section 4. Rights of Grantee.** To accomplish the purpose and intent of this Agreement, Grantee has the right, at its own cost and subject to Section 5:

- (i) To cut and remove invasive woody species (including but not limited to, Black Locust, Buckthorn, Asian Honeysuckle and Box Elder) by hand and mechanical methods,
- (ii) To dispose of cut invasive species via a combination of chipping, burning, and off-site removal,
- (iii) To treat stumps of cut species with appropriate herbicides,
- (iv) To treat any re-sprouts from the cut invasive species stumps with additional herbicide applications as needed,
- (v) To plant a short-stature, native prairie grass mix, and to otherwise establish native species,
- (vi) To engage in activities that (a) maintain or restore the natural, biological, and ecological integrity of the Cemetery Parcel, (b) promote the preservation of the Conservation Values, (c) protect and enhance plant and wildlife habitat on the Cemetery Parcel, including any endangered plant or animal species,
- (vii) To perform additional invasive species control as needed, including without limitation periodic controlled burns, to assist in invasive species control,
- (viii) To preserve and protect flora, fauna, and natural resources on the Cemetery Parcel, including any soils, watersheds and drainage patterns of the Cemetery Parcel,
- (ix) To view the Cemetery Parcel in its scenic and open condition at ground level,
- (x) To enter upon the Cemetery Parcel at reasonable times to monitor Grantor's compliance with, and to otherwise enforce the terms of, this Agreement,
- (xi) To enter upon the Cemetery Parcel at reasonable times for management and maintenance and to otherwise exercise its rights under this Agreement,
- (xii) To restore the areas or features of the Cemetery Parcel (including the Conservation Values) that are damaged by any activity on the Cemetery Parcel including activity in violation of this Agreement,
- (xiii) To place signs on the Cemetery Parcel that identify the land as being protected by this Agreement,

- (xiv) To enforce the terms of this Agreement by appropriate legal proceedings so as to prevent any activity on or use of the Cemetery Parcel that is inconsistent with the purpose of this Agreement, and to require the restoration of such areas or features of the Cemetery Parcel that may be damaged by any inconsistent activity or use.

**Section 5. Prohibited Uses.**

Neither Grantor nor Grantee shall:

- (i) construct, maintain, or replace any buildings, structures, roads, driveways, parking areas, or improvements of any kind, except for the Split Rail Fence (as defined in the Intergovernmental Agreement),
- (ii) dump, place, or store ashes, trash, waste, garbage, vehicle bodies or parts or other unsightly or offensive material, or
- (iii) operate any snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other type of motorized vehicles, except for emergency vehicles and except that Grantee may operate vehicles to the extent reasonably necessary to exercise its rights under this Agreement.

Grantee shall not remove, damage, or alter any cemetery headstones or markers.

Grantor shall not:

- (i) cut, remove, herbicide, treat, damage, or alter any grass, plants, or trees on the Cemetery parcel,
- (ii) dig, excavate, or alter the soil within the Cemetery Parcel, or
- (iii) bury or otherwise inter any human remains within the Cemetery Parcel.

**Section 6. Grantor's Reserved Rights.**

Grantor reserves the right, for itself or for its contractors or agents, at its own cost, to, in compliance with all applicable local, state, and federal laws and subject to Section 5:

- (i) operate the Cemetery Parcel as an historic cemetery and, in furtherance thereof, may conduct public tours of the Cemetery Parcel and
- (ii) monitor and patrol the Cemetery Parcel.

