

DATE: May 4, 2020

MEMO TO: John Wasik, Chair
Planning Committee

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

RECOMMENDATION: Recommend approval of a Resolution Repealing a Prior Resolution and Approving a Tax Sale Agreement with Openlands resulting from the 2019 Annual Lake County Tax Sale (the “Tax Sale”), allowing the District to purchase one Tax Sale Certificate (the “Certificate”) from Openlands for \$2,149.47.

STRATEGIC DIRECTIONS SUPPORTED: Conservation.

FINANCIAL DATA: The purchase price for the Certificate is 2,149.47, which is funded from the 2008 Referendum Bonds (2015 bonds) and is included in the adopted FY 2020 Budget.

BACKGROUND: At its Rescheduled Regular Meeting on April 7, 2020, the District Board of Commissioners approved a resolution approving a tax sale agreement with Openlands for the 2019 Annual Lake County tax sale. That resolution authorized the District to acquire one tax certificate for the sum of \$2,091.12. However, that price did not include Openlands’ expenses. The current amount includes all charges, including updated interest charges. The attached resolution would repeal the earlier resolution and reapprove the agreement with the correct price.

District staff and the Planning Committee annually review land preservation opportunities that are beneficial to the District and that can be pursued at the County’s Annual Tax Sale. At the Tax Sale, the County auctions certificates for tax-delinquent parcels located within the County. A bidder that purchases a certificate for a tax-delinquent parcel essentially owns the right to acquire the parcel, if the parcel owner does not redeem the parcel within two years after the sale. The Planning Committee in November 2019 directed staff to investigate three parcels available at the Tax Sale which would enhance District holdings. Because of timing and procedural issues, the District requested that Openlands attend the Annual Tax Sale (which was held in November, 2019) on the District’s behalf and submit bids on selected parcels. Openlands has provided this service to the District for several years.

Openlands attended the Tax Sale and because of heavy interest, was unable to successfully bid on two of the available parcels. The remaining parcel has no improvements, is adjacent to existing District property, and would be appropriate for eventual acquisition. The parcel totals approximately 8.5 acres.

Openlands has requested that the District enter into an agreement pursuant to which the District would purchase the Certificate from Openlands for the amount paid by Openlands for the Certificate.

By purchasing the Certificate, the District may eventually obtain title to the parcel through a tax deed, if the current owner does not redeem the parcel by paying the taxes and any applicable fees within two

years after the taxes were paid at auction. This method of acquisition would save the District land acquisition funds. If the current owner of the parcel redeems the parcel before the redemption period ends, the owner is required to repay the District the price bid by Openlands on the parcel. If the owner does not redeem the parcel during the redemption period, the District can petition for a tax deed, which would transfer ownership to the District.

REVIEW BY OTHERS: Executive Director, Director of Planning and Land Preservation, Chief Operations Officer, Director of Finance, Corporate Counsel.

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR MAY MEETING
MAY 12, 2020**

MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **PLANNING COMMITTEE** presents herewith “A Resolution Repealing a Prior Resolution and Approving a Tax Sale Agreement with Openlands resulting from the 2019 Annual Lake County Tax Sale” 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 REPEALING A PRIOR RESOLUTION APPROVING
A TAX SALE AGREEMENT WITH OPENLANDS
RESULTING FROM THE 2019 ANNUAL LAKE COUNTY TAX SALE**

WHEREAS, at the direction of the Planning Committee of the Lake County Forest Preserve District (the "District"), the District's Planning and Land Preservation Department (the "Department") analyzed more than 5,000 parcels of land throughout Lake County that were expected to be included in the 2019 Lake County Annual Tax Sale (the "Tax Sale") to determine which parcels may be appropriate for District use; and

WHEREAS, pursuant to its detailed analysis, the Department identified certain parcels listed for the Tax Sale that have no existing residences, are located adjacent to existing District sites and would be appropriate for eventual acquisition (the "Identified Properties"); and

WHEREAS, because of timing and procedural requirements, the District was unable to bid at the Tax Sale for the Identified Properties and requested that Openlands submit bids for the Identified Properties; and

