

# KENDALL COUNTY FOREST PRESERVE DISTRICT

## MEETING AGENDA

TUESDAY, FEBRUARY 15, 2022

9:00 AM

### KENDALL COUNTY OFFICE BUILDING - ROOMS 209 & 210

- I. Call to Order
- II. Pledge of Allegiance
- III. Invocation
- IV. Roll Call
- V. Approval of Agenda
- VI. Public Comments
- \*CONSENT AGENDA\***
- VII. Approval of Minutes
  - Kendall County Forest Preserve District Finance Committee Meeting of January 27, 2022
  - Kendall County Forest Preserve District Commission Meeting of February 1, 2022
- VIII. \*Approval of Claims in the Amount of \$26,590.37
- IX. **\*MOTION:** Approval of Intergovernmental License Agreement #22-02-002 between the Kendall County Forest Preserve District and Grundy-Kendall Regional Office Extending Use of the Kendall County Outdoor Education Center Building and Grounds at Hoover Forest Preserve through May 17, 2027
- X. **\*MOTION:** Approval of Farm License Agreement #22-02-003 with Albert Collins, Jr. for the Lease of 51.5 Acres of District Property at Henneberry Forest Preserve for a Total Amount of \$7,725.00 for Base Rent
- XI. **\*MOTION:** Approval of Farm License Agreement #22-02-004 with Mark and Tom Mathre for the Lease of 157.31 Acres of District Property at Millbrook North; 118.58 Acres at Millbrook South, and 127.41 Acres at Millington Forest Preserve for a Total Amount of \$87,956.50 for Base Rent, Including a \$0.01 per Bushel Surcharge for Grain Dryer Use, Utility Bill Reimbursement, Plus a Calculated Yield Payment
- XII. **\*MOTION:** Approval of Farm License Agreement #22-02-005 with Tom Anderson of Somonauk, Illinois for the Lease of 6.25 Acres of District Property at Little Rock Creek Forest Preserve for a Total Amount of \$625.00 for Base Rent
- XIII. **\*MOTION:** Approval of Farm License Agreement #22-02-006 with Chris and Maurice Ormiston of Ottawa, Illinois for the Lease of 3.75 Acres of District Property at Henneberry Forest Preserve for a Total Amount of \$375.00 for Base Rent
- XIV. **\*MOTION:** Approval of Farm License Agreement #22-02-007 with Kyle Connell of Morris, Illinois for the Lease of 106.7 Acres of Property at Baker Woods Forest Preserve for a Total Amount of \$24,997.80, Plus a Calculated Yield Payment
- XV. **\*MOTION:** Approval of a Forest Preserve Grounds and Projects Manager Position Description
- XVI. **\*MOTION:** Approval of a Proposal from Scott Kobal of Wheaton, Illinois for the Completion of Floristic Quality Survey of Lyon and Richard Young Forest Preserves for a total Amount Not-to-Exceed \$3,500.00
- OLD BUSINESS**
- XVII. **\*MOTION:** Approval of a Professional Services Contract with Upland Design, LTD. of Plainfield, Illinois for Landscape Architectural Services including Design, Development of Bid Documents, and Construction Observation for a Public Access Improvements Project at Fox River Bluffs Forest Preserve, to be Completed as Part of an IDNR-2018 Regional Trails Program Grant Award, in the Amount of \$28,800.00 Plus Reimbursable Expenses Not-to-Exceed \$1,200.00
- NEW BUSINESS**
- XVIII. **\*MOTION:** Approval of a 1-Year Reciprocal Access and Designated Trail License Agreement at Millington Forest Preserve and Brighter Daze Farm between the Kendall County Forest Preserve District and Robert Bright, as Trustee of the Madison Trust and Castle Bank, N/A
- XIX. Public Comments
- XX. Executive Session
- XXI. Other Items of Business
- XXII. Adjournment

(\* Requires affirmative vote of the majority of those elected (6) for passage (KCFPD Rules of Order Section I.G.2.b.v.a)

**KENDALL COUNTY FOREST PRESERVE DISTRICT  
FINANCE COMMITTEE MEETING MINUTES  
JANUARY 27, 2022**

**I. Call to Order**

Chairman Gengler called the meeting to order at 4:01 pm in the Kendall County Administration Building, rooms 209 and 210.