**Section 7. Remedies.**

In the event of a violation of any provision of this Agreement, Grantor and Grantee will have whatever remedies are available to them at law or equity. In addition, Grantee may, following, at least 30 day's written notice to Grantor (except in case of an emergency requiring a temporary restraining order or other immediate relief), (i) institute a suit for injunctive relief, specific performance, or damages, (ii) enter



upon the Cemetery Parcel to correct any such violation, and (iii) hold Grantor and Grantor's successors, heirs and assigns in title responsible for the cost thereof, or (iv) if the priority and continuing validity of the lien of this Agreement is in any way threatened or jeopardized, expend such sums as may be necessary to satisfy any lien prohibited hereunder or to pay and discharge any delinquent taxes or assessments, or to redeem from any tax sale if, after 30 days prior written notice to Grantor, Grantor has failed to pay such sums or to provide such security to Grantee as Grantee may reasonably require, and all funds so paid or expended by Grantee shall, until repaid, constitute a lien on the Cemetery Parcel. In the event Grantor is adjudicated to have violated any of Grantor's obligations in this Agreement, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with the enforcement of its rights, including court costs and attorneys' fees. The exercise by Grantee of one remedy shall not have the effect of waiving any other remedy and the failure to exercise any remedy shall not have the effect of waiving the use of such remedy at any other time. All damages, costs, and expenses awarded to Grantee shall constitute a lien against the Cemetery Parcel until repaid by Grantor. Grantee shall have the right, but not the obligation, to record a notice of any lien that Grantee may claim to have against the Cemetery Parcel.

**Section 8. Grantee Discretion.**

Grantee has no duty, express or implied, to exercise any such rights and it may choose to exercise, or not exercise, its rights in its sole discretion. Grantee may exercise its rights through its own employees or officers or through its contractors or agents. If Grantee exercises its rights, it shall do so in compliance with all applicable local, state, and federal laws. Grantee may enforce this Agreement in its discretion and any forbearance by Grantee to exercise its rights under this Agreement in the event of any breach of any term of this Agreement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Agreement or of any of Grantee's rights under this Agreement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver thereof.

**Section 9. Assignment and Transfer.**

Grantee may assign its rights and obligations under this Agreement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended, or any successor provision then applicable, and the applicable regulations promulgated thereunder (collectively, "*Statute*"), and authorized to acquire and hold conservation rights under the Statute. As a condition of such transfer, Grantee shall require the transferee to agree to protect the Conservation Values. Grantor agrees to incorporate this Agreement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Cemetery Parcel, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least 20 days prior to the date of such transfer. The failure of Grantor to perform any act required by this Section shall not impair the validity of this Agreement or limit its enforceability in any way or result in any liability on the part of Grantor.

**Section 10. Notices.**

Unless otherwise expressly provided herein, any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by certified mail, return receipt requested postage prepaid addressed as follows:

To Grantor:

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

To Grantee: Lake County Forest Preserve District  
1899 West Winchester Road  
Libertyville, IL 60048  
Attention: Executive Director

or such other address as either party from time to time shall designate by written notice to the other. Personal delivery shall include delivery by commercial messenger service or overnight courier. Service by mail shall be deemed effective on the earlier of (i) actual receipt or (ii) three business days after posting. This Section will not invalidate any written notice that is actually received, by any means.

**Section 11. Recordation; Nature of Conveyance.**

Grantee shall record this instrument in the Office of the Lake County Recorder of Deeds. The covenants, terms, conditions, and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, and assigns and shall bind and run with the Cemetery Parcel in perpetuity. The conveyance of rights to Grantee under this Agreement constitutes a conservation right under the Real Property Conservation Rights Act, 765 ILCS 120/0.01, et seq., a common law easement in gross, an encumbrance by conservation rights under 35 ILCS 200/10-166, a common law dedication, and an easement and covenant running with the land.

**Section 12. General Provisions.**

A. **Controlling Law.** The interpretation and performance of this Agreement shall be governed by the laws of the State of Illinois.

B. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Agreement shall be liberally construed in favor of the grant to effect the purpose of this Agreement and the policy and purpose of the Statute. If any provision in this instrument is found to be ambiguous, and interpretation consistent with the purpose of this Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. **Severability.** If any provision of this Agreement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

D. **Entire Agreement.** This instrument and the Intergovernmental Agreement set forth the entire agreement of the parties with respect to the subject matter herein and supersedes all prior discussions, negotiations, understandings, or agreements relating to the subject matter herein. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment first executed by Grantor and Grantee, or their successors, and recorded in the Office of the Lake County Recorder of Deeds, Illinois.