WHEREAS, Openlands was able to obtain one Certificate of Sale for the Identified Property generally depicted on Exhibit A (the "Future Property") at the Tax Sale (the Certificate"); and

WHEREAS, Openlands has offered to sell the Certificate for the Future Property to the District, for \$2,149.47, pursuant to the Tax Sale Agreement, in the form attached hereto (the "Tax Sale Agreement"); and

WHEREAS, purchasing the Certificate for the Future Property from Openlands could culminate in a tax deed for the Future Property in approximately two years, thereby saving the District land acquisition funds; and

WHEREAS, preservation of the Future Property is consistent with the goals and policies of the District and is consistent with the land acquisition goals of the District; and

WHEREAS, it is in the best interests of the District to enter into the Tax Sale Agreement with Openlands, pursuant to which the District would purchase the Certificate from Openlands;

WHEREAS, on April 7, 2020, the District Board of Commissioners approved "A Resolution Approving a Tax Sale Agreement with Openlands Resulting from the 2019 Annual Lake County Tax Sale" (Exhibit 5635) (the "Prior 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: Ownership and Boundaries. The Future Property is privately owned, is depicted on the attached Exhibit A, and lies wholly within the limits of the District.

Section 3: Suitability. The Future Property is suitable to be used, occupied, and developed for forest preserve and related purposes, and it is necessary and desirable that the District eventually acquire the Future Property.

Section 4: Repeal of Prior Resolution. The Prior Resolution is hereby repealed.

Section 5: Approval of Tax Sale Agreement; Decision to Purchase. The Tax Sale Agreement is hereby approved in substantially the form attached hereto as Exhibit B. Pursuant to the Tax Sale Agreement with Openlands, the District will purchase the Certificate for the Future Property for the sums stated in the Tax Sale Agreement. If the owner of the Future Property does not redeem the Future Property, the Executive Director and his designees are authorized and directed to take such steps as are necessary or appropriate to acquire a tax deed for the Future Property.

Section 6: Authority to Execute Documents. The President, Secretary and the Executive Director, on behalf of the District, are hereby authorized and directed to execute and attest to the Tax Sale Agreement and to negotiate, execute, and attest to all other documents which are necessary to complete the transactions contemplated in the Tax Sale Agreement, provided that the documents have first been approved by the District's Corporate Counsel and provided the documents are consistent with this Resolution.

Section 7: Severability. If any provision of this Resolution is held to be invalid by a court of competent jurisdiction that provision shall be stricken from this Resolution and the remaining provisions shall continue in full force and effect to the fullest extent possible.

Section 8: 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 _____, 2020

AYES:

NAYS:

APPROVED this ____ day of _____, 2020

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:



Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

Exhibit A

Lake County Forest Preserve District
Land Preservation and Special Projects
1899 W Winchester Rd
Libertyville, Illinois 60048
847-968-3351