**II. Roll Call**

X	Cesich		Gryder
	DeBolt	X	Kellogg (entered meeting at 4:54 pm)
	Flowers		Koukol
X	Gengler		Rodriguez
X	Gilmour	X	Vickers

Commissioners Cesich, Gengler, Vickers, and Gilmour were all present.

Commissioner Kellogg entered the meeting at 4:54 pm.

**III. Approval of Agenda**

Commissioner Cesich made a motion to approve the meeting agenda as presented. Seconded by Commissioner Gilmour. Aye, all. Opposed, none.

**IV. Public Comments**

No public comments were offered from citizens present.

**V. Motion to Forward Claims to Commission for Approval**

Commissioner Vickers made a motion to forward claims to Commission. Seconded by Commissioner Gilmour. Aye, all. Opposed, none.

**VI. Review of Financial Statements through December 31, 2021**

**a) Land Cash Fund 1910 Discussion – Capital Fund 1907 Reimbursement Transfer**

Director Guritz presented an overview on the financial statements through December 31, 2021.

The Finance Committee discussed a Capital Fund 1907 reimbursement of funds transferred to the District’s Land Cash Fund in FY21. The total amount transferred was \$52,700 that will be scheduled for transfer either through budget amendment in FY22, or scheduled within the FY23 budget.

**VII. Updated Capital Fund Cash Flow Analysis – FY22-FY23**

Director Guritz presented an updated Capital Fund cash flow analysis for FY22 to FY23 for discussion and review.

Director Guritz reported that the District will need to get reimbursed for 50% of the IDNR-PARC grant in order to have sufficient cash on hand to front the costs for the Fox River Bluffs 2018 RTP grant project. Both projects will need to be completed by fall 2023.

**VIII. Pickerill-Pigott Estate House Construction Project Management**

- a) **Estimated Project Contingencies and Authority to Approve Contingency Expenditures**
- b) **Finance and Operations Committee Proposed Reassignments (Commissioners Cesich and DeBolt)**

Commissioner Gengler made a motion to forward the estimated project contingencies and authority to approve contingency expenditures to Committee of the Whole for discussion. Seconded by Commissioner Cesich. Aye, all. Opposed, none.

Commissioner Vickers made a motion to forward the proposed Finance and Operation Committee reassignments to Operations for discussion. Seconded by Commissioner Gilmour. Aye, all. Opposed, none.

**IX. Proposed FY 2022 Farm License Agreements and Status of FY21 Yield Payments**

Director Guritz presented the draft contract terms for the FY22 Farm License agreements and reported on the status of the FY21 yield payments. The District received \$39,888.14 in FY22 for FY21 yield payments, primarily due to favorable pricing and yields at Millbrook North and South and Millington Forest Preserves (Mathre).

**X. Reservation Woods Restoration Clearing Proposals and Recommendations (ICECF Grant Funded Project)**

Director Guritz presented restoration clearing proposals that will be funded by the Illinois Clean Energy Community Foundation land acquisition grant. Commissioner Gengler made a motion to forward the Reservation Woods restoration clearing proposals to Commission for approval. Seconded by Commissioner Cesich. Aye, all. Opposed, none.

**XI. Other Items of Business**

**a) Contract Reviews**

- 1. **Millington Forest Preserve Reciprocal Access Agreement**
- 2. **Upland Design, LTD. Professional Services (Fox River Bluffs RTP Grant)**
- 3. **Pickerill-Pigott Forest Preserve Bid Specifications**

**b) Natural Beginnings Registration Updates**

**c) FY21 Audit Updates and End-of-Year Accruals**

- 1. **ARPA Project Funding – D. Construction Trail Improvements and Personnel Costs**
- 2. **Facility Rental Deposits**
- 3. **FY21 Farm License Yield Payments**
- 4. **Natural Beginnings 21-22 Program Year – Prepaid Tuition**
- 5. **FY21 Accrued Expenditures**

The Finance Committee discussed the Upland Design contract. The State's Attorney's Office's recommendations will need to be discussed along with Upland Design's requested changes at the Committee of the Whole meeting prior to presenting the contract to Commission for approval

Commissioner Gengler made a motion to forward the Upland Design, LTD, contract to the Committee of the Whole for discussion. Seconded by Commissioner Vickers. Aye, all. Opposed, none.

The Natural Beginnings 22-23 program registration is nearly full, which is significantly ahead of schedule over prior years.

The Finance Committee reviewed end-of-year accrual adjustments and surplus estimates, with a projected fund balance net gain from operations of over \$80,000.

**XII. Public Comments**

No public comments were offered from citizens in attendance.

**XIII. Executive Session**

None.

**XIV. Adjournment**

Commissioner Cesich made a motion to adjourn. Seconded by Commissioner Vickers. Aye, all. Opposed, none.

Meeting adjourned at 5:03 pm.

Respectfully submitted,

David Guritz  
Director, Kendall County Forest Preserve District

**KENDALL COUNTY FOREST PRESERVE DISTRICT  
COMMISSION MEETING MINUTES  
FEBRUARY 1, 2022**

**I. Call to Order**

President Gilmour called the meeting to order at 6:00 pm in the Kendall County Office Building - Second Floor Board Rooms 209 and 210.

**II. Pledge of Allegiance**

All present recited the Pledge of Allegiance at the start of the meeting.

**III. Invocation**

An invocation was offered by Commissioner Gengler at the start of the meeting.

**IV. Roll Call**

	Cesich	X	Gryder
X	DeBolt	X	Kellogg
	Flowers	X	Koukol
X	Gengler	X	Rodriguez
X	Gilmour	X	Vickers

Roll call: Commissioners DeBolt, Gengler, Gryder, Kellogg, Koukol, Rodriguez, Vickers, and Gilmour were all present.

**V. Approval of Agenda**

Commissioner Gryder made a motion to approve the Commission meeting agenda with Item XI – Professional Service Contract with Upland Design removed from the agenda. Seconded by Commissioner Koukol. Aye, all. Opposed, none.

**VI. Public Comment**

No public comments were offered from citizens in attendance.

**CONSENT AGENDA**

**VII. Approval of Minutes**

- Kendall County Forest Preserve District Committee of the Whole Meeting of January 11, 2022
- Kendall County Forest Preserve District Commission Meeting January 18, 2022

**VIII. Approval of Claims in the Amount of \$22,259.15**

**IX. MOTION: Approval of a Proposal from SemperFi Land, Inc. for 6-Days of Grant-Funded Restoration Clearing at the District’s Reservation Woods Parcels for an Amount Not-to-Exceed \$10,052.10 Plus Reimbursable Expenses Not-to-Exceed \$300.00 (ICECF Acquisition Grant and Landscape Scale Restoration Grant)**

Commissioner Gryder made a motion to approve the Consent Agenda as presented. Seconded by Commissioner Gengler.

Motion: Commissioner Gryder Second: Commissioner Gengler					
<b>Roll call: Consent Agenda</b>					
<b>Commissioner</b>	<b>Aye</b>	<b>Opposed</b>	<b>Commissioner</b>	<b>Aye</b>	<b>Opposed</b>
Cesich			Gryder	X	
DeBolt	X		Kellogg	X	
Flowers			Koukol	X	
Gengler	X		Rodriguez	X	
Gilmour	X		Vickers	X	
Motion unanimously approved.					

Roll call: Commissioners DeBolt, Gengler, Kellogg, Koukol, Rodriguez, Vickers, and Gilmour, aye. Opposed, none. Motion unanimously approved.

**OLD BUSINESS**

*No items posted for consideration.*

**NEW BUSINESS**

**X. ORDINANCE NO. 22-02-001: Approval of an Ordinance Adopting a Whistleblower Reporting and Anti-Retaliation Policy**

Commissioner Kellogg made a motion to approve Ordinance #22-02-001. Seconded by Commissioner Gryder.

Motion: Commissioner Kellogg Second: Commissioner Gryder					
<b>Roll call: Ordinance #22-02-001 – Whistleblower Policy</b>					
<b>Commissioner</b>	<b>Aye</b>	<b>Opposed</b>	<b>Commissioner</b>	<b>Aye</b>	<b>Opposed</b>
Cesich			Gryder	X	
DeBolt	X		Kellogg	X	
Flowers			Koukol	X	
Gengler	X		Rodriguez	X	
Gilmour	X		Vickers	X	
Motion unanimously approved.					

Roll call: Commissioners DeBolt, Gengler, Gryder, Kellogg, Koukol, Rodriguez, Vickers, and Gilmour, aye. Opposed, none. Motion unanimously approved.

**XI. MOTION: Approval of a Professional Services Contract with Upland Design, LTD. Of Plainfield, Illinois for Landscape Architectural Services including Design, Development of Bid Documents, and Construction Observation for a Public Access Improvements Project at Fox River Bluffs Forest Preserve, to be Completed as Part of an IDNR-2018 Regional Trails Program Grant Award, in the Amount of \$28,800.00 Plus Reimbursable Expenses Not-to-Exceed \$1,200.00**

Item removed from consideration on the agenda.

**XII. MOTION: Approval of the Reassignment of Commissioner Amy Cesich from the Kendall County Forest Preserve District’s Finance Committee to the Operations Committee, with the Concurrent Reassignment of Commissioner Brian DeBolt from the Kendall County Forest Preserve District’s Operations Committee to the Finance Committee**

Commissioner Kellogg made a motion to approve the reassignment of Commissioner Amy Cesich to the Kendall County Forest Preserve District’s Operations Committee, with the concurrent reassignment of Commissioner DeBolt to the Kendall County Forest Preserve District’s Finance Committee. Seconded by Commissioner Rodriguez.

Motion: Commissioner Kellogg					
Second: Commissioner Rodriguez					
<b>Roll call: Committee Reassignments – Cesich and DeBolt</b>					
<b>Commissioner</b>	<b>Aye</b>	<b>Opposed</b>	<b>Commissioner</b>	<b>Aye</b>	<b>Opposed</b>
Cesich			Gryder	X	
DeBolt	X		Kellogg	X	
Flowers			Koukol	X	
Gengler	X		Rodriguez	X	
Gilmour	X		Vickers	X	
Motion unanimously approved.					

Roll call: Commissioners DeBolt, Gengler, Gryder, Kellogg, Koukol, Rodriguez, Vickers, and Gilmour, aye. Opposed, none. Motion unanimously approved.

**XIII. Public Comments**

No public comments were offered from citizens present.

**XIV. Executive Session**

None.

**XV. Other Items of Business**

None.

**XVI. Adjournment**

Commissioner Gryder made a motion to adjourn. Seconded by Commissioner DeBolt. Aye, all. Opposed, none. Meeting adjourned at 6:06 pm.

Respectfully submitted,

David Guritz  
Director, Kendall County Forest Preserve District



# Claims Listing

2/9/2022 3:27:41 PM

Department	Vendor #	Vendor Name	Invoice #	Invoice Description	GL Account	Description	Invoice Amount
Ellis Birthday Parties	51	SYNCB/AMAZON	1NT7-QCM9-1FQP	Ellis bday supplies-Horseshoe craft	19001165	63030 Program Supplies	\$89.99
						<b>Sub-Total</b>	<b>\$89.99</b>
					<b>Ellis Birthday Parties</b>	<b>Total</b>	<b>\$89.99</b>
Ellis House	541	FIRST NATIONAL BANK OF OMAHA	3583021522	Guritz Credit Card	19001160	62270 Utilities	\$166.16
						<b>Sub-Total</b>	<b>\$166.16</b>
					<b>Ellis House</b>	<b>Total</b>	<b>\$166.16</b>
Ellis Riding Lessons	541	FIRST NATIONAL BANK OF OMAHA	3583021522	Guritz Credit Card	19001164	63000 Animal Care & Supplies	\$1,331.93
	1060	JOHN DEERE FINANCIAL	1113-41567021522	Soap, Windshield washer, pet food bowl-Ellis Anima	19001164	63000 Animal Care & Supplies	\$24.54
						<b>Sub-Total</b>	<b>\$1,356.47</b>
					<b>Ellis Riding Lessons</b>	<b>Total</b>	<b>\$1,356.47</b>
Ellis Weddings	3131	GROOT INC	8342848T102	Groot Waste Management Services	19001168	63070 Refuse Pickup	\$104.55
						<b>Sub-Total</b>	<b>\$104.55</b>
					<b>Ellis Weddings</b>	<b>Total</b>	<b>\$104.55</b>

Environ. Educ. Laws of Nature	51	SYNCB/AMAZON	1GXW-W1QF-K3NX	Animal Care and NB Supplies	19001180 63030	Program Supplies	\$53.02
						<b>Sub-Total</b>	<b>\$53.02</b>
					<b>Environ. Educ. Laws of Nature</b>	<b>Total</b>	<b>\$53.02</b>
Environ. Educ. Other Pblc Prg	51	SYNCB/AMAZON	1HXN-T9C7-GVRJ	Kids Masks-Public Use	19001179 63030	Program Supplies	\$29.74
						<b>Sub-Total</b>	<b>\$29.74</b>
					<b>Environ. Educ. Other Pblc Prg</b>	<b>Total</b>	<b>\$29.74</b>
Environmental Educ. Natrl Beg.	51	SYNCB/AMAZON	1GXW-W1QF-K3NX	Animal Care and NB Supplies	19001178 63030	Program Supplies	\$146.18
	1950	YORKVILLE ACE & RADIO SHACK	400515021522	Oil, propane, matches, keys	19001178 63030	Program Supplies	\$225.92
						<b>Sub-Total</b>	<b>\$372.10</b>
					<b>Environmental Educ. Natrl Beg.</b>	<b>Total</b>	<b>\$372.10</b>
Forest Preserve Director	541	FIRST NATIONAL BANK OF OMAHA	3583021522	Guritz Credit Card	190011 62000	Office Supplies	\$222.83
	1304	MARCO TECHNOLOGIES, LLC	464481266F	Copier Monthly	190011 62000	Office Supplies	\$133.76
						<b>Sub-Total</b>	<b>\$356.59</b>

Forest Preserve Director		WIGHT & COMPANY	210143-002	Professional Services	190411	62150	Contractual Services	\$8,862.08
3262							<b>Sub-Total</b>	<b>\$8,862.08</b>
2047	COMED	09270071630215 22	ComEd Richard Young	190011	63510		Electric	\$23.07
2047	COMED	55147100050215 22	ComEd Harris Arena	190011	63510		Electric	\$29.33
2047	COMED	55147110020215 22	ComEd Harris	190011	63510		Electric	\$132.41
							<b>Sub-Total</b>	<b>\$184.81</b>
1323	MENARDS	34479	Pickerrill House Supplies	190711	66500		Miscellaneous Expense	\$28.96
1605	RIEMENSCHNEIDER ELECTRIC	12846	Repairs at Ellis	190711	66500		Miscellaneous Expense	\$349.65
							<b>Sub-Total</b>	<b>\$378.61</b>
1665	SHAW MEDIA	10085118021522	Website Hosting	190011	68430		Marketing / Publicity	\$59.99
							<b>Sub-Total</b>	<b>\$59.99</b>
1535	PIZZO & ASSOC, LTD	26466	Millbrook South Clearing	190711	68610		Morton Arboretum Landscape	\$8,680.00
							<b>Sub-Total</b>	<b>\$8,680.00</b>
							<b>Forest Preserve Director Total</b>	<b>\$18,522.08</b>
506	ELBURN NAPA, INC.	226510453	NAPA Grounds Equipment	19001183	62160		Equipment	\$316.26
1060	JOHN DEERE FINANCIAL	1113-29745021522	Grounds Shop and Equipment Supplies	19001183	62160		Equipment	\$674.66

1950	YORKVILLE ACE & RADIO SHACK	400515021522	Oil, propane, matches, keys	19001183	62160	Equipment	\$19.99
3485	DUTEK HOSE CENTER	1016124	Bobcat Repair part	19001183	62160	Equipment	\$83.00
						<b>Sub-Total</b>	<b>\$1,093.91</b>
1153	KENDALL CO HIGHWAY DEPT	021522	Fuel Jan 2022	19001183	62180	Gasoline / Fuel / Oil	\$899.34
						<b>Sub-Total</b>	<b>\$899.34</b>
1655	SERVICE SANITATION, INC	50- 493234021522	Portable Restroom Services	19001183	63070	Refuse Pickup	\$242.50
3131	GROOT INC	8342848T102	Groot Waste Management Services	19001183	63070	Refuse Pickup	\$444.06
						<b>Sub-Total</b>	<b>\$686.56</b>
1060	JOHN DEERE FINANCIAL	1113- 29745021522	Grounds Shop and Equipment Supplies	19001183	63110	Shop Supplies	\$49.98
1323	MENARDS	34003	Valves, Towels, Pipes, caps	19001183	63110	Shop Supplies	\$47.82
1950	YORKVILLE ACE & RADIO SHACK	400515021522	Oil, propane, matches, keys	19001183	63110	Shop Supplies	\$19.93
						<b>Sub-Total</b>	<b>\$117.73</b>
1849	VERIZON	34203482102152 2	Cell phones	19001183	63540	Telephones	\$683.08
2225	AIR WANS WIRELESS BROADBAND	171921	Ellis Internet	19001183	63540	Telephones	\$74.95
						<b>Sub-Total</b>	<b>\$758.03</b>
						<b>Grounds and Natural Resources</b>	<b>Total</b>
							<b>\$3,555.57</b>

<b>Hoover</b>										
2047	COMED	07560810170215 22	ComEd Hoover Bathhouse	19001171	63100	Electric				\$654.33
2047	COMED	19380210810215 22	ComEd Hoover Residence	19001171	63100	Electric				\$202.85
						<b>Sub-Total</b>				<b>\$857.18</b>
51	SYNCB/AMAZON	1WC4-G3GM- L67V	First Aid Kit Supplies	19001171	63110	Shop Supplies				\$48.20
1323	MENARDS	33929	Hoover Shop & Building Supplies	19001171	63110	Shop Supplies				\$25.32
						<b>Sub-Total</b>				<b>\$73.52</b>
1323	MENARDS	33929	Hoover Shop & Building Supplies	19001171	63120	Building Maintenance				\$105.42
						<b>Sub-Total</b>				<b>\$105.42</b>
					<b>Hoover</b>	<b>Total</b>				<b>\$1,036.12</b>
<b>Pickerill - Pigott</b>										
2047	COMED	55142280110215 22	ComEd Pickerill House	19001184	63100	Electric				\$1,290.73
2047	COMED	55142290270215 22	ComEd Pickerill	19001184	63100	Electric				\$13.84
						<b>Sub-Total</b>				<b>\$1,304.57</b>
					<b>Pickerill - Pigott</b>	<b>Total</b>				<b>\$1,304.57</b>
						<b>Grand Total</b>				<b>\$26,590.37</b>

Kendall County Forest Preserve District  
Intergovernmental License Agreement  
#22-02-002

**THIS AGREEMENT** is effective as of the 17<sup>TH</sup> day of May, 2022 by and between the Kendall County Forest Preserve District, an Illinois unit of local government and a political subdivision, with its principal office at 110 West Madison Street, Yorkville, Illinois 60560 (hereinafter “District”) and the Grundy / Kendall Regional Office of Education, with its principal office at 109 West Ridge Street Yorkville, Illinois 60560 (“Licensee”).

**WITNESSETH:**

**WHEREAS**, the District owns approximately 348 acres of land commonly known as Hoover Forest Preserve as described on Exhibit A attached hereto; and

**WHEREAS**, for the purpose of this Agreement, both the land owned by the District, and the land licensed by the District will be collectively referred to as the “Land;” and

**WHEREAS**, the Licensee has administered an education cooperative known as the Kendall County Outdoor Education Center (KCOEC) at Hoover Forest Preserve from 2007 to present that provides students, adults, and families the opportunity to participate within experiential learning activities in an outdoor setting; and

**WHEREAS**, the Licensee will be permitted to continue to utilize the Land for the purposes of operating the KCOEC pursuant to the terms and conditions hereof, and the District has the authority to enter into both intergovernmental agreements and license agreements for use of forest preserve lands and facilities under the provisions of the Illinois Downstate Forest Preserve District Act; and

**WHEREAS**, the Licensee will be permitted to utilize the Land for the purposes of operating the KCOEC pursuant to the terms and conditions hereof.

**NOW, THEREFORE**, in consideration of the recitals set forth above and the mutual covenants and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

**SECTION 1. RECITALS.** The recitals set forth above are by this reference incorporated into, and made part of this Agreement.

**SECTION 2. LICENSE GRANTED – TERM.** The District hereby grants to the Licensee, and the Licensee hereby accepts from the District, a license (“License”) to use a portion of the Land (“Subject Property”) for a term of five (5) years beginning on May 17<sup>th</sup> 2022. This agreement shall be the only agreement between the District and Licensee. Any and all previous agreements, written or verbal, shall be considered null and void. The term of this license may be extended for an additional five (5) year term with approval by the District’s Board of Commissioners.

**SECTION 3. USE OF THE PREMISES.** The Licensee is permitted to conduct experiential education programming utilizing the building(s) and grounds located within the Subject Property as shown in Exhibit A – License Agreement Map. The District and the Licensee shall work cooperatively to schedule use of areas and facilities outside of the Subject Property boundaries within Hoover Forest Preserve on which the Licensee will operate the KCOEC. Use of the Subject Property may not be exclusive to the Licensee. Licensee shall use the Subject Property to operate the KCOEC in a manner consistent with the typical uses of an outdoor education center. Such uses include, but are not limited to education programs for students, family programs, scout programs, summer camp programming, and team-building programs. Licensee shall not use, or permit the Subject Property or the Land to be used for any unlawful purpose or in any manner that will unreasonably disturb neighbors or adjoining natural areas. Licensed use of the Subject Property and Hoover Forest Preserve shall comply at all times with the District’s General Use Ordinance.

**SECTION 4. CONDITION OF THE PREMISES.** The Subject Property will be accepted by the Licensee “as is.” The District disclaims any express or implied warranties regarding the condition on the Land or facilities licensed for use by the KCOEC.

**SECTION 5. UTILITIES AND OTHER CHARGES.** Licensee shall be responsible for payment of all utility costs and other charges, including without limitation gas, electric, water, telephone, sewer, septic, garbage collection, and all other fees associated with the use of the Subject Property by the Licensee for the term of this Agreement. District and Licensee agree that certain utilities and charges may be shared. In those cases, the costs will be paid by each party on a prorated basis.

**SECTION 6. EXPENSES.** All of the expenses related to the Licensee’s use of the Subject Property under this agreement shall be the responsibility of the Licensee, excluding the District’s obligations as expressly stated hereunder.

**SECTION 7. MANAGEMENT AND OPERATION.**

- A. Licensee and those utilizing the Subject Property and the Land through the programs and events of the Licensee shall follow and adhere to the General Use Ordinance of the District.
- B. Licensee shall keep the Subject Property and the Land clean and free of any litter and debris brought about by the programs and events of the KCOEC.
- C. The District