E. **Termination of Rights and Obligations.** Grantee may terminate this Agreement by sending 30 day's written notice to Grantor. Further, (i) Grantee's rights and obligations under this Agreement shall terminate upon transfer of its interest as provided in Section 9 and (ii) Grantor's rights and obligations under this Agreement shall terminate upon its conveyance of the Cemetery Parcel, except that (in either event) liability for acts or omissions occurring prior to transfer or conveyance shall survive transfer or conveyance.

**F. Warranty of Authority.** Each person executing this instrument on behalf of Grantor represents and warrants that (i) he or she is fully authorized and empowered to execute and deliver this instrument and (ii) there is no lien, encumbrance, contract, or governmental prohibition against the execution and delivery of this instrument and the performance by the party on whose behalf he or she executed this Agreement.

Grantor and Grantee execute this Agreement as of the day and year first above written.

[Signature pages follow]





**Exhibit A**  
**Legal Description of Cemetery Parcel**

**Exhibit B**  
**Depiction of Township Property**

**Exhibit  
B**

**Legend**

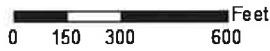
 District Property

 Township Property

Lake County Forest Preserve District  
1899 W Winchester Rd  
Libertyville, IL 60048  
847-367-8840  
www.lcfd.org

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.

Prepared using information from:  
Lake County Department of Information  
& Technology: GIS/Mapping Division  
18 North County Street  
Waukegan, Illinois 60085-4357  
and Nearmap US, Inc



2018 Aerial Photo

Map Prepared 15 April 2019



**Exhibit C**  
**Depiction of Cemetery Parcel and Vacant Land Parcel**

**Exhibit  
C**

Lake County Forest Preserve District  
 1899 W Winchester Rd  
 Libertyville, IL 60048  
 847-367-6640  
 www.lcfd.org

**Legend**

-  District Property
-  Vacant Land Parcel
-  Cemetery Parcel

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.

Prepared using information from:  
 Lake County Department of Information  
 & Technology: GIS/Mapping Division  
 18 North County Street  
 Waukegan, Illinois 60085-4357  
 and Nearmap US, Inc



0 75 150 300 Feet

2018 Aerial Photo

Map Prepared 15 April 2019





**Exhibit J**  
**Form of Certification of Voluntary Transaction Involving Land Sale**

CERTIFICATION  
of  
VOLUNTARY TRANSACTION INVOLVING LAND SALE

This is to confirm and certify that the undersigned Grantor has freely offered and agreed to convey the land described on the attached Exhibit A to the Lake County Forest Preserve District in exchange for the receipt of consideration that is mutually acceptable and that has been negotiated between the parties. No action was taken on the part of the Lake County Forest Preserve District to in any way force this conveyance and the undersigned Grantor understood and was advised by the Lake County Forest Preserve District that Eminent Domain proceedings would not be pursued if the parties failed to determine amicable negotiated consideration for said property.

GRANTOR:

By: \_\_\_\_\_

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State and Zip Code)

\_\_\_\_\_  
(Date)

*[Exhibit to be attached]*

# Exhibit K Depiction of Split Rail Fence

## Exhibit K

### Legend



Cemetery Parcel



Cemetery Parcel Corner Posts



Cemetery Split Rail Fence  
(segments not drawn to scale)



Lake County Forest Preserve District  
1899 W Winchester Rd  
Libertyville, IL 60048  
847-287-2240  
www.lcfd.org

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.

Prepared using information from:  
Lake County Department of Information  
& Technology: GIS/Mapping Division  
18 North County Street  
Waukegan, Illinois 60085-4357  
and Nearmap US, Inc



2018 Aerial Photo

Map Prepared 20 June 2019