Legend

-  Forest Preserve Boundary
-  Future Property



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
847-377-2373

0 275 550 1,100 Feet

2017 Aerial Photo

Map Prepared 2 March 2020

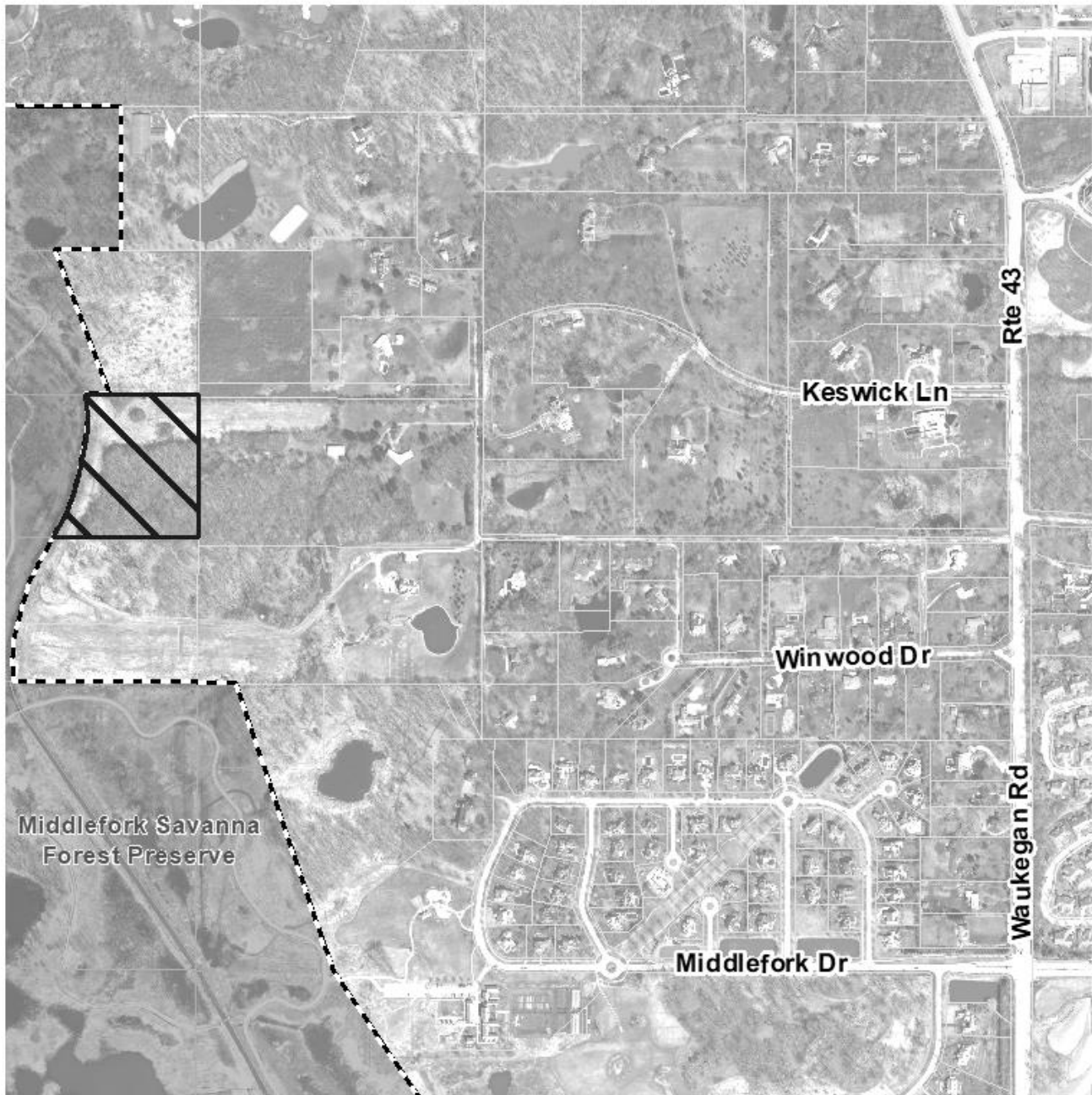


Exhibit B

TAX SALE AGREEMENT

This Agreement ("**Agreement**"), made as of _____, ("**Date of Execution**"), is by and between OPENLANDS, an Illinois not-for-profit corporation ("**Openlands**"), and LAKE COUNTY FOREST PRESERVE DISTRICT, a body politic and corporate organized and existing under the Illinois Downstate Forest Preserve Act, 70 ILCS 805/0.001 et seq., 1899 W. Winchester Road, Libertyville, Illinois 60048 ("**District**"). Openlands and the District hereby agree as follows:

1. Openlands and the District, for and in consideration of the mutual covenants and conditions herein contained and other good and valuable consideration, hereby acknowledge and agree that Openlands shall, at the request of and for the benefit of the District, attend that certain real estate tax sale respecting 2018 real estate taxes (**the "Tax Sale"**) to be held by Lake County, Illinois commencing Monday, November 18, 2019 for the purpose of entering bids and acquiring certificates of sale on certain properties to be determined and approved by the District as desirable and suitable for use as forest preserve lands.

2. Openlands shall enter bids and acquire certificates of sale on any or all of the properties, which properties will be more specifically described by the District in written form in advance of the Tax Sale (**collectively, the "Properties"**), and shall be authorized to expend up to, but not more than, such sum for each Property as will be itemized by the District in written form in advance of the Tax Sale (**the "Maximum Acquisition Cost"**). Openlands shall obtain certificates of sale and other related documentation in connection with each of the Properties and shall provide all notices required in connection therewith. Promptly following the Tax Sale, Openlands shall provide the District with written verification of the amount expended by Openlands in connection with the Properties (**the "Initial Acquisition Cost"**), which amount shall in no event exceed the Maximum Acquisition Cost, along with copies of any and all certificates of sale and other documentation acquired in connection therewith.

3. From and after the date of the Tax Sale, Openlands agrees to hold in its name, for the benefit of the District, the certificates of sale and other documentation relating to the Properties for a period not to exceed six (6) full calendar months from the date of the Tax Sale, or such other period as the parties may hereafter agree (**the "Holding Period"**); provided, the District may, by written notice to Openlands, elect to terminate the Holding Period prior to the expiration of such 6-month period and proceed to cause the transfer of the Properties to the District in accordance with Paragraph 4 hereof. Openlands shall prepare and distribute all notices and shall observe any and all other requirements, statutory or otherwise, relating to the Properties during the Holding Period. Openlands shall provide the District with written notice of any additional amounts paid hereunder in connection with the Properties, including but not limited to additional taxes, during the Holding Period.

4. Upon the expiration or earlier termination of the Holding Period, and on a mutually agreed closing date:

(a) the District shall pay to Openlands an amount equal to the sum of: (i) the Initial Acquisition Cost; (ii) interest on the Initial Acquisition Cost, at the rate of 4.75% per annum; and (iii)

any additional costs, expenses or fees incurred by Openlands in connection with or related to the acquisition, holding, financing or transfer of the Properties, including but not limited to attorneys' fees and staff expenses (which staff expenses shall be charged at the rate of \$127.00 per hour for staff time).

(b) Openlands shall, upon the District's payment of the amounts set forth above, transfer, assign, endorse and convey to the District all of Openlands' right, title and interest in and to the Properties, including the certificates of sale and any other documentation relating to such Properties. Openlands shall thereafter provide written notice to the Lake County Clerk of such transfer, assignment, endorsement and conveyance, and shall simultaneously provide the District with copies of such notice.

5. Notices and demands by either Openlands or the District hereunder shall be given by certified mail, return receipt requested and proper postage prepaid or by overnight commercial courier addressed to Openlands at: Openlands, 25 East Washington Street, Suite 1650, Chicago, Illinois, 60602 (Attention: Senior Counsel), and addressed to the District at: Lake County Forest Preserve District, 1899 West Winchester Rd, Libertyville, IL 60048 (Attention: Mr. Ty Kovach, Executive Director), or at such other place and to such other persons as either party hereto may designate by written notice to the other party.

6. All of the agreements, conditions and undertakings herein contained shall extend to and be binding on the successors and assigns of the respective parties hereto as if they were in all cases named herein. All of the representations and obligations of the parties with respect to the subject matter hereof are contained herein and no modification, waiver or amendment of this Agreement or any of its conditions or provisions shall be binding upon the parties unless such modification, waiver or amendment is in writing and signed by a duly authorized agent of each party. The laws of the State of Illinois shall govern the validity, performance and enforcement of this Agreement. This Agreement may be executed in multiple counterparts (each of which taken together shall be deemed to be an original for all purposes) and may be executed via facsimile, provided that original counterparts are subsequently executed and delivered.

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

OPENLANDS, an Illinois not-for-profit corporation

By: 
Name: Gerald W. Adelmann *gm*
Its: President & CEO

LAKE COUNTY FOREST PRESERVE DISTRICT

By: _____
Name: _____
Its: _____