

**VILLAGE OF LOMBARD**  
**REQUEST FOR BOARD OF TRUSTEES ACTION**

For Inclusion on Board Agenda


    X     Resolution or Ordinance (Blue)      \_\_\_\_\_ Waiver of First Requested  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Recommendations of Boards, Commissions & Committees (Green)  
Other Business (Pink)

**TO:** PRESIDENT AND BOARD OF TRUSTEES

**FROM:** Scott Niehaus, Village Manager

**DATE:** February 4, 2020 (COW) (B of T)      **Date:** February 20, 2020

**TITLE:** Lombard Meadows, Phase III  
Acquisition of a Permanent Sidewalk and Temporary Construction Easements  
at Madison Meadow Park

**SUBMITTED BY:** Carl Goldsmith, Director of Public Works 

**BACKGROUND/POLICY IMPLICATIONS:**

Public Works - Engineering requests the acquisition of a permanent easement for sidewalk at the dead end of Cherry Lane to connect future sidewalk to the east side of the asphalt path in Madison Meadow Park. Temporary construction easements are also being granted to the Village for grading at two locations.

**FISCAL IMPACT/FUNDING SOURCE:**

None.

Review (as necessary):

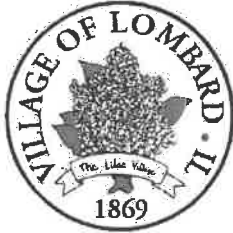
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_

Finance Director X \_\_\_\_\_ Date \_\_\_\_\_

Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

**NOTE:** All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.

**Interoffice Memo**



**To:** Scott Niehaus, Village Manager  
**Through:** Carl Goldsmith, Director of Public Works *g*  
**From:** Dave Gorman P.E., Assistant Director of Public Works *DG*  
**Date:** February 4, 2020  
**Subject:** Lombard Meadow Phase III  
 Acquisition of a Permanent Sidewalk and Temporary  
 Constructions Easements at Madison Meadow Park

As part of the Lombard Meadows, Phase III project (Magnolia Circle and Cherry Lane, north of Magnolia Circle), the Village seeks to acquire three easements from the Lombard Park District. Two temporary easements are related to the construction of the project and the third easement is a permanent easement related to the construction of new sidewalk at the dead-end of Cherry Lane.

Initially, Public Works-Engineering Staff contacted Lombard Park District staff to explain the scope of the Lombard Meadows, Phase III project. Part of the project was to fill a gap in the sidewalk at the dead end of Cherry Lane. This would give additional access to the walking path in Madison Meadow Park. To do this work the Village will need both a temporary and permanent easement for new sidewalk. A second temporary easement is required to remove a small portion of the walking path connecting the sidewalk on Magnolia Circle to the Madison Meadow walking path (hence the need for path access at Cherry Lane). The temporary easement will also address drainage at the property line of the Park District and the abandoned right-of-way at the far western end of Magnolia Circle. As part of the project, the roadway section of Magnolia Circle, west of Cherry Lane is being removed and the right-of-way is being restored entirely as turf. This property is currently pending to be sold to the neighboring landowners.

The Lombard Park District Board has acted on the requests for the three easements at their January 28, 2020 meeting. The Grant of Easement documents are attached for execution by the Village.

Please present this item to the President and Board of Trustees for their review and approval at their regular meeting on February 20, 2020. If approved, please return the 3 original signed documents to Public Works – Engineering, so the temporary easement documents can be sent to the Park District and the permanent easement may be filed with the Recorder’s Office of DuPage County.

**R E S O L U T I O N**

**R**\_\_\_\_\_

**A RESOLUTION ACCEPTING EASEMENTS**

**WHEREAS**, the Corporate Authorities of the Village of Lombard have prepared two documents regarding the granting of temporary construction easements and a permanent sidewalk easement as attached hereto, marked Exhibits "A" and "B" made part hereof (the "Easements"); and

**WHEREAS**, the Corporate Authorities deem it to be in the best interests of the Village of Lombard to approve said Easements;

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

**SECTION 1:** That the Easements attached hereto as Exhibit "A" and "B" are hereby approved.

**SECTION 2:** That the Village President and the Deputy Village Clerk be and hereby are authorized and directed to execute the Easements attached hereto as Exhibits "A" and "B", as well as any and all other documents necessary to carry out the provisions of said Easements.

Adopted this 20<sup>th</sup> day of February, 2020, pursuant to a roll call vote as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved by me this 20<sup>th</sup> day of February, 2020.

\_\_\_\_\_  
**Keith Giagnorio**  
**Village President**

ATTEST:

\_\_\_\_\_  
**Sharon Kuderna**  
**Village Clerk**

# EXHIBIT "A"

Prepared by and return to:

Village of Lombard  
255 East Wilson Avenue  
Lombard, Illinois 60148  
Attn: Carl Goldsmith  
Director of Public Works

## GRANT OF TEMPORARY CONSTRUCTION EASEMENTS

THIS GRANT OF TEMPORARY CONSTRUCTION EASEMENTS ("Grant of Easements") is made this 28th day of January, 2020, by the Lombard Park District, DuPage County, Illinois (hereinafter referred to as the "Grantor") to the Village of Lombard, DuPage County, Illinois (hereinafter referred to as the "Grantee"). Grantor and Grantee are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

### WITNESSETH:

**WHEREAS**, Grantor is the owner of the following-described property:

LOT 1 IN MADISON MEADOWS PLAT OF CONSOLIDATION, BEING PART OF THE NORTHWEST QUARTER OF SECTION 16 AND THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DUPAGE COUNTY, ILLINOIS;

P.I.N.s: 06-16-100-002 and 06-17-212-007;

Common Address: Generally, between Madison Street and Wilson Avenue,  
West of Ahrens Avenue, Lombard, Illinois 60148;

(hereinafter referred to as the "Grantor Property"); and

**WHEREAS**, the Grantee desires to move forward with its Lombard Meadows Phase 3 Project, which includes improvements and work in relation to those portions of Magnolia Circle and Cherry Lane adjacent to the Grantor Property (hereinafter referred to as the “Roadway Improvements”); and

**WHEREAS**, Grantor has agreed to grant the Grantee the necessary nonexclusive temporary construction easements relative to the Roadway Improvements, subject to certain terms and conditions as more fully set forth below;

**NOW, THEREFORE**, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, receipt of which is hereby acknowledged, the terms and conditions set forth below and the benefits to be derived from this Grant of Easements, the Parties agree as follows:

1. That the recitals set forth above are incorporated herein and made a part hereof as if set forth fully herein.

2. Grantor hereby grants, releases, conveys, assigns and quit claims to the Grantee nonexclusive temporary construction easements and rights-of-way (the “Easements”), subject to the terms and conditions of this Grant of Easements, for the full and free right, privilege and authority to enter upon that portion of the Grantor Property, as described below, for the purpose of proceeding with the Roadway Improvements on the adjacent portions of Magnolia Circle and Cherry Lane (the “Easement Activities”):

**LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENTS:**

**Temporary Construction Easement #1**

That part of Lot 1 in Madison Meadow Plat of Consolidation, being part of the Northwest Quarter of Section 16 and the Northeast Quarter of Section 17, Township 39 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded April 4, 2000 as document number R2000-047367, in DuPage County, Illinois, described as follows:

Beginning at the Northwest corner of Lot 291 in Lombard Meadows, being a subdivision of part of Sections 16 and 17, Township 39 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded July 23, 1957 as document number 850186, being also a point on an East line of said Lot 1; thence on an Illinois Coordinate System NAD 83(2011) East Zone bearing of South 87 degrees 45 minutes 35 seconds West along the Westerly extension of the North line of Lot 291 in said Lombard Meadows, a distance of 20.00 feet to a point 20.00 feet normally distant West of an East line of said Lot 1; thence North 2 degrees 18 minutes 53 seconds West along a line 20.00 feet normally distant West of and parallel with an East line of said Lot 1, a distance of 66.00 feet; thence North 87 degrees 45 minutes 35 seconds East, a distance of 20.00 feet to an East line of said Lot 1; thence South 2 degrees 18 minutes 53 seconds East along an East line of said Lot 1, a distance of 66.00 feet to the point of beginning.

P.I.N.: Pt. 06-17-212-007;

Common Address: The area immediately West of and adjacent to that portion of Magnolia Circle located West of Cherry Lane, Lombard, Illinois 60148;

Temporary Construction Easement #2

That part of Lot 1 in Madison Meadow Plat of Consolidation, being part of the Northwest Quarter of Section 16 and the Northeast Quarter of Section 17, Township 39 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded April 4, 2000 as document number R2000-047367, in DuPage County, Illinois, described as follows:

Beginning at the Northwest corner of Lot 177 in Lombard Meadows, being a subdivision of part of Sections 16 and 17, Township 39 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded July 23, 1957 as document number 850186, being also a point on a Southerly line of said Lot 1; thence on an Illinois Coordinate System NAD 83(2011) East Zone bearing of North 8 degrees 40 minutes 58 seconds West, a distance of 10.00 feet to a point 10.00 feet normally distant Northerly of a Southerly line of said Lot 1; thence South 81 degrees 19 minutes 02 seconds West along a line 10.00 feet normally distant Northerly of and parallel with a Southerly line of said Lot 1, a distance of 60.37 feet; thence North 8 degrees 40 minutes 58 seconds West, a distance of 2.00 feet to a point 12.00 feet normally distant Northerly of a Southerly line of said Lot 1; thence North 81 degrees 19 minutes 02 seconds East along a line 12.00 feet normally distant Northerly of and parallel with a Southerly line of said Lot 1, a distance of 69.37 feet; thence South 8 degrees 40 minutes 58 seconds East, a distance of 12.00 feet to a Southerly line of said Lot 1; thence South 81 degrees 19 minutes 02 seconds West along a Southerly line of said Lot 1, a distance of 9.00 feet to the point of beginning.

P.I.N.: Pt. 06-17-212-007;

Common Address: The area immediately North of and adjacent to that

portion of Cherry Lane located North of Magnolia Circle,  
Lombard, Illinois 60148;

as depicted on Exhibit 1 attached hereto and made part hereof (the "Easement Area").

3. Grantor hereby agrees to and with the Grantee that the officers, agents, employees, successors, grantees, lessees and assigns of the Grantee may, at any and all times designated herein, when necessary and convenient to do so, go in, on, upon, over and across the Easement Area, and do and perform any and all acts necessary or convenient to the carrying into effect the purposes for which this Grant of Easements and the Easements created hereby are made, and that the Grantor shall not disturb, molest, injure or in any manner interfere with the aforesaid Roadway Improvements, and all facilities and activities incidental thereto. Grantee shall provide Grantor five (5) business days prior written notice or, if five (5) business days is not practicable, with as much advance notice as possible under the circumstances, in accordance with Section 17. below, of the commencement, anticipated duration and termination of any Easement Activities, as applicable, and shall, to the greatest extent practicable, conduct the Easement Activities so as not to unreasonably interfere with Grantor's use of Grantor's Property or the Easement Area.

4. The Easements shall be used and enjoyed solely by Grantee and its duly authorized officers, agents, contractors or employees to conduct the Easement Activities in accordance with this Grant of Easements. Grantee shall not assign its rights under this Grant of Easements in whole or in part or grant permission to traverse, enter upon or otherwise use the Easement Area to any other person or entity without the prior written consent of Grantor.

5. The Grantor reserves the right to make any use of the Easement Area, whether on, above or below its surface, for any lawful purpose, except that any structure or use shall not unreasonably interfere with the Easements or the Easement Activities granted hereunder.

6. The Grantee, its officers, agents, employees, successors, grantees, lessees, contractors and assigns shall promptly, and as soon as practicable after engaging in any Easement Activities, restore to its former condition any portion of the Grantor Property which is disturbed or altered in any manner by such Easement Activities, at the Grantee's sole cost and expense.

7. All work, labor, services, equipment, tools and materials to be performed, furnished or used directly or indirectly in, or in connection with, the Easement Activities, and all other matters and things to be performed, furnished or used, or expenses to be paid, under the term of this Grant of Easements, are to be at the sole expense of the Grantee, and all such work shall be performed promptly and completed in each instance with diligence and as soon as reasonably practicable after commencement thereof. Grantee shall not cause or suffer or permit to be created any mechanics' or materialmen's liens or claims against the Grantor Property or the Easement Area. Grantee shall defend, indemnify and hold harmless Grantor from and against any such claims or liens.

8. No equipment or machinery shall be brought or permitted to come into or onto the Grantor Property except across the Easement Area, and subject to such reasonable restrictions as shall be determined by Grantor.

9. No explosives or flammable or hazardous materials of any kind shall be transported across, brought upon, or stored or deposited in the Grantor Property, or used



on the Easement Area, in such a manner as to cause contamination of the Grantor Property either on, above or below the surface of the ground.

10. The Easement Area and other portions of the Grantor Property shall at all times be kept free of accumulations of debris, waste and garbage caused by the Easement Activities.

11. Grantee shall obtain all necessary permits and approvals and shall otherwise comply with all applicable federal, state and local laws, rules, regulations and ordinances in the conduct of the Easement Activities.

12. Grantee shall conduct the Easement Activities in the Grantor Property and Easement Area entirely at Grantee's own risk. To the fullest extent permitted by the laws of the State of Illinois, Grantee hereby forever waives, relinquishes and discharges and holds harmless Grantor, its park commissioners, officers, officials, employees, volunteers and agents from any and all claims of every nature whatsoever, which Grantee may have at any time against Grantor, its park commissioners, officers, officials, employees, volunteers and agents, including without limitation claims for personal injury or property damage sustained or incurred by Grantee or any person claiming by, through or under Grantee, relating directly or indirectly to this Grant of Easements, the Easements or the Easement Activities.

13. Grantee shall defend, indemnify and hold harmless Grantor, its park commissioners, officers, officials, employees, volunteers and agents (Grantor and such other persons being hereinafter collectively referred to as the "Grantor Indemnites") against and from any and all liabilities, claims, losses, costs, damages and expenses of every nature whatsoever, including without limitation reasonable attorneys' and paralegal

fees, suffered, incurred or sustained by any of the Grantor Indemnitees, including without limitation liabilities for the death of or injury to any person or the loss, destruction or theft of or damage to any property, relating directly or indirectly to, or arising directly or indirectly from the exercise by Grantee, or any other person acting on its behalf or with its authority or permission, of the rights and privileges granted Grantee under this Grant of Easements. Grantee shall similarly defend, indemnify and hold harmless the Grantor Indemnitees against and from any and all claims, losses, costs, damages and expenses, including without limitation reasonable attorneys' and paralegal fees, suffered, sustained or incurred by any of the Grantor Indemnitees as a result of Grantee's breach of any provision of this Grant of Easements or otherwise incurred by any of the Grantor Indemnitees in enforcing the terms of this Grant of Easements. Notwithstanding the foregoing, Grantee shall not be required to defend, indemnify or hold harmless the Grantor Indemnitees for the Grantor Indemnitees' intentional or negligent acts or omissions.

14. Grantee shall keep in full force and effect at all times while engaging in the Easement Activities general public liability insurance, Workers' Compensation insurance, and such other types of insurance in such amounts and with such companies or self-insurance pools as are reasonably acceptable to the Grantor, but, in any event, no less than the coverages and amounts carried by Grantee for its general activities. The minimum insurance coverage specified in this Section 14. may be provided by self-insurance, participation in a risk management pool, commercial policies of insurance, or a combination thereof. Such insurance shall be evidenced by copies of the policies and/or certificates of insurance at the request of Grantor, and said insurance shall not be

modified, terminated, cancelled or not renewed without at least thirty (30) days advance written notice to the Grantor.

In addition to, and in furtherance and not in limitation of, Grantee's insurance obligations set forth above, and at no cost to Grantor, Grantee shall require any contractor(s) performing any of the Easement Activities contemplated by this Grant of Easements to obtain, and keep in full force and effect for so long as any claim relating to the Easement Activities legally may be asserted, comprehensive general liability and property damage insurance written to include the coverages and for not less than the minimum limits, or greater if required by law, as provided on Exhibit 2 attached hereto and incorporated herein by reference. Grantee shall similarly require any contractor(s) performing any of the Easement Activities contemplated by this Grant of Easements to defend, indemnify and hold harmless Grantor in accordance with and as more fully set forth in subsection F. of Exhibit 2 attached hereto and incorporated herein by reference.

15. Such temporary construction Easements as are herein granted shall run for a period of twelve (12) months from the date hereof, or until the Roadway Improvements are complete, whichever occurs first, and the covenants, agreements, terms, conditions, obligations, rights and interests herein contained or provided for shall be likewise binding upon and shall inure to the benefit of the Grantor and Grantee, and their respective heirs, executors, successors, grantees, lessees and assigns, during said time period. Notwithstanding the foregoing, Grantee's obligations under Sections 7, 13 and 14 of this Grant of Easements shall survive termination or expiration of the Easements granted hereunder.

16. No waiver of any rights which Grantor has in the event of any default or

breach by Grantee under this Grant of Easements shall be implied from failure by Grantor to take any action on account of such breach or default, and no express waiver by Grantor shall affect any breach or default other than the breach or default specified in the express waiver and then only for the time and to the extent therein stated.

17. Any and all notices, demands, consents and approvals required under this Grant of Easements shall be sent and deemed received:

- A. on the third business day after being mailed by certified or registered mail, postage prepaid, return receipt requested; or
- B. on the next business day after deposit with a nationally-recognized overnight delivery service (such as Federal Express or Airborne) for guaranteed next business day delivery; or
- C. by facsimile transmission on the day of transmission, with the sender retaining a copy of the confirmation of transmission; or
- D. by personal delivery;

if addressed to the Parties as follows:

To Grantor:            LOMBARD PARK DISTRICT  
227 West Parkside Avenue  
Lombard, Illinois 60148  
Attn: Executive Director  
FAX: (630) 627-1286

With a copy to:        Tressler, LLP  
233 South Wacker Drive  
22<sup>nd</sup> Floor  
Chicago, Illinois 60606  
Attn: Andrew S. Paine  
FAX: (312) 627-1717

To Grantee:            VILLAGE OF LOMBARD  
255 East Wilson Avenue  
Lombard, Illinois 60148  
Attn: Village Manager  
FAX: (630) 620-8222

With a copy to:        Klein, Thorpe and Jenkins, Ltd.  
20 North Wacker Drive, Suite 1660  
Chicago, Illinois 60606-2903  
Attn: Thomas P. Bayer/Jason A. Guisinger  
FAX: (312) 984-6444

18. Nothing contained in this Grant of Easements is intended to be, nor shall operate as, a waiver by Grantor or Grantee of the rights, defenses and immunities afforded under the Local Governmental and Governmental Employees Tort Immunity Act.

19. This Agreement contains the entire agreement between the Parties with respect to the use of the Easement Area and the Grantor Property by Grantee in connection with the Easement Activities, and cannot be modified except by a writing, dated subsequent to the date hereof, and signed by both Parties.

20. Grantee shall maintain the Easement Area in such a manner so as to ensure that the Easement Area complies at all times with applicable federal, state and local law, including the ordinances and regulations of the Village of Lombard. In the event that Grantor determines that Grantee is not in compliance with the terms of this Section 20, Grantor shall provide Grantee written notice of said noncompliance. Upon receipt of said notice, Grantee shall have thirty (30) days to commence the necessary measures to cure said noncompliance. Notwithstanding the above thirty (30) day cure period, Grantee shall take immediate action to cure said noncompliance in the case of an emergency likely to cause immediate harm, damage or danger to surrounding property or to the public or private health, safety or welfare. In the event that Grantee fails to commence the necessary measures to cure said noncompliance at the expiration of the periods set forth herein, or otherwise exhibits an unwillingness to cure said non-compliance, Grantor shall have the right, but not the obligation, to take all steps necessary to bring the Easement Area into compliance with all applicable federal, state and local laws, including the ordinances and regulations of the Village of Lombard (the "Remedial Measures"), and Grantee shall be responsible for all reasonable costs and expenses incurred by Grantor

in connection with same, including reasonable attorneys' fees, plus an administrative fee equal to fifteen percent (15%) of the total costs and expenses so incurred by Grantor. If Grantor undertakes any Remedial Measures relative to the Easement Area, Grantor shall take such action in full compliance with all applicable federal, state and local laws, including the ordinances and regulations of the Village of Lombard, and shall, in relation to such action, defend, indemnify and hold harmless Grantee, its elected officials, officers, employees, volunteers and agents (Grantee and such other persons being hereinafter collectively referred to as the "Grantee Indemnities") against and from any and all liabilities, claims, losses, costs, damages and expenses including without limitation reasonable attorneys' and paralegal fees, suffered, incurred or sustained by any of the Grantee Indemnities, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, and arises out of or results from the performance of the Remedial Measures by Grantor, or any other person acting on its behalf or with its authority or permission, pursuant to the authority granted by this Section 20 (collectively, the "Claims"). Notwithstanding the foregoing, Grantor shall not be required to defend, indemnify or hold harmless the Grantee Indemnitees for the Grantee Indemnitees' intentional or negligent acts or omissions. In addition, Grantor's indemnification obligations under this Section 20 are strictly and specifically limited to Claims arising out of or resulting from the performance of the Remedial Measures by Grantor, or any other person acting on its behalf or with its authority or permission, and shall not extend to or otherwise apply to any other acts or omissions of Grantor, or any other person acting on its behalf or with its authority or permission.

21. Termination of Easement Rights.

- A. The Easements may be terminated by Grantor upon written notice to Grantee in the event Grantee has breached any of the material terms or material conditions of this Agreement, subject to the right to cure as follows. Grantee shall have thirty (30) days after receipt of written notice specifying the nature of the breach to cure said breach. If the nature of the breach is such that it cannot be cured within said thirty (30) day period, Grantee shall be deemed to have cured same if within said thirty (30) day period it commences and diligently pursues such cure and thereafter completes same within such time as reasonable under the circumstances.
- B. In the event Grantee breaches and fails to cure said breach pursuant to Section 20 above, all rights and privileges granted to Grantee pursuant to this Grant of Easements may be terminated by Grantor in Grantor's sole discretion.
- C. In the event of termination pursuant to this Section 21, Grantee shall have a period of thirty (30) days from and after the effective date of termination to restore the land to its original condition at Grantee's sole cost and expense.
- D. The rights set forth in this Section 21 are in addition to, and not in lieu of, Grantor's right to enforce the terms of this Agreement and Grantor's right to pursue any and all other remedies available at law or inequity.

22. This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and entity who is not a party to this Agreement or to acknowledge, establish or impose any legal duty to any third party.

**IN WITNESS WHEREOF**, the Grantor has caused its name to be signed to these presents the day and year first above written.

**Grantor: LOMBARD PARK DISTRICT**

By: 

Name: Sarah Richardt  
Title: President

ATTEST: 

Name: Paul Friedrichs  
Title: Secretary

Date: January 28, 2020

**Grantee: VILLAGE OF LOMBARD**

Agreed to and accepted by the Village of Lombard, DuPage County, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Keith Giagnorio, Village President

ATTEST: \_\_\_\_\_  
Sharon Kuderna, Village Clerk




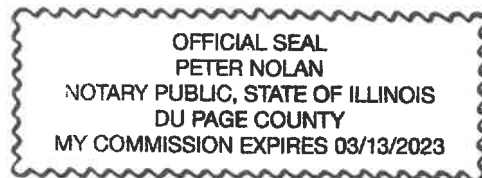
**ACKNOWLEDGMENT**

STATE OF ILLINOIS    )  
                                  ) SS  
COUNTY OF DUPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Sarah Richardt and Paul Friedrichs, personally known to me to be the President and Secretary of the Lombard Park District, (the "Grantor"), and also personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, appeared before me this day in person and acknowledged that as such President and Secretary, they signed and delivered the said instrument, as their free and voluntary act, and the free and voluntary act of the Grantor, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal this 28th day of January, 2020.

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



# EXHIBIT "B"

Prepared by and return to:

Village of Lombard  
255 East Wilson Avenue  
Lombard, Illinois 60148  
Attn: Carl Goldsmith  
Director of Public Works

## GRANT OF SIDEWALK EASEMENT

THIS GRANT OF SIDEWALK EASEMENT ("Grant of Easement") is made this 28<sup>th</sup> day of January, 2020, by the Lombard Park District, DuPage County, Illinois (hereinafter referred to as the "Grantor") to the Village of Lombard, DuPage County, Illinois (hereinafter referred to as the "Grantee"). Grantor and Grantee are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

### WITNESSETH:

**WHEREAS**, Grantor is the owner of the following-described property:

LOT 1 IN MADISON MEADOWS PLAT OF CONSOLIDATION, BEING PART OF THE NORTHWEST QUARTER OF SECTION 16 AND THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DUPAGE COUNTY, ILLINOIS;

P.I.N.s: 06-16-100-002 and 06-17-212-007;

Common Address: Generally, between Madison Street and Wilson Avenue,  
West of Ahrens Avenue, Lombard, Illinois 60148;

(hereinafter referred to as the "Grantor Property"); and

**WHEREAS**, the Grantee desires to maintain a sidewalk, and all facilities

incidental thereto, for the public to walk upon and traverse, on a portion of the Grantor Property (hereinafter referred to as the "Public Improvements"); and

**WHEREAS**, Grantor has agreed to grant the Grantee the necessary nonexclusive permanent easement relative to the Public Improvements, subject to certain terms and conditions as more fully set forth below;

**NOW, THEREFORE**, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, receipt of which is hereby acknowledged, the terms and conditions set forth below and the benefits to be derived from this Grant of Easement, the Parties agree as follows:

1. That the recitals set forth above are incorporated herein and made a part hereof as if set forth fully herein.

2. Grantor hereby grants, releases, conveys, assigns and quit claims to the Grantee a nonexclusive perpetual easement and right-of-way (the "Easement"), subject to the terms and conditions of this Grant of Easement, for the full and free right, privilege and authority to clear, trench for, construct, install, reconstruct, replace, remove, repair, alter, inspect, maintain and operate a sidewalk, and all facilities incidental thereto, for the public to walk upon and traverse (the "Easement Activities"), in, on, upon, over, through, across and under the following-described property:

**LEGAL DESCRIPTION OF SIDEWALK EASEMENT:**

That part of Lot 1 in Madison Meadow Plat of Consolidation, being part of the Northwest Quarter of Section 16 and the Northeast Quarter of Section 17, Township 39 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded April 4, 2000 as document number R2000-047367, in DuPage County, Illinois, described as follows:  
Beginning at the Northeast corner of Lot 292 in Lombard Meadows, being a subdivision of part of Sections 16 and 17, Township 39 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded

July 23, 1957 as document number 850186, being also a point on a Southerly line of said Lot 1; thence on an Illinois Coordinate System NAD 83(2011) East Zone bearing of North 8 degrees 40 minutes 58 seconds West, a distance of 10.00 feet to a point 10.00 feet normally distant Northerly of a Southerly line of said Lot 1; thence North 81 degrees 19 minutes 02 seconds East along a line 10.00 feet normally distant Northerly of and parallel with a Southerly line of said Lot 1, a distance of 60.37 feet; thence South 8 degrees 40 minutes 58 seconds East, a distance of 10.00 feet to a Southerly line of said Lot 1; thence South 81 degrees 19 minutes 02 seconds West along a Southerly line of said Lot 1 a distance of 60.37 feet to the point of beginning;

P.I.N.: Pt. 06-17-212-007;

Common Address: The area immediately North of and adjacent to that portion of Cherry Lane located North of Magnolia Circle, Lombard, Illinois 60148;

as depicted on Exhibit 1 attached hereto and made part hereof (the "Easement Area").

3. Grantor hereby agrees to and with the Grantee that the officers, agents, employees, successors, grantees, lessees and assigns of the Grantee may, at any and all times designated herein, when necessary and convenient to do so, go in, on, upon, over and across the Easement Area, and do and perform any and all acts necessary or convenient to the carrying into effect the purposes for which this Grant of Easement and the Easement created hereby are made, and that the Grantor shall not disturb, molest, injure or in any manner interfere with the aforesaid Public Improvements, and all facilities and activities incidental thereto. Grantee shall provide Grantor five (5) business days prior written notice or, if five (5) business days is not practicable, with as much advance notice as possible under the circumstances, in accordance with Section 17. below, of the commencement, anticipated duration and termination of any Easement Activities, as applicable, and shall, to the greatest extent practicable, conduct the Easement Activities so as not to unreasonably interfere with Grantor's use of

Grantor's Property or the Easement Area.

4. The Easement shall be used and enjoyed solely by Grantee and its duly authorized officers, agents, contractors, permittees or employees to conduct the Easement Activities in accordance with this Grant of Easement. Grantee shall not assign its rights under this Grant of Easement in whole or in part or grant permission to traverse, enter upon or otherwise use the Easement Area to any other person or entity without the prior written consent of Grantor. Notwithstanding the foregoing, as the purpose of the Public Improvements is for the public to be able to walk through the Easement Area, on the sidewalk to be constructed therein, the Grantor hereby specifically consents to the public being allowed to walk upon and traverse the sidewalk to be located in the Easement Area.

5. The Grantor reserves the right to make any use of the Easement Area, whether on, above or below its surface, for any lawful purpose, except that any structure or use shall not unreasonably interfere with the Easement or the Easement Activities granted hereunder.

6. The Grantee, its officers, agents, employees, successors, grantees, lessees, contractors and assigns shall promptly, and as soon as practicable after engaging in any Easement Activities, restore to its former condition any portion of the Grantor Property which is disturbed or altered in any manner by such Easement Activities, at the Grantee's sole cost and expense.

7. All work, labor, services, equipment, tools and materials to be performed, furnished or used directly or indirectly in, or in connection with, the Easement Activities, and all other matters and things to be performed, furnished or used, or expenses to be

paid, under the term of this Grant of Easement, are to be at the sole expense of the Grantee, and all such work shall be performed promptly and completed in each instance with diligence and as soon as reasonably practicable after commencement thereof. Grantee shall not cause or suffer or permit to be created any mechanics' or materialmen's liens or claims against the Grantor Property or the Easement Area. Grantee shall defend, indemnify and hold harmless Grantor from and against any such claims or liens.

8. No equipment or machinery shall be brought or permitted to come into or onto the Grantor Property except across the Easement Area, and subject to such reasonable restrictions as shall be determined by Grantor.

9. No explosives or flammable or hazardous materials of any kind shall be transported across, brought upon, or stored or deposited in the Grantor Property, or used on the Easement Area, in such a manner as to cause contamination of the Grantor Property either on, above or below the surface of the ground.

10. The Easement Area and other portions of the Grantor Property shall at all times be kept free of accumulations of debris, waste and garbage caused by the Easement Activities.

11. Grantee shall obtain all necessary permits and approvals and shall otherwise comply with all applicable federal, state and local laws, rules, regulations and ordinances in the conduct of the Easement Activities.

12. Grantee shall conduct the Easement Activities in the Grantor Property and Easement Area entirely at Grantee's own risk. To the fullest extent permitted by the laws of the State of Illinois, Grantee hereby forever waives, relinquishes and discharges

and holds harmless Grantor, its park commissioners, officers, officials, employees, volunteers and agents from any and all claims of every nature whatsoever, which Grantee may have at any time against Grantor, its park commissioners, officers, officials, employees, volunteers and agents, including without limitation claims for personal injury or property damage sustained or incurred by Grantee or any person claiming by, through or under Grantee, relating directly or indirectly to this Grant of Easement, the Easement or the Easement Activities.

13. Grantee shall defend, indemnify and hold harmless Grantor, its park commissioners, officers, officials, employees, volunteers and agents (Grantor and such other persons being hereinafter collectively referred to as the "Grantor Indemnitees") against and from any and all liabilities, claims, losses, costs, damages and expenses of every nature whatsoever, including without limitation reasonable attorneys' and paralegal fees, suffered, incurred or sustained by any of the Grantor Indemnitees, including without limitation liabilities for the death of or injury to any person or the loss, destruction or theft of or damage to any property, relating directly or indirectly to, or arising directly or indirectly from the exercise by Grantee, or any other person acting on its behalf or with its authority or permission, of the rights and privileges granted Grantee under this Grant of Easement. Grantee shall similarly defend, indemnify and hold harmless the Grantor Indemnitees against and from any and all claims, losses, costs, damages and expenses, including without limitation reasonable attorneys' and paralegal fees, suffered, sustained or incurred by any of the Grantor Indemnitees as a result of Grantee's breach of any provision of this Grant of Easement or otherwise incurred by any of the Grantor Indemnitees in enforcing the terms of this Grant of

Easement. Notwithstanding the foregoing, Grantee shall not be required to defend, indemnify or hold harmless the Grantor Indemnitees for the Grantor Indemnitees' intentional or negligent acts or omissions.

14. Grantee shall keep in full force and effect at all times while engaging in the Easement Activities general public liability insurance, Workers' Compensation insurance, and such other types of insurance in such amounts and with such companies or self-insurance pools as are reasonably acceptable to the Grantor, but, in any event, no less than the coverages and amounts carried by Grantee for its general activities. The minimum insurance coverage specified in this Section 14. may be provided by self-insurance, participation in a risk management pool, commercial policies of insurance, or a combination thereof. Such insurance shall be evidenced by copies of the policies and/or certificates of insurance at the request of Grantor, and said insurance shall not be modified, terminated, cancelled or not renewed without at least thirty (30) days advance written notice to the Grantor.

In addition to, and in furtherance and not in limitation of, Grantee's insurance obligations set forth above, and at no cost to Grantor, Grantee shall require any contractor(s) performing any of the Easement Activities contemplated by this Grant of Easement to obtain, and keep in full force and effect for so long as any claim relating to the Easement Activities legally may be asserted, comprehensive general liability and property damage insurance written to include the coverages and for not less than the minimum limits, or greater if required by law, as provided on Exhibit 2 attached hereto and incorporated herein by reference. Grantee shall similarly require any contractor(s) performing any of the Easement Activities contemplated by this Grant of Easement to



defend, indemnify and hold harmless Grantor in accordance with and as more fully set forth in subsection F. of Exhibit 2 attached hereto and incorporated herein by reference.

15. Such perpetual Easement as is herein granted shall run with the land and the covenants, agreements, terms, conditions, obligations, rights and interests herein contained or provided for shall be likewise binding upon and shall inure to the benefit of the Grantor and Grantee, and their respective heirs, executors, successors, grantees, lessees and assigns.

16. No waiver of any rights which Grantor has in the event of any default or breach by Grantee under this Grant of Easement shall be implied from failure by Grantor to take any action on account of such breach or default, and no express waiver by Grantor shall affect any breach or default other than the breach or default specified in the express waiver and then only for the time and to the extent therein stated.

17. Any and all notices, demands, consents and approvals required under this Grant of Easement shall be sent and deemed received:

- A. on the third business day after being mailed by certified or registered mail, postage prepaid, return receipt requested; or
- B. on the next business day after deposit with a nationally-recognized overnight delivery service (such as Federal Express or Airborne) for guaranteed next business day delivery; or
- C. by facsimile transmission on the day of transmission, with the sender retaining a copy of the confirmation of transmission; or
- D. by personal delivery;

if addressed to the Parties as follows:

To Grantor:            LOMBARD PARK DISTRICT  
                              227 West Parkside Avenue  
                              Lombard, Illinois 60148  
                              Attn: Executive Director

FAX: (630) 627-1286

With a copy to: Tressler, LLP  
233 South Wacker Drive  
22<sup>nd</sup> Floor  
Chicago, Illinois 60606  
Attn: Andrew S. Paine  
FAX: (312) 627-1717

To Grantee: VILLAGE OF LOMBARD  
255 East Wilson Avenue  
Lombard, Illinois 60148  
Attn: Village Manager  
FAX: (630) 620-8222

With a copy to: Klein, Thorpe and Jenkins, Ltd.  
20 North Wacker Drive, Suite 1660  
Chicago, Illinois 60606-2903  
Attn: Thomas P. Bayer/Jason A. Guisinger  
FAX: (312) 984-6444

18. Nothing contained in this Grant of Easement is intended to be, nor shall operate as, a waiver by Grantor or Grantee of the rights, defenses and immunities afforded under the Local Governmental and Governmental Employees Tort Immunity Act.

19. This Agreement contains the entire agreement between the Parties with respect to the use of the Easement Area and the Grantor Property by Grantee in connection with the Easement Activities, and cannot be modified except by a writing, dated subsequent to the date hereof, and signed by both Parties.

20. Grantee shall maintain the Public Improvements, and all facilities incidental thereto, as referenced in Section 2 hereof in such a manner so as to ensure that the Public Improvements remain in good working order and repair at all times, and will further ensure that the Public Improvements comply at all times with applicable

federal, state and local law, including the ordinances and regulations of the Village of Lombard. In the event that Grantor determines that Grantee is not in compliance with the terms of this Section 20, Grantor shall provide Grantee written notice of said noncompliance. Upon receipt of said notice, Grantee shall have thirty (30) days to commence the necessary measures to cure said noncompliance. Notwithstanding the above thirty (30) day cure period, Grantee shall take immediate action to cure said noncompliance in the case of an emergency likely to cause immediate harm, damage or danger to surrounding property or to the public or private health, safety or welfare. In the event that Grantee fails to commence the necessary measures to cure said noncompliance at the expiration of the periods set forth herein, or otherwise exhibits an unwillingness to cure said non-compliance, Grantor shall have the right, but not the obligation, to take all steps necessary to bring the Public Improvements into good working order and repair and to ensure compliance with all applicable federal, state and local laws, including the ordinances and regulations of the Village of Lombard (the "Remedial Measures"), and Grantee shall be responsible for all reasonable costs and expenses incurred by Grantor in connection with same, including reasonable attorneys' fees, plus an administrative fee equal to fifteen percent (15%) of the total costs and expenses so incurred by Grantor. If Grantor undertakes any Remedial Measures relative to the Public Improvements, Grantor shall take such action in full compliance with all applicable federal, state and local laws, including the ordinances and regulations of the Village of Lombard, and shall, in relation to such action, defend, indemnify and hold harmless Grantee, its elected officials, officers, employees, volunteers and agents (Grantee and such other persons being hereinafter collectively

referred to as the “Grantee Indemnities”) against and from any and all liabilities, claims, losses, costs, damages and expenses including without limitation reasonable attorneys’ and paralegal fees, suffered, incurred or sustained by any of the Grantee Indemnities, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, and arises out of or results from the performance of the Remedial Measures by Grantor, or any other person acting on its behalf or with its authority or permission, pursuant to the authority granted by this Section 20 (collectively, the “Claims”). Notwithstanding the foregoing, Grantor shall not be required to defend, indemnify or hold harmless the Grantee Indemnitees for the Grantee Indemnitees’ intentional or negligent acts or omissions. In addition, Grantor’s indemnification obligations under this Section 20 are strictly and specifically limited to Claims arising out of or resulting from the performance of the Remedial Measures by Grantor, or any other person acting on its behalf or with its authority or permission, and shall not extend to or otherwise apply to any other acts or omissions of Grantor, or any other person acting on its behalf or with its authority or permission.

21. Termination of Easement Rights.

- A. The Easement may be terminated by Grantor upon written notice to Grantee in the event Grantee has breached any of the material terms or material conditions of this Agreement, subject to the right to cure as follows. Grantee shall have thirty (30) days after receipt of written notice specifying the nature of the breach to cure said breach. If the nature of the breach is such that it cannot be cured within said thirty (30) day period, Grantee shall be deemed to have cured same if within said thirty (30) day period it commences and diligently pursues such cure and thereafter completes same within such time as reasonable under the circumstances.

- B. In the event Grantee breaches and fails to cure said breach pursuant to Section 20 above, all rights and privileges granted to Grantee pursuant to this Grant of Easement may be terminated by Grantor in Grantor's sole discretion.
- C. In the event of termination pursuant to this Section 21, Grantee shall have a period of thirty (30) days from and after the effective date of termination to restore the land to its original condition at Grantee's sole cost and expense.
- D. The rights set forth in this Section 21 are in addition to, and not in lieu of, Grantor's right to enforce the terms of this Agreement and Grantor's right to pursue any and all other remedies available at law or inequity.

22. This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and entity who is not a party to this Agreement or to acknowledge, establish or impose any legal duty to any third party.

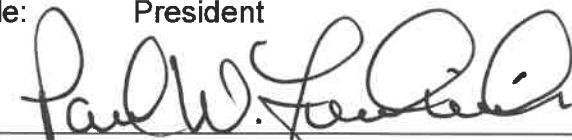
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HAS INTENTIONALLY BEEN LEFT BLANK.**

**IN WITNESS WHEREOF**, the Grantor has caused its name to be signed to these presents the day and year first above written.

**Grantor: LOMBARD PARK DISTRICT**

By: 

Name: Sarah Richardt  
Title: President

ATTEST: 

Name: Paul Friedrichs  
Title: Secretary

Date: January 28, 2020

**Grantee: VILLAGE OF LOMBARD**

Agreed to and accepted by the Village of Lombard, DuPage County, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Keith Giagnorio, Village President

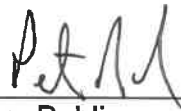
ATTEST: \_\_\_\_\_  
Sharon Kuderna, Village Clerk

**ACKNOWLEDGMENT**

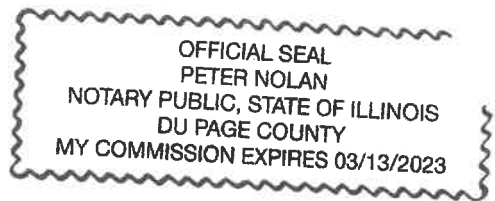
STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF DUPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Sarah Richardt and Paul Friedrichs, personally known to me to be the President and Secretary of the Lombard Park District, (the "Grantor"), and also personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, appeared before me this day in person and acknowledged that as such President and Secretary, they signed and delivered the said instrument, as their free and voluntary act, and the free and voluntary act of the Grantor, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal this 28th day of January, 2020.



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



# EXHIBIT of

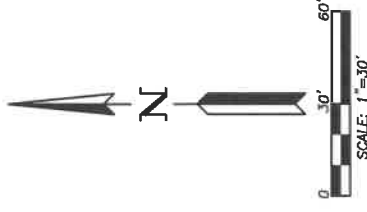
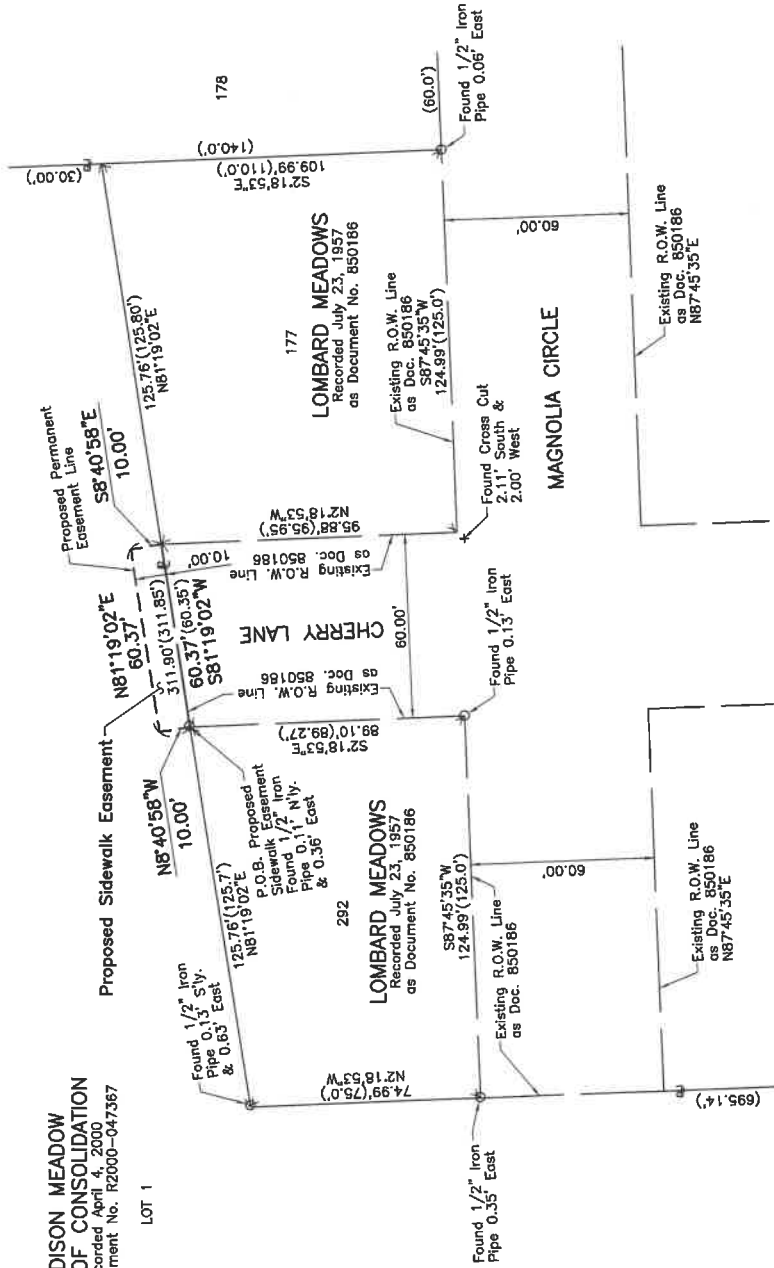
Proposed Sidewalk Easement

That part of Lot 1 in Madison Meadow Plat of Consolidation, being part of the Northwest Quarter of Section 16 and the Northeast Quarter of Section 17, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded April 4, 2000 as document number R2000-047367, in DuPage County, Illinois, described as follows:

Beginning at the northeast corner of Lot 292 in Lombard Meadows, being a subdivision of part of Sections 16 and 17, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded July 23, 1957 as document number 850186, being also a point on a southerly line of said Lot 1; thence on an Illinois Coordinate System NAD 83(2011) East Zone bearing of North 8 degrees 40 minutes 58 seconds East, distance of 10.00 feet to a point 10.00 feet normally distant Northerly of a southerly line of said Lot 1; thence North 81 degrees 19 minutes 02 seconds East along a line 10.00 feet normally distant Northerly of and parallel with a southerly line of said Lot 1, a distance of 60.37 feet; thence South 8 degrees 40 minutes 58 seconds East, a distance of 10.00 feet to a southerly line of said Lot 1; thence South 81 degrees 19 minutes 02 seconds West along a southerly line of said Lot 1, a distance of 60.37 feet to the point of beginning.

MADISON MEADOW  
 PLAT OF CONSOLIDATION  
 Recorded April 4, 2000  
 as Document No. R2000-047367

LOT 1



Bearings are referenced to the Illinois Coordinate System NAD 83(2011) East Zone.

**LEGEND**

O	Found Iron Pipe or Rod
+	Found Cross Cut
123.45'	Measured Dimension
(678.90')	Record Dimension
129.32'(Comp.)	Computed Dimension
—	Property (Deed) Line
—	Existing Right of Way Line
---	Proposed Easement