

ORDINANCE NO. 6415

AN ORDINANCE AUTHORIZING THE PURCHASE OF THE SOUTH BOOSTER STATION EASEMENT PROPERTY, THE CONTEMPORANEOUS TERMINATION OF THE BOOSTER STATION EASEMENT IN CONNECTION WITH SUCH PURCHASE, AND APPROVAL AND EXECUTION OF AN ACCESS EASEMENT AGREEMENT FOR THE RECIPROCAL USE OF THE DRIVEWAY ON A PORTION OF THE SOUTH BOOSTER STATION EASEMENT PROPERTY AND THE ADJACENT LAND THERETO, ALL BEING RELATED TO 1420 S. MEYERS ROAD AND 919 EAST 14TH STREET, LOMBARD, ILLINOIS

BE IT ORDAINED, by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

The President and Board of Trustees of the Village find as follows:

A. The Village of Lombard (the "VILLAGE") is a non-home rule municipality pursuant to Section 7 of Article VII of the Constitution of the State of Illinois.

B. On March 6, 2008, the President and Board of Trustees passed Ord. No. _____, authorizing, among other things, the execution of an Annexation Agreement (the "Annexation Agreement") for the property commonly known as 1420 S. Meyers Road, unincorporated Lombard, Illinois (the "Church's Property"), along with the purchase of an easement over a portion of the Church's Property for the Village's South Booster Station (the "Booster Station Easement"), as hereinafter described, which Booster Station Easement was recorded with the Recorder of Deeds of DuPage County on April 24, 2008 as Document No. R2008-067801.

C. Pursuant to the terms of the Annexation Agreement, dated March 14, 2008, executed by the Village and the Fellowship Reformed Church, a not-for-profit religious institution (the "Church") recorded with the Recorder of Deeds of DuPage County on March 20, 2008 as Document No. R2008-045081, the Village has the opportunity to purchase the Booster Station Easement premises by notifying the Church of its election to purchase the Booster Station Easement premises legally described as follows:

THAT PORTION OF THE WEST 117.0 FEET OF THE EAST 376.0 FEET OF THE NORTH 233.0 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS, BEING DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON A LINE 33.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER AND ON THE EAST LINE OF SAID WEST 117.00 FEET OF THE EAST 376.00 FEET; THENCE SOUTHERLY ALONG SAID EAST LINE 98.00 FEET TO A POINT ON A LINE 131.00 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF THE SOUTHWEST

QUARTER; THENCE WESTERLY ALONG SAID PARALLEL LINE 80.00 FEET; THENCE NORTHERLY 98.00 FEET ALONG A LINE PARALLEL WITH SAID EAST LINE OF THE WEST 117.00 FEET TO A POINT ON SAID LINE BEING 33.00 FEET SOUTH OF AND PARALLEL WITH SAID SOUTHWEST QUARTER; THENCE EASTERLY 80.00 FEET ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING.

NOW KNOWN AS:

LOT 2, IN LOMBARD FELLOWSHIP CHURCH RESUBDIVISION, BEING A RESUBDIVISION IN SECTION 21, TOWNSHIP 39 NORTH, RANGE 11 OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 16, 2009 AS DOCUMENT NO. R2009-091934, IN DUPAGE COUNTY, ILLINOIS,

PIN: PART OF 06-21-111-003

ADDRESS: 919 East 14th Street, Lombard, IL

The foregoing is referred to as the "Booster Station Easement Property".

D. The Village has given the Church notice of its election to purchase the Booster Station Easement Property, and the Church desires to convey its interest thereto pursuant to the terms of the Conveyance Contract which is an exhibit to the Annexation Agreement.

E. The Annexation Agreement provided, as an exhibit thereto, a Release & Abrogation agreement to terminate the Booster Station Easement, a copy of which is attached hereto as Exhibit A, which is to be executed by the Church and delivered to the Village at the closing of the purchase of the Booster Station Easement Property.

F. The Annexation Agreement provided, as an exhibit thereto, a Conveyance Contract for the terms and conditions for the purchase of the Booster Station Easement Property, a copy of the Conveyance Contract is attached hereto as Exhibit B, which is to be executed by the Church and the Village.

G. To facilitate access to the Booster Station Easement Property and to the Church's property, the Village and the Church wish to enter into a common access Driveway easement for the reciprocal use of the Driveway of which a portion of the Church's driveway that overlaps a portion of the Booster Station Easement Property and the Church's remaining property (the "Reciprocal Access Easement"), a copy of which is attached hereto as Exhibit C.

H. The President and Board of Trustees have determined that the public interest will be subserved by terminating and releasing the Booster Station Easement and the Corporate Authorities deem it to be in the best interest of the Village to approve the purchase of the Booster Station Easement Property by executing the Conveyance Contract and to approve and execute the Reciprocal Access Easement for the reciprocal use of a portion of the Driveway by the Village and Church.

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

- Section 1.** The recitals set forth above are hereby incorporated as findings of fact by the President and Board of Trustees of the Village of Lombard.
- Section 2.** The President and Board of Trustees of the Village of Lombard hereby approve the Release & Abrogation of the Booster Station Easement, attached hereto as Exhibit A, to be executed on behalf of the Church and delivered to the Village at the closing of the contemplated purchase of the Booster Station Easement Property pursuant to the terms of the Conveyance Contract, attached hereto as Exhibit B.
- Section 3.** That the President and Board of Trustees of the Village of Lombard hereby approve the purchase of the Booster Station Easement Property pursuant to the terms of the Conveyance Contract attached hereto as Exhibit B, and approve the execution of the Reciprocal Access Easement, attached hereto as Exhibit C.
- Section 4.** The Village President and Village Deputy Clerk are hereby authorized to execute on behalf of the Village of Lombard, the Conveyance Contract attached hereto as Exhibit B and any other instruments as may be necessary or convenient to consummate and complete the release and abrogation of the Booster Station Easement, approval of the Reciprocal Access Easement attached hereto as Exhibit C, and the purchase of the Booster Station Easement Property.
- Section 5.** The Deputy Village Clerk or Assistant Deputy Village Clerk be and are hereby authorized to attest, on behalf of the Village of Lombard, the Conveyance Contract, attached hereto as Exhibit B and the Reciprocal Access Easement, attached hereto as Exhibit C.
- Section 6.** Thomas P. Bayer, George A. Wagner, or any other attorney from Klein, Thorpe & Jenkins, is hereby authorized to execute on behalf of the Village of Lombard any and all closing documents to consummate the purchase of the Booster Station Easement Property by the Village of Lombard.
- Section 7.** The Deputy Village Clerk is hereby directed to cause the a certified copy of this Ordinance, together with the original Release & Abrogation, attached hereto as Exhibit A, and the original Reciprocal

Access Easement, attached hereto as Exhibit C to be recorded with the Recorder of Deeds of DuPage County.

Section 8. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this 5th day of November, 2009.

First reading waived by action of the Board of Trustees this ____ day of _____, 2009.

Passed on second reading this 19th day of November, 2009.

AYES: Trustees Gron, Tross, Wilson, Moreau, Fitzpatrick

NAYS: None


ABSENT: WARE

APPROVED by me this 19th day of September, 2009.



William J. Mueller,
Village President

ATTEST:



Brigitte O'Brien,
Village Clerk

Published by me in pamphlet form this 20th day of September, 2009.



Brigitte O'Brien,
Village Clerk

**EXHIBIT A
RELEASE & ABROGATION (OF BOOSTER STATION EASEMENT)**

SEE ATTACHED.

**EXHIBIT C
RECIPROCAL ACCESS EASEMENT**

SEE ATTACHED.

EXHIBIT A
RELEASE & ABROGATION (OF BOOSTER STATION EASEMENT)

SEE ATTACHED.

**THIS INSTRUMENT WAS PREPARED
BY AND AFTER RECORDING MAIL**

TO:

Klein Thorpe & Jenkins, Ltd.
20 North Wacker Drive
Suite 1660
Chicago, IL 60606
Attn: George A. Wagner, Esq.

(#0049-038 dm)

[The above space for the County Recorder's Office]

Release & Abrogation

For and in consideration of One Dollar (\$1.00) and other good and valuable consideration in hand paid by the **VILLAGE OF LOMBARD, AN ILLINOIS MUNICIPAL CORPORATION** ("Releasee") to, and the receipt and sufficiency whereof is hereby acknowledged by, the undersigned **FELLOWSHIP REFORMED CHURCH, A RELIGIOUS NOT-FOR-PROFIT ORGANIZATION** ("Releasor"), the Releasor, as its duly authorized act, as owner of the property described legally below and commonly known as 1420 Meyers Road, Lombard, Illinois 60148, does hereby remise, release, quitclaim, waive, surrender and abrogate in favor of Releasee and its successors and assigns, any and all right, title and interest in and to the easement premises (the "**Easement Premises**") described legally below, and as created in a Booster Station Easement Agreement, recorded in DuPage County, Illinois on April 24, 2008 as Document No. R2008-067801, forever.

Easement Premises:

THAT PORTION OF THE WEST 117.0 FEET OF THE EAST 376.0 FEET OF THE NORTH 233.0 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS, BEING DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON A LINE 33.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER AND ON THE EAST LINE OF SAID WEST 117.00 FEET OF THE EAST 376.00 FEET; THENCE SOUTHERLY ALONG SAID EAST LINE 98.00 FEET TO A POINT ON A LINE 131.00 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF THE SOUTHWEST QUARTER; THENCE WESTERLY ALONG SAID PARALLEL LINE 80.00 FEET; THENCE NORTHERLY 98.00 FEET ALONG A LINE PARALLEL WITH SAID EAST LINE OF THE WEST 117.00 FEET TO A POINT ON SAID LINE BEING 33.00 FEET SOUTH OF AND PARALLEL WITH SAID SOUTHWEST QUARTER; THENCE EASTERLY 80.00 FEET ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING.

**EXHIBIT B
CONVEYANCE CONTRACT**

SEE ATTACHED.

EXHIBIT D TO ANNEXATION AGREEMENT

CONVEYANCE CONTRACT

SELLER/OWNER: FELLOWSHIP REFORMED CHURCH

BUYER/VILLAGE: VILLAGE OF LOMBARD

The following are the terms and conditions for the conveyance of the Booster Station Easement Property as legally described in Exhibit 1, which is attached hereto and made a part hereof (the "Property"). This Conveyance Contract is based upon the terms set forth in the Annexation Agreement between the Village of Lombard and the Fellowship Reformed Church, dated March 14, 2008, recorded with the Recorder of Deeds of DuPage County on March 20, 2008 as Document No. R2008-045081 (the "Annexation Agreement"). To the extent that any provisions in this Exhibit D conflict with the provisions in the Annexation Agreement, the provisions in this Exhibit D shall control.

1. **CONVEYANCE:** Owner (referred to herein as "Seller") agrees to convey to the Village (referred to herein as "Buyer") and the Buyer agrees to accept the conveyance from Seller, the fee simple title to the Booster Station Easement Property, for TEN and 00/100 DOLLARS (\$10.00), subject to the following terms as set forth in the Annexation Agreement, which provisions are incorporated herein as if fully set forth:

- A. Paragraph 7, Conveyance of the Fee Simple Title to the Booster Station Easement Property; and
- B. Paragraph 8 B., Environmental Assessments of the Easements; and
- C. Paragraph 8 F., Covenants, Representations and Warranties of Owner (Seller), which covenants, representations and warranties Owner restates and reaffirms in regard to Owner's sale of the Booster Station Easement Property to the Village; and
- D. Paragraph 20 A., Notices; and
- E. Paragraph 20 F., Conveyance, Dedication and Donation of Real Estate and Certain Personal Property.

2. **BUYER'S OPTION NOT TO ACCEPT CONVEYANCE.** The Buyer shall not be obligated to take title to the Property if, in the Buyer's sole and exclusive judgment, for any reason whatsoever (including, without limitation, information revealed by the Environmental Assessment), it determines that the use or condition of the Property (including the groundwater thereunder), or any part thereof or any adjacent property, poses a health, safety or environmental hazard, or if the Environmental Assessment reveals or if at any time prior to the Closing Date the Buyer otherwise becomes aware of the existence of any environmental condition which may be dangerous and/or unacceptable to the Buyer, or in violation of any environmental law or regulation including, but not limited to, the presence of any Hazardous Material, as said term is defined below. Pursuant to this Paragraph 2, the Buyer shall have the right, in its sole and exclusive judgment, to terminate this transaction and not to accept conveyance of the Property prior to the Closing Date and to declare this transaction null and void.

3. **TITLE INSURANCE AND SURVEY.** The Buyer agrees to pay for an owners title insurance policy issued through Chicago Title Insurance Company (the "Title Company") for the Property including any extended coverage, if required. Seller agrees to pay the costs of any title endorsements to insure non-Permitted exceptions. The Buyer agrees to pay for a current dated survey of the Property (the "Survey"), prepared by a surveyor licensed by the State of Illinois, certified to Buyer, Buyer's Attorneys, Seller, Seller's Attorneys and the Title Company and such other parties as Buyer may designate, by the surveyor as being true, accurate and having been prepared in compliance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" adopted by the American Land Title Association and American Congress on Surveying and Mapping in 2005, including the following Table A items: 1, 2, 3, 4, 10, 11(b) and 16. Upon approval of the Survey, the legal description in Exhibit 1 shall be automatically revised to be that of the legal description in the Survey and Title Commitment. At either party's request, any changes to the legal description shall be confirmed in writing signed by both parties.

4. **CLOSING AND CLOSING DOCUMENTS.** The transaction contemplated in this Exhibit D, shall close on a date mutually agreed to by the Parties (the "Closing Date"). On the Closing Date, the obligations of the Buyer and Seller shall be as follows:

- A. Seller shall deliver or cause to be delivered to the Buyer:
- (i) an original executed and properly notarized Warranty Deed;
 - (ii) an original executed and properly notarized Affidavit of Title, Warranty and Covenant;
 - (iii) an original executed and properly notarized Non-Foreign Affidavit;
 - (iv) Counterpart originals of Seller's closing statement;
 - (v) the original executed and properly notarized Release & Abrogation of the easement known as the Booster Station Easement Agreement;
 - (vi) ALTA Statement and GAP Undertaking; and
 - (vii) Such title clearance documentation as may be required by the Title Company, and such other documentation as is required by applicable law or the Title Company to effectuate the transaction contemplated hereby, including such other documentation as is reasonably required by the Title Company to issue Buyer its owners title insurance policy insuring the fee simple title to the Property in the Buyer as of the Closing Date, subject only to the Permitted Exceptions.
- B. Buyer shall deliver or cause to be delivered to the Seller:
- (i) counterpart originals of Seller's closing statement;
 - (ii) ALTA Statement; and
 - (iii) such other standard closing documents or other documentation as is required by applicable law or the Title Company to effectuate the transaction contemplated herein.

- C. The parties shall jointly deposit fully executed State of Illinois Transfer Declarations and County Transfer Declarations.
5. **POSSESSION.** Possession of the Property shall be delivered to Buyer on the Closing Date subject to the Permitted Exceptions as defined in the Annexation Agreement, and in the same condition as at the time of the execution of the Annexation Agreement.
6. **PRORATIONS.** On the Closing Date, the following adjustments and prorations shall be computed as of the Closing Date and the balance of the Purchase Price shall be adjusted to reflect such prorations. All prorations shall be based on a 365-day year, with the Seller having the day prior to the Closing Date.
- A. **Real Estate Taxes.** General real estate taxes for 2007 and 2008, special assessments and all other public or governmental charges against the Property which are or may be payable on an annual basis (including charges, assessments, liens or encumbrances for sewer, water, drainage or other public improvements completed or commenced on or prior to the Closing Date) shall be adjusted and apportioned as of the Closing Date. If the exact amount of general real estate taxes is not known on the Closing Date, the proration will be based on the most recent full year tax bill increased by 115% and shall be conclusive, with no subsequent adjustment.
- B. **Miscellaneous.** All other charges and fees customarily prorated and adjusted in similar transactions shall be prorated as of Closing Date. In the event that accurate prorations and other adjustments cannot be made at Closing because current bills or statements are not obtainable (as, for example, all water, sewer, gas and utility bills), the parties shall prorate on the best available information. Final readings and final billings for utilities shall be taken as of the Closing Date.
7. **CONVEYANCE TAXES.** The parties acknowledge that as Buyer is a governmental entity, this transaction is exempt from any State, County or local real estate transfer tax pursuant to 35ILCS 200/31-45(b). Seller is obligated to furnish completed Real Estate Transfer Declarations signed by Seller or Seller's agent in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois.
8. **DEFAULT AND CONDITIONS PRECEDENT TO THE CLOSING DATE.** A) It is a condition precedent to the Closing Date that (i) fee simple title to the Property being shown to be good and marketable, subject only to the Permitted Exceptions, as required hereunder and being accepted by Buyer; (ii) the covenants, representations and warranties of Seller contained in Paragraph 1(C) hereof and elsewhere in this Exhibit D, being true and accurate on the Closing Date or waived by Buyer in writing on or prior to the Closing Date; and (iii) Seller having performed under this Exhibit D and otherwise having performed all of its covenants and obligations and fulfilled all of the conditions required of it under this Exhibit D on or prior to the Closing Date. If before the Closing Date, Buyer becomes aware of a breach of any of Seller's, representations and warranties or of Seller failing to perform all of its covenants or otherwise failing to perform all of its obligations and fulfill all of the conditions required of Seller on or prior to the Closing Date, Buyer may, at its option (a) elect to enforce the terms hereof by action for specific performance; or (b) attempt to cure such breach or failure by Seller for a period of up to thirty (30) days following the Closing Date, charging Seller for all costs and expenses incurred in doing so and, following such attempt, to either: (c) not accept the conveyance and terminate this transaction, or (d) proceed to accept the conveyance notwithstanding such breach or nonperformance. In all events, Buyer's rights and remedies under this Exhibit D shall always be non-exclusive and cumulative and the exercise of one remedy shall not be exclusive of or constitute the waiver of any other, including all rights and remedies available to it at law or in equity.

B) In the event of a default by Buyer, Seller's sole and exclusive right and remedy shall be not to convey the Property to Buyer pursuant to the terms of this Exhibit D. Notwithstanding the foregoing, the parties agree that no default of or by either party shall be deemed to have occurred unless and until notice of any failure by the non-defaulting party has been sent to the defaulting party and the defaulting party has been given a period of ten (10) days from receipt of the notice to cure the default.

9. **BINDING EFFECT.** The terms and provisions of this Exhibit D, shall inure to the benefit of, and shall be binding upon the heirs, legatees, transferees, assigns, personal representatives, owners, agents, administrators, executors, and/or successors in interest of any kind whatsoever, of the parties hereto.

10. **BROKERAGE.** Each party hereto hereby represents and warrants to the other that, in connection with this transaction, no third-party broker or finder has been engaged or consulted by it or, through such party's actions (or claiming through such party), is entitled to compensation as a consequence of this transaction. Each party hereby defends, indemnifies and holds the other harmless against any and all claims of brokers, finders or the like, and against the claims of all third parties claiming any right to a commission or compensation by or through acts of that party or that party's partners, agents or affiliates in connection with this Exhibit D. Each party's indemnity obligations shall include all damages, losses, costs, liabilities and expenses, including reasonable attorney's fees, which may be incurred by the other in connection with all matters against which the other is being indemnified hereunder. This provision shall survive the Closing Date.

11. **RIGHT OF WAIVER.** Each and every condition of the Closing Date other than the Buyer's duties on the Closing Date is intended for and is for the sole and exclusive benefit of Buyer. Accordingly, Buyer may at any time and from time to time waive each and any condition on or prior to the Closing Date, without waiver of any other condition or other prejudice of its rights hereunder. Such waiver by Buyer shall, unless otherwise herein provided, be in a writing signed by Buyer and delivered to Seller.

12. **DISCLOSURE OF INTERESTS.** In accordance with Illinois law, 50 ILCS 105/3.1, prior to conveyance of the Property to Buyer, an Owner, authorized trustee, corporate official or managing agent, must submit a sworn affidavit to the Buyer disclosing the identity of every owner and beneficiary having any interest, real or personal, in the Property, and every shareholder entitled to receive more than 7 1/2% of the total distributable income of any corporation having any real interest, real or personal, in the Property, or, alternatively, if a corporation's stock is publicly traded, a sworn affidavit by an officer of the corporation or its managing agent that there is no readily known individual having a greater than 7 1/2% percent interest, real or personal, in the Property. The sworn affidavit shall be substantially similar to the one described in Exhibit 2, attached hereto and made a part hereof.

13. **MISCELLANEOUS.**

A. Buyer and Seller mutually agree that time is of the essence and every provision of this Exhibit D in which time is an element. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts. If any date for performance of any of the terms, conditions or provisions hereof shall fall on a Saturday, Sunday or legal holiday, then the time of such performance shall be extended to the next business day thereafter.

B. This Exhibit D provides for the conveyance of Property located in the State of Illinois, and is to be performed within the State of Illinois. Accordingly, this Exhibit D, and all questions of interpretation, construction and enforcement hereof, and all controversies hereunder, shall be governed by the applicable statutory and common law of the State of Illinois. The parties agree that for the purpose of any litigation relative to the terms and provisions of

this Exhibit D and its enforcement, venue shall be in the Circuit Court in the County where the Property is located and the parties consent to the in personam jurisdiction of said Court for any such action or proceeding.

- C. The terms, provisions, warranties and covenants made in this Exhibit D, shall survive the Closing Date and delivery of the Deed and other instruments of conveyance. This terms and provisions of this Exhibit D shall not be merged with the Deed and other instruments of conveyance, but shall remain binding upon and for the parties hereto until fully observed, kept or performed.
- D. The provisions of the Uniform Vendor and Buyer Risk Act of the State of Illinois shall be applicable to this Exhibit D.
- E. Buyer and Seller hereby agree to make all disclosures and do all things necessary to comply with the applicable provisions of the Property Settlement Procedures Act of 1974. In the event that either party shall fail to make appropriate disclosures when asked, such failure shall be considered a breach on the part of said party.
- F. The parties warrant and represent that the execution, delivery of, and performance under this Exhibit D is pursuant to authority, validly and duly conferred upon the parties and the signatories hereto.
- G. The paragraph headings contained in this Exhibit D are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof.
- H. Whenever used in this Exhibit D, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.
- I. If the Seller is a Trust, this Exhibit D is executed by the undersigned Trustee not personally but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. Said Trustee hereby warrants that it possesses full power and authority to execute this Exhibit D. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings, warranties and agreements herein made on the part of the Trustee while in form purporting to be the representations, covenants, undertakings, warranties and agreements of said Trustee are nevertheless each and every one of them made and intended not as personal representations, covenants, undertakings, warranties and agreements by the Trustee or for the purpose or with the intention of binding Trustee personally but are made and intended for the purpose of binding only the trust property, and this Exhibit D is executed and delivered by said Trustee not in its own right, but solely in the exercise of the power conferred upon it as said Trustee; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said Trustee on account of this Exhibit D or on account of any representations, covenants, undertakings, warranties or agreements of said Trustee in this Exhibit D contained either express or implied, all such personal liability, if any, being expressly waived and released.
- J. In the event the Seller is a Trust as provided above, this Exhibit D shall be signed by the Trustee and also by the person or entity holding the Power of Direction under the Trust.

The person or entity signing this Exhibit D is by his/her/their/its signature represents, warrants and covenants with Buyer that he/she/they/it has the authority to enter into this Exhibit D and the obligations set forth herein. All references to the Seller's obligations, warranties and representations shall be interpreted to mean the Beneficiary or Beneficiaries of the Trust.

- K. In the event either party elects to file any action in order to enforce the terms of this Exhibit D, or for a declaration of rights hereunder, the prevailing party, as determined by the court in such action, shall be entitled to recover all of its court costs and reasonable attorneys' fees as a result thereof from the losing party.
- L. The Parties shall not record Exhibit D against the Property.
- M. If any of the provisions of this Exhibit D, or the application thereof to any person or circumstance, shall be invalid or unenforceable to any extent, the remainder of the provisions of this Exhibit D shall not be affected thereby, and every other provision of this Exhibit D shall be valid and enforceable to the fullest extent permitted by law.
- N. This Exhibit D any attached hereto, if any, are made a part hereof, or required hereby, embody the entire transaction between the Parties hereto with respect to the Property and supersede any and all prior agreements and understandings, whether written or oral, and whether formal or informal. No extensions, changes, modifications or amendments to or of this Exhibit D of any kind whatsoever, shall be made or claimed by Seller or Buyer, and no notices of any extension, change, modification or amendment made or claimed by Seller or Buyer (except with respect to permitted unilateral waivers of conditions precedent by Buyer) shall have any force or effect whatsoever unless the same shall be endorsed in writing and fully signed by Seller and Buyer.

14. **TERMINATION OF GRANT OF EASEMENT UPON TRANSFER** . The Booster Station Easement Agreement between Buyer and Seller, dated April 21, 2008, shall terminate upon transfer of title of the Property to Buyer under this Agreement and Seller shall provide Buyer with a properly executed Release & Abrogation of the Booster Station Easement Agreement on the Closing Date, which Buyer shall record.

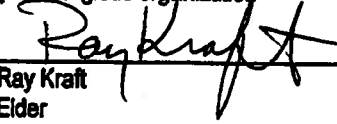
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IN WITNESS WHEREOF, the parties hereto have executed this Conveyance Contract as of the Effective Date (the "Effective Date"). The Effective date shall be the date last signed by a party.

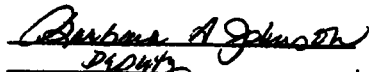
VILLAGE OF LOMBARD,
An Illinois Municipal corporation

By: 
Name: William Mueller
Title: Mayor

FELLOWSHIP REFORMED CHURCH,
a not-for-profit religious organization


By: 
Name: Ray Kraft
Title: Elder

ATTEST:

By: 
Name: Barbara A. Johnson
Title: Village Clerk

Dated: 11/20/09

ATTEST:

By: 
Name: Dan Smith
Title: Clerk of Consistory

Dated: 11/19/09

EXHIBIT 1
LEGAL DESCRIPTION OF THE PROPERTY

THAT PORTION OF THE WEST 117.0 FEET OF THE EAST 376.0 FEET OF THE NORTH 233.0 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON A LINE 33.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER AND ON THE EAST LINE OF SAID WEST 117.00 FEET OF THE EAST 376.00 FEET; THENCE SOUTHERLY ALONG SAID EAST LINE 98.00 FEET TO A POINT ON A LINE 131.00 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF THE SOUTHWEST QUARTER; THENCE WESTERLY ALONG SAID PARALLEL LINE 80.00 FEET; THENCE NORTHERLY 98.00 FEET ALONG A LINE PARALLEL WITH SAID EAST LINE OF THE WEST 117.00 FEET TO A POINT ON SAID LINE BEING 33.00 FEET SOUTH OF AND PARALLEL WITH SAID SOUTHWEST QUARTER; THENCE EASTERLY 80.00 FEET ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING.

NOW KNOWN AS:

LOT 2, IN LOMBARD FELLOWSHIP CHURCH RESUBDIVISION, BEING A RESUBDIVISION IN SECTION 21, TOWNSHIP 39 NORTH, RANGE 11 OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 16, 2009 AS DOCUMENT NO. R2009-091934, IN DUPAGE COUNTY, ILLINOIS,

PIN: PART OF 06-21-111-003

ADDRESS: 919 East 14th Street, Lombard, IL

PROVISIONS FROM ANNEXATION AGREEMENT FOR EASE OF REFERENCE.

**PARAGRAPH 7 Conveyance of the Fee Simple Title to the
Booster Station Easement Property:**

At any time after the Village approves an ordinance annexing the Subject Property into the Village, the Village may, in its sole discretion and upon written notice to the Owner, elect to purchase from the Owner the fee simple title to the Booster Station Easement Property, and the Owner agrees to sell the Booster Station Easement Property to the Village for the purchase price of TEN AND 00/100 DOLLARS (\$10.00). The conveyance shall be subject to the terms and conditions provided in EXHIBIT D, which is attached hereto and made a part hereof (the "Conveyance Contract"). Contemporaneous with the conveyance of fee simple title to the Booster Station Easement Property to the Village, the Owner will execute a release and termination of the Booster Station Easement in the form set forth in EXHIBIT E, attached hereto.

PARAGRAPH 8.

B. Environmental Assessment of the Easements: Prior to acceptance of the Easements by the Village, the Village shall have the right at any time, at its sole cost and expense, to select and retain environmental and other consultants to examine and inspect the physical condition of the Easements (including the groundwater thereunder) (collectively the "Easement Properties"), to conduct a site assessment and environmental audit, and to perform any environmental and engineering investigation or testing it deems necessary and appropriate (hereinafter "Environmental Assessment"). Owner hereby grants and will cause any tenants to grant, to the Village and its consultants, their employees, agents, subcontractors and representatives, for the period of time defined below as the "Environmental Contingency Period", an irrevocable license and authorization to enter upon and have full access to the Easement Properties for the purposes of conducting a complete inspection of the Easement Properties and to perform such tests, including without limitation subsurface testing, soil and groundwater testing, and other tests which may physically invade the Easement Properties or improvements thereon or to conduct other environmental and engineering investigations, as the Village, in its sole discretion, determines is necessary to protect its interests, and will do nothing to interfere with the investigation of the Easement Properties. This period shall be known as the "Environmental Contingency Period", and shall commence upon the Effective Date of this Agreement through and including the date of the Closing and the closing under the Conveyance Contract. The Village and its employees, agents, representatives and consultants shall restore any property which may be disturbed by any action of the Village, its employees, agents, representatives and consultants pursuant to the provisions of this paragraph to substantially the same condition as that in which it was found prior to entry. Furthermore, Village shall not suffer or permit any mechanic's liens to attach or be against or upon the Subject Property, and that the Village shall indemnify Owner and shall save Owner harmless from and against any claim, obligation, liability or expense which may be asserted by any person or party arising out of or in the course of performance of any work or acts herein permitted. Any and all testing, environmental or otherwise, shall be at the Village's expense. Owner shall provide to the Village and its employees, agents, representatives and consultants full and complete access to the Easement Properties. Owner affirmatively represents to the best of its knowledge that it has no documents or information in its possession, custody or control which relate or refer to the Easement Properties, its present and prior uses, or to the activities at or near the Easement Properties and environmental audits, reports or documents that refer or relate to the Easement Properties. Owner shall notify the Village of the location and description of all public and private utilities on or below the Easement Properties, if it has specific knowledge of the same. If requested, the Owner will make available to the Village's consultants, all documents and information in the Owner's possession, custody or control which relate to any adjacent property. The term "Environmental Assessment" as referred to in this Subparagraph shall include, but not be limited to, Phase I and Phase II environmental audits. Owner agrees to cooperate with the Village in conducting the

PARAGRAPH 8.

F. Covenants, Representations and Warranties of Owner: The covenants, representations and warranties contained in this Subparagraph shall be deemed remade as of the Closing Date and shall survive the Closing, and shall be deemed to have been relied upon by the Village in consummating the Closing herein contemplated notwithstanding any investigation the Village may have made with respect thereto, or any information developed by or made available to the Village prior to the Closing and consummation of the Closing herein contemplated. Owner represents that it has provided the Village with all material information in Owner's possession pertaining to the environmental condition of the Easements. To the best of its knowledge, Owner covenants, represents and warrants to the Village as to the following matters, each of which is so warranted to be true and correct as of the Effective Date and also on the Closing Date:

1. **Title Matters.** Owner has good and marketable fee simple title to the Easement Properties.
2. **Violations of Zoning and Other Laws.** Owner has received no notice, written or otherwise, from any governmental agency alleging any violations of any statute, ordinance, regulation or code for the Easement Properties. The easement rights as granted to the Village by the Owner, shall include all rights of the Owner to the use of any off-site facilities, including, but not limited to, storm water detention facilities, necessary to ensure compliance with all zoning, building, health, fire, water use or similar statutes, laws, regulations and orders and any instrument in the nature of a declaration running with the Easement Properties
3. **Pending and Threatened Litigation.** To the best knowledge and belief of Owner, there are no pending or threatened matters of litigation, administrative action or examination, claim or demand whatsoever relating to the Easement Properties.
4. **Eminent Domain, etc.** To the best knowledge and belief of Owner, there is no pending or contemplated eminent domain, condemnation or other governmental taking of the Easement Properties, or any part thereof.
5. **Access to Public Utilities.** No fact or condition exists which would result in the termination or impairment of access to the Easement Properties from adjoining public or private streets or ways or which could result in discontinuation of presently available or otherwise necessary sewer, water, electric, gas, telephone or other utilities or services.
6. **Assessments.** To the best knowledge and belief of Owner, there are no public improvements in the nature of off-site improvements, or otherwise, which have been ordered to be made and/or which have not heretofore been assessed and there are no special or general assessments pending against or affecting the Easement Properties.
7. **Authority of Signatories; No Breach of Other Agreements; etc.** The execution, delivery of and performance under this Agreement by Owner are pursuant to authority validly and duly conferred upon Owner and the signatories hereto. The consummation of the Closings herein contemplated and the compliance by Owner with the terms of this Agreement do not and will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any agreement, arrangement, understanding,

accord, document or instruction by which Owner or the Easement Properties are bound; and will not and does not to the best knowledge and belief of Owner, constitute a violation of any applicable law, rule, regulation, judgment, order or decree of, or agreement with, any governmental instrumentality or court, domestic or foreign, to which Owner or the Easement Properties are subject or bound.

8. Executory Agreements. Owner is not a party to, and the Easement Properties are not subject to, any agreement or agreement of any kind whatsoever, written or oral, formal or informal, other than this Agreement. The Village shall not, by reason of entering into or Closing pursuant to the terms and conditions of this Agreement, become subject to or bound by any agreement, lease, license, invoice, bill, undertaking or understanding which the Village shall not have previously agreed in writing to accept. Owner warrants and represents to the Village, that no written leases, licenses or occupancies exist in regard to the Easement Properties and further, that no person, corporation, entity, tenant, licensee, or occupant has an option or right of first refusal to purchase, lease or use the Easement Properties, or any portion thereof.
9. Mechanic's Liens. All bills and invoices for labor and material of any kind relating to the Easement Properties have been paid in full, and there are no mechanic's liens or other claims outstanding or available to any party in connection with the Easement Properties.
10. Governmental Obligations. To the best knowledge of Owner, there are no unperformed obligations relative to the Easement Properties, outstanding to any governmental or quasi-governmental body or authority.
11. Hazardous Materials.
 - a. From the Effective Date of this Agreement to and including the Closing Date and the closing under the Conveyance Contract, Owner agrees (i) to operate, maintain and manage the Easement Properties in the ordinary course of business; (ii) that the Easement Properties will comply in all respects, and will remain in compliance, with all applicable federal, state, regional, county and local laws, statutes, rules, regulations or ordinances concerning public health, safety or the environment, and all Environmental Laws (as defined below); and (iii) to maintain existing insurance on the Easement Properties.
 - b. Owner has no knowledge of: (i) the presence of any Hazardous Materials on, under or in the Easement Properties, including adjacent property (ii) any Release (which means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the indoor or outdoor environment or discarding of barrels, drums, containers, tanks and other receptacles containing or previously containing any hazardous Material) or threatened Release of Hazardous Materials that have occurred or are presently occurring on or onto the Easement Properties, including any adjacent property; (iii) any spills or disposal of Hazardous Materials that have occurred or are occurring off the Easement Properties as a result of any construction on or operation and use of the Easement Properties; (iv) the presence of any equipment on the Easement Properties, containing polychlorinated biphenyls ("PCBs"); (v) the presence of any asbestos in use or on the Easement Properties; or (vi) any conditions or circumstances at or on the Easement Properties, which would pose a risk to the environment or the health or safety of persons.

c. To the best knowledge and belief of Owner, the Easement Properties, have never been used and will not be used as a landfill, open dump or a waste dump, or for any activities involving, directly or indirectly, the use, generation, treatment, storage or disposal of any hazardous or toxic chemical material substance or waste. Owner has used no material quantity of any Hazardous Material and has conducted no activity, event or occurrence involving Hazardous Material at the Easement Properties. The Easement Properties do not contain underground storage tanks or Hazardous Materials, and the Owner has received no notice of nor do the Easement Properties violate any Federal, State, or Local Environmental Laws. For purposes of this Agreement, the phrase "Environmental Laws" shall mean any federal, state or local law, statute, ordinance, order, decree, rule or regulation (including but not limited to judicial orders, administrative orders, consent agreements and permit conditions) relating to releases, discharges, emissions or disposals to air, water, the Subject Property or groundwater, to the withdrawal or use of groundwater, to the use, handling, storage or disposal of polychlorinated biphenyls, asbestos or urea formaldehyde, to the treatment, storage, disposal or management of Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. '9601, et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42 U.S.C. '6901, et seq. ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. '2601, et seq. ("TSCA"), the occupational, Safety and Health Act, 29 U.S.C. '651, et seq., the Clean Air Act, 42 U.S.C. '7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. '1251, et seq., the Safe Drinking Water Act, 42 U.S.C. '3001, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. '1801, et seq. ("HMTA"), the Clean Water Act, 33 U.S.C. '1251, et seq., the Safe Drinking Water Act, 42 U.S.C. 300f, et seq., the Clean Air Act, as amended, 42 U.S.C. '7401, et seq., the Uranium Mill Tailing Radiation Control Act, 42 U.S.C. '655, et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 42 U.S.C. '136, et seq., the National Environmental Policy Act, 42 U.S.C. '4321, et seq., the Noise Control Act, 42 U.S.C. '4901, et seq., the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. '4821, et seq., the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. '11001, et seq. ("EPCRA"), and the Illinois Environmental Protection Act, and other comparable federal, state or local laws and all rules, regulations and guidance documents promulgated pursuant thereto or published thereunder, as any or all of the foregoing may from time to time be amended, supplemented or modified. For the purposes of this Agreement, the phrase "Hazardous Materials" shall mean each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under Environmental Laws or the release of which is regulated under Environmental Laws. Without limiting the generality of the foregoing, the term "Hazardous Materials" will include: "hazardous substances" as defined in CERCLA; "extremely hazardous substances" as defined in EPCRA; "hazardous waste" as defined in RCRA; "hazardous materials" as defined in HMTA; "chemical substance or mixture" as defined in TSCA; crude oil, petroleum and petroleum products or any fraction thereof (including "petroleum" as that term is defined in 42 U.S.C. '6991(8)); radioactive materials including source, by-product or special nuclear materials; asbestos or asbestos-containing materials; and radon.

d. Owner has received no notice of and to the best of Owner's knowledge and belief the Easement Properties do not violate any law, regulation or agreement applicable to the Easement Properties or their use. To the best knowledge and belief of Owner, the Easement Properties are not subject to any, and Owner has no knowledge of

reasonable attorneys' fees, costs and expenses, arising from or out of or in any way connected with: (i) the presence of any Hazardous Materials on the Subject Property, which includes the Easement Properties or the presence of any Hazardous Materials off the Subject Property, which includes the Easement Properties, that was caused by or spread from the Subject Property, which includes the Easement Properties; or (ii) any violation or alleged violation of any local, state or federal environmental law or regulation, ordinance, administrative or judicial order relating to Hazardous Materials attributable to events occurring before the Closing Date or the closing under the Conveyance Contract, of which Owner had knowledge but failed to disclose to Village. Notwithstanding the foregoing, this Agreement shall not be construed to impose liability on the Owner for Hazardous Materials placed, released or disposed of on the Easement Properties through no fault of Owner after the Closing Date or the closing under the Conveyance Contract. The covenants, representations and warranties herein contained together with this indemnity shall survive the Closing and the closing under the Conveyance Contract. In the event that the Village or any of its officials, trustees, or employees are named as a defendant in any lawsuit arising out of the matters to be indemnified under this Contract, the Village shall have the right to choose the attorney(s) who represent them in said lawsuit and the costs, expenses and fees associated with said attorneys in relation to said lawsuit shall be paid by Owner pursuant to the indemnification provisions herein.

i. The Owner's obligations hereunder shall in no way be impaired, reduced or released by reason of the Village's omission or delay to exercise any right described herein or in connection with any notice, demand, warning or claim regarding violations of any Environmental Laws governing the Easement Properties.

j. The Owner's liability hereunder shall not be limited by the other provisions contained in the Agreement, and Owner agrees that the indemnification contained herein is separate, independent of and in addition to Owner's other undertakings under the Agreement, except as defined in subparagraph F.11.l below.

k. The indemnification contained in this Agreement shall be continuing, irrevocable and binding on the Owner, and the Owner's respective successors and assigns, for a period of 3 years from the Effective Date or the date that a certificate of occupancy is issued by DuPage County for the Booster Station, whichever ever comes first, and this Agreement shall be binding upon and inure to the benefit of the Village and the Village's successors and assigns.

l. However, except as otherwise provided in this subparagraph l, Owners' liability to the Village shall be capped at \$154,370.00 (the "Cap of Liability"), which represents that amount the Village is paying to Owner for the Booster Station Easement. The Cap of Liability and the time limitation period set forth above in subparagraph F.11.k. shall not apply to a breach by Owner of any of its covenants, representations or warranties set forth in this Agreement. Further, in the event that Hazardous Materials are discovered during the Village's construction of the Booster Station, the remediation of which Hazardous Materials will exceed the amount of \$154,370.00, the Village, at its sole discretion, may abandon construction of the Booster Station with no liability, obligation or responsibility to complete the construction, restore the Booster Station Easement to its original condition, or to remediate the Hazardous Materials. Further, in the event of such abandonment of construction, the Village shall execute and Owner shall accept a release and abrogation of the Booster Station Easement.

PARAGRAPH 20.

A. Notices: Any and all notices, demands, consents and approvals required under this Agreement shall be sent and deemed received: A) on the third business day after 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, if addressed to the Parties as follows:

- (1) If to the Village or Corporate Authorities:

President and Board of Trustees
VILLAGE OF LOMBARD
255 East Wilson Avenue
Lombard, Illinois 60148

With a copy to:

Village Manager
VILLAGE OF LOMBARD
255 East Wilson Avenue
Lombard, Illinois 60148

Assistant Village Manager
VILLAGE OF LOMBARD
255 East Wilson Avenue
Lombard, Illinois 60148

Thomas P. Bayer, Village Attorney
KLEIN, THORPE AND JENKINS, LTD.
20 North Wacker Drive
Suite 1660
Chicago, Illinois 60606

- (2) If to the Owner:

Mr. Ray Kraft, Elder
Fellowship Reformed Church
1420 S. Meyers Road
Lombard, Illinois 60148
With a copy to:

~~Paul R. Buikema, Esq.
Goldstine, Skrodzki, Russian, Nemecek and Hoff, Ltd.
835 McClintock Drive, Second Floor
Burr Ridge, Illinois 60527
630-655-6900 (Phone)
630-655-9808 (Fax)
prb@gsmh.com~~

Ray Kraft
11/19/09

or to such other address as any Party may from time to time designate in a written notice to the other Parties.

PARAGRAPH 20.

F. Conveyance, Dedication and Donation of Real Estate and Certain Personal Property: Any conveyance, dedication or donation of all or any portion of the Subject Property required of Owner to the Village under this Agreement shall be made in conformance with the following requirements and any other applicable provisions of this Agreement, except that, as to the conveyance of the Booster Station Easement, the provisions of EXHIBIT D shall be controlling to the extent in conflict with the following:

(1) **Fee Simple Title:** The conveyance, dedication or donation shall be of a fee simple title.

(2) **Merchantable Title:** Title shall be good and marketable.

(3) **Form and Contents of conveyance, dedication or donation:** The conveyance, dedication or donation shall be by delivery of a good, sufficient and recordable special warranty deed, plat of dedication or appropriate dedication on a recorded plat of subdivision (the foregoing, the "Conveyance Instrument") of all or a portion of the Subject Property (the "Conveyance Property") and may be subject only to:

(a) covenants, restrictions and easements of record, provided the same do not render the Conveyance Property materially unsuitable for the purposes for which it is being conveyed, dedicated or donated;

(b) terms of this Agreement;

(c) general taxes for the year in which the Conveyance Instrument is delivered or made and for the prior year if the amount of the prior year's taxes is not determinable at the time of delivery of the Conveyance Instrument; (the foregoing (a) through (c) are the "Permitted Exceptions").

(4) **Title Insurance:** Owner shall provide to the Village, not less than ten (10) days prior to the time for delivery of the Conveyance Instrument, a commitment for title insurance (the "Title Commitment") from the Chicago Title Insurance Company or such other title insurance company (the "Title Company") acceptable to the Village as the "grantee" in such Conveyance Instrument. The Title Commitment shall be in usual and customary form subject only to:

(a) the usual and customary standard exceptions 1 through 5 contained therein;

(b) the Permitted Exceptions;

(c) such other title exceptions which are acceptable to the Village, at the Village's sole discretion, which title exceptions when approved by the Village shall become a Permitted Exception.

The Title Commitment shall be in the amount of the fair market value of the Conveyance Property described in the Conveyance Instrument (the "Insured Amount") and shall be dated not

more than twenty (20) days prior to the time for delivery of the Conveyance Instrument. Owner shall further cause to be issued within thirty (30) days after delivery of the Conveyance Instrument an owners title insurance policy in the Insured Amount from the Title Company (the "Owners Policy"), subject only to the Permitted Exceptions stated above.

The cost of the Title Commitment, title later updates and Owners Policy and any other title costs, including but not limited to cost of title endorsements to insure non-Permitted Exceptions, shall be at Owner's expense.

(5) Taxes, Liens, Assessments, Etc.: General taxes and all other taxes, assessments, liens and charges of whatever nature affecting the Conveyance Property shall be paid by the Owner and removed prior to delivery of the Conveyance Instrument. To the extent that any such item cannot be removed prior to delivery of the Conveyance Instrument because the amount of the same cannot then be determined, Owner hereby covenants that it will promptly pay the same upon determination of such amount and that Owner will indemnify, hold harmless and defend the Village against any loss or expense, including but not limited to reasonable attorneys' fees and expenses of litigation, arising as a result of Owner's breach of the foregoing covenant.

(6) Delivery of Conveyance Instrument: To the extent not provided in this Agreement, delivery of the Conveyance Instrument shall occur at a date, time and place mutually agreeable to Owner and the Village, otherwise at a date, time and place set by the Village not less than thirty (30) days nor more than forty-five (45) days after notice thereof is given by the Village to Owner.

**EXHIBIT C
RECIPROCAL ACCESS EASEMENT**

SEE ATTACHED.

PREPARED BY, AND AFTER
RECORDING RETURN TO:
KLEIN THORPE & JENKINS, LTD.
20 North Wacker Drive, Suite 1660
Chicago, IL 60606
Attn: George A. Wagner, Esq. (DM 49-265)

(For Recorder's Office)

RECIPROCAL ACCESS EASEMENT

THIS RECIPROCAL ACCESS EASEMENT (the "**Agreement**") is made as of the Effective Date (as that term is defined in Paragraph 18 hereof) by and between the **FELLOWSHIP REFORMED CHURCH, A NOT-FOR PROFIT CORPORATION** (the "**Church**") and **VILLAGE OF LOMBARD, AN ILLINOIS MUNICIPAL CORPORATION** (the "**Village**").

RECITALS:

A. The Church has constructed on a portion of its land commonly known as 1420 South Meyers Road, Lombard, IL, an asphalt driveway for ingress and egress to access its property (which driveway is off of 14th Street) and which partially falls within the Village's property located at 919 East 14th Street (the "**Driveway**").

B. As the Driveway partly encumbers the Church's and Village's properties, the parties hereby desired to enter into an access easement for ingress and egress to their respective parcels upon the terms and conditions hereinafter set forth.

C. That portion of the Driveway which encumbers the Church's property and is adjacent to the Village's property, is owned in fee by the Church and is legally described in Exhibit A, attached hereto and made a part hereof (the "**Church's Portion of Easement Parcel**").

D. That portion of the Driveway which encumbers the Village's property located adjacent to the Church's Portion of Easement Parcel is legally described in Exhibit B, attached hereto and made a part hereof (the "**Village's Portion of Easement Parcel**"). The Church's Portion of Easement Parcel together with Village's Portion of Easement Parcel are together referred to as "their respective Parcels."

E. The Parties agree to grant to each other a reciprocal easement for access for the use of the Driveway which is located on the Church's Portion of Easement Parcel and Village's Portion of the Easement Parcel (together, the "**Easement Parcel**"), the location of which is shown in Exhibit C, attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the above Recitals, which are hereby incorporated herein, the mutual covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

A G R E E M E N T:

1. **ACCESS EASEMENT.** Church and Village hereby grant to the other a reciprocal non-exclusive ingress and egress easement in, on, over, under and through that portion of the Easement Parcel which is located on the Church's Parcel and legally described in Exhibit A and that portion of the Easement Parcel which is located on the Village's Parcel and legally described in Exhibit B, both as shown on the on Exhibit C, attached hereto and made a part hereof, for vehicular ingress and egress for access to and from their respective Parcels (the "**Access Easement**"). The Parties each covenant and warrant to the other that the Access Easement shall only be used for ingress and egress in, on, over, under and through the Driveway for vehicular access to and from their respective Parcels. The Access Easement is subject to the use in common by both Parties and in a manner, which does not interfere with the use thereof by either Church or Village. Church and Village will not do anything, which obstructs or interferes with ingress or egress in, on, over, under and through the Easement Parcel

2. **MAINTENANCE AND REPAIR OF THE EASEMENT PARCEL.** Each party, at its cost and expense, shall be responsible for reasonably maintaining, repairing, replacing, repaving, and restriping that portion of the Easement Parcel located on its Parcel. Additionally, each Party shall have the right to snow plow the Easement Parcel, at its cost and expense.

3. **CHANGING THE EASEMENT PARCEL.** In the event either Party desires to do any of the following, the Party desiring to do so shall do it at its cost and expense and with the consent of the other Party, provided that the Access Easement is not unreasonably restricted: (i) to relocate, expand, reduce, repair, repave, re-stripe, eliminate or otherwise change the Driveway at or on the Easement Parcel and (ii) to construct or remove signs, landscaping and other improvements on any part of the Easement Parcel.

4. **TRANSFERS.** Neither Party shall assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party.

5. **INSURANCE.** Each Party shall, at its expense, maintain commercial general liability insurance against claims for personal injury, death and property damage, arising out of the acts or omissions of each of their respective officers, partners, tenants, agents and employees with respect to the Access Easement, with a contractual liability endorsement covering Village's and Church's indemnity obligations under this Agreement, and with limits of not less than \$ 1,000,000.00 combined single limit for personal injury, bodily injury or death, or property damage or destruction (including loss of use thereof) per occurrence. Each Party shall be named as an additional insured under such insurance policies on the other Party's insurance policies. All insurance shall be with insurers rated at least A:7 in the current edition of Best's Insurance Guide. Any policy required herein may be maintained under a blanket policy insuring other parties and locations provided the amount of insurance required hereunder is not thereby diminished. Such insurance shall provide that it will not be canceled without at least thirty (30) days' prior written notice to Church and Village, respectively. Each Party shall deliver a certificate of insurance to the other Party on or before the Effective Date of this Agreement. Each Party shall furnish renewal certificates at least ten (10) days prior to expiration of the current insurance certificate to the other Party.

6. **INDEMNIFICATION.** A. Village, its successors or assigns, officers, agents, employees, partners, affiliates and others utilizing the Access Easement by or under Village shall use the Access Easement pursuant to the terms of this Agreement. Village shall indemnify and save Church, its officers, employees and agents from and against any and all claims, actions, damages, liability and expense in connection with the loss of life, personal injury or damage to property arising out of the acts or omissions of Village, its successors or assigns, officers, agents, employees, partners, affiliates or others with respect to the use of the Access Easement.

B. Church, its successors or assigns, officers, agents, employees, partners, affiliates and others utilizing the Access Easement by or under Church shall use the Access Easement pursuant to the terms of this Agreement. Church shall indemnify and save Village, its officers, employees and agents from and against any and all claims, actions, damages, liability and expense in connection with the loss of life, personal injury or damage to property arising out of the acts or omissions of Church, its successors or assigns, officers, agents, employees, partners, affiliates or others with respect to the use of the Access Easement.

7. **NOTICES.** All notices or communications herein required or which a Party desires to give to the other ("notice" or "notices") shall be in writing and sent by (i) registered or certified mail, postage prepaid, return receipt requested, or (ii) nationally recognized overnight courier service which provides a receipt. In either case, notices shall be sent to the following addresses (or such other addresses as the parties may give notice hereunder):

If to the Village : President and Board of Trustees
VILLAGE OF LOMBARD
255 East Wilson Avenue
Lombard, Illinois 60148

With a copy to: Village Manager
VILLAGE OF LOMBARD
255 East Wilson Avenue
Lombard, Illinois 60148

Assistant Village Manager
VILLAGE OF LOMBARD
255 East Wilson Avenue
Lombard, Illinois 60148

Thomas P. Bayer, Village Attorney
KLEIN, THORPE AND JENKINS, LTD.
20 North Wacker Drive
Suite 1660
Chicago, Illinois 60606

If to the Church: Mr. Ray Kraft, Elder
Fellowship Reformed Church
1420 S. Meyers Road
Lombard, Illinois 60148
With a copy to:

With a copy to: Paul R. Buikema, Esq.
Goldstine, Skrodzki, Russian, Nemec and Hoff, Ltd.
835 McClintock Drive, Second Floor
Burr Ridge, Illinois 60527
630-655-6000 (Phone)
630-655-9808 (Fax)
prb@gsmh.com

Notices sent by certified mail shall be effective three (3) business days after mailing. Notices sent by courier shall be effective one (1) business day after delivery to the courier service.

8. **DEFAULT.** If a Defaulting Party fails to pay any amount due hereunder within five (5) days after notice that such amount is not paid, interest shall accrue on the unpaid balance from the due date at a rate equal to three percent (3%) above the "prime rate" of interest as announced from time to time by the Wall Street Journal, calculated as of the due date, or if the Wall Street Journal ceases to announce a prime rate, then the prime rate as established by a similar publication reasonably selected by the non-Defaulting Party (or the highest rate permitted by applicable law, whichever is lower). Such interest shall not be deemed consented to by non-Defaulting Party to late payments, nor a waiver of the non-Defaulting Party's remedies. Also, in the event of a default hereunder by either Party, the recovering Party shall be entitled to recover all costs and expenses reasonably incurred in collecting the unpaid amounts, including without limitation, reasonable attorneys' fees.

No exercise or waiver, in whole or in part, of any right or remedy provided for in this Agreement shall operate as a waiver of any other right or remedy, except as otherwise herein provided. No delay on the part of any Party in the exercise of any right or remedy shall operate as a waiver thereof.

In addition to all remedies which may be available at law, in equity, in this Agreement or otherwise, if either Party fails to comply with any obligation under this Agreement after fifteen (15) days notice by the other Party, specifying the nature of such failure (or if such failure cannot be cured within fifteen (15) days, if the defaulting Party does not commence to cure within 15 days and diligently pursue such cure to completion), the non-Defaulting Party may (but shall not be obligated to) perform all or any part of such obligation and charge the reasonable costs in connection therewith to the Defaulting Party, which the Defaulting Party shall pay forthwith.

9. **LIENS AND REAL ESTATE TAXES.** Each Party covenants to the other that it will not permit any liens to attach to or become an encumbrance on the Easement Parcel. If a Defaulting Party shall fail to cause any such lien to be discharged within ten (10) days after the filing thereof, then in addition to any other right or remedy of the non-Defaulting Party, the non-Defaulting Party may discharge same (by payment, bonding or otherwise) and the amounts incurred by the non-Defaulting Party in connection therewith (including, without limitation, reasonable attorneys' fees) shall be due and payable immediately by the Defaulting Party to the non-Defaulting Party.

If the Defaulting Party does not pay any sums due hereunder within ten (10) days, the non-Defaulting Party shall have a lien on the Defaulting Party's portion of the Easement Parcel for such unpaid amount, together with any interest and costs of collection thereof (including reasonable attorneys' fees). Such lien may be evidenced by an affidavit of the non-Defaulting Party as to the amount thereof recorded of record as a claim of lien against the Defaulting Party in the Office of the Recorder of Deeds of DuPage

County. Such lien shall continue in full force until such sum of money, and any accrued interest thereof and costs, fees and expenses of collection shall have been paid in full. Such lien shall be prior and superior to any right, title, interest, lien or claim which may be or has been acquired or attached to that portion of the Easement Parcel that is on the Non-Defaulting Party's Parcel after the time of recording such lien. Each Party shall be responsible for the real estate taxes levied on their respective Parcel encumbered by the Access Easement.

10. **CONDEMNATION.** In the event of condemnation, other than by the Village, of the land and improvements encumbered by the Access Easement either in whole or in part, by any duly constituted authority for a public or quasi-public use, that portion of the award attributable to the value of the land and improvements within the land and improvements encumbered by the Access Easement so taken, either in whole or in part, shall be payable to the Church and Village as their interest appear and as to that portion of the Easement Parcel on their respective property.

11. **SEVERABILITY.** If any term, provision or condition contained herein shall to any extent be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to parties or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12. **SUCCESSORS AND ASSIGNS.** Except as otherwise expressly provided in this Agreement, this Agreement shall run with the land, until such time as this Agreement and the Access Easement is terminated, both as respects to benefits and burdens created herein and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No other party shall be deemed to be a third party beneficiary hereunder.

13. **GOVERNING LAW.** This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois.

14. **HEADINGS.** Paragraph headings are for convenience only, and in no way define or limit the scope and content of this Agreement or in any way affect its provisions.

15. **MODIFICATION.** This Agreement cannot be changed, modified, waived or discharged orally except by written agreement signed by the Parties hereto.

16. **RECORDING.** This Agreement shall be recorded against both the Church Parcel and Village Parcel, in the Office of the Recorder of Deeds of DuPage County, Illinois and Village shall be responsible for the recording fees.

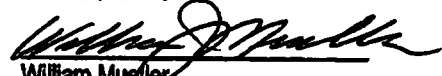
17. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding between the parties concerning the subject matter herein contained. There are no oral promises, conditions, representations, undertakings or terms of any nature as conditions or inducement to be signing of this Agreement which are in effect.

18. **EFFECTIVE DATE.** This Agreement shall be deemed dated and become effective on the date that the Village signs this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

VILLAGE OF LOMBARD,
An Illinois Municipal corporation

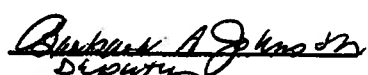
FELLOWSHIP REFORMED CHURCH,
a not-for-profit religious organization

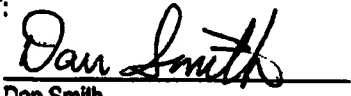
By: 
Name: William Mueller
Title: Mayor

By: 
Name: Ray Kraft
Title: Elder

ATTEST:

ATTEST:

By: 
Name: Deputy
Title: Village Clerk

By: 
Name: Dan Smith
Title: Clerk of Consistory

Dated: 11/20/09

Dated: 11/19/09

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE) ss.

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Ray Kraft and Dan Smith, are personally known to me to be an Elder and Clerk of Consistory respectively of the FELLOWSHIP REFORMED CHURCH, A NOT-FOR PROFIT ORGANIZATION (the "Church") and are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Elder and Clerk of Consistory respectively, and that they appeared before me this day in person and severally acknowledged that as such Elder and Clerk of Consistory they signed and delivered the said instrument, pursuant to authority given by the Consistory of said Church as their free and voluntary act, and as the free and voluntary act and deed of said Church, for the uses and purposes therein set forth, and the said Clerk of Consistory then and there acknowledged that said Clerk of Consistory as custodian of the seal of said Church caused said seal to be affixed to said instrument as said Clerk of Consistory's own free and voluntary act and as the free and voluntary act of said Church, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal this ____ day of _____, 2010.

Notary Public:

Commission Expiry Date

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE) ss.

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that WILLIAM J. MUELLER and BRIGITTE O'BRIEN , are personally known to me to be the Village Mayor and the Village Clerk of the VILLAGE OF LOMBARD, an Illinois Municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Village Mayor and Village Clerk, they signed and delivered the said instrument, pursuant to authority given by the Board of Trustees of said municipal corporation, and as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of _____, 2010.

Notary Public

My Commission Expires:

**EXHIBIT A
LEGAL DESCRIPTION OF CHURCH'S PORTION OF EASEMENT PARCEL**

THAT PORTION OF LOT 1 IN LOMBARD FELLOWSHIP CHURCH RESUBDIVISION, BEING A RESUBDIVISION IN SECTION 21, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 16, 2009 AS DOCUMENT NUMBER R2009-091934, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY EAST CORNER OF LOT 1 AFORESAID (ALSO BEING THE NORTHWEST CORNER OF LOT 2 IN LOMBARD FELLOWSHIP CHURCH RESUBDIVISION AFORESAID), AND RUNNING THENCE SOUTH 03 DEGREES 04 MINUTES 32 SECONDS WEST ALONG THE MOST NORTHERLY EAST LINE OF SAID LOT 1 A DISTANCE OF 98.00 FEET TO A POINT ON THE MOST SOUTHERLY NORTH LINE OF SAID LOT 1 (ALSO BEING THE SOUTH LINE OF LOT 2 AFORESAID); THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG WESTERLY PROLONGATION OF THE FORESAID MOST SOUTHERLY NORTH LINE OF LOT 1 A DISTANCE OF 4.72 FEET; THENCE NORTH 03 DEGREES 01 MINUTES 24 SECONDS WEST ALONG A WESTERLY LINE OF AN EXISTING ASPHALT DRIVEWAY, 64.55 FEET; THENCE NORTH 04 DEGREES 18 MINUTES 25 SECONDS WEST 27.32 FEET ALONG A WESTERLY LINE OF AN EXISTING ASPHALT DRIVEWAY; THENCE NORTH 11 DEGREES 46 MINUTES 43 SECONDS WEST ALONG A WESTERLY LINE OF AN EXISTING ASPHALT DRIVEWAY TO A POINT ON THE MOST NORTHERLY LINE OF LOT 1 AFORESAID; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID NORTHERLY LINE A DISTANCE OF 6.21 FEET TO THE POINT OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS. CONTAINING 473.04 SQ. FEET , 0.01 AC MORE OR LESS

PART OF PIN: 06-21-111-003

**EXHIBIT B
LEGAL DESCRIPTION OF VILLAGE'S PORTION OF EASEMENT PARCEL**

THAT PORTION OF LOT 2 IN LOMBARD FELLOWSHIP CHURCH RESUBDIVISION, BEING A RESUBDIVISION IN SECTION 21, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 16, 2009 AS DOCUMENT NO. R2009-091934, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 2 AFORESAID (ALSO BEING THE MOST NORTHERLY EAST CORNER OF LOT 1 IN LOMBARD FELLOWSHIP CHURCH RESUBDIVISION AFORESAID), AND RUNNING THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF LOT 2 A DISTANCE OF 11.13 FEET; THENCE SOUTH 03 DEGREES 02 MINUTES 49 SECONDS EAST, 32.77 FEET ALONG AN EASTERLY LINE OF AN EXISTING ASPHALT DRIVEWAY; THENCE SOUTH 03 DEGREES 30 MINUTES 24 SECONDS EAST, 65.25 FEET ALONG AN EASTERLY LINE OF SAID EXISTING ASPHALT DRIVEWAY TO A POINT ON THE SOUTH LINE OF LOT 2 AFORESAID; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE AFORESAID SOUTH LINE OF LOT 2 A DISTANCE OF 12.31 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 03 DEGREES 04 MINUTES 32 SECONDS WEST ALONG THE WESTERLY LINE OF SAID LOT 2 A DISTANCE OF 98.00 FEET TO THE POINT OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS. Containing 1,172.61 SQ. FT., 0.03 ac more or less.

PIN: PART OF 06-21-111-003

**EXHIBIT C
DEPICTION OF THE LOCATION OF THE EASEMENT PARCEL**

SEE ATTACHED

DETAIL OF DRIVEWAY AREA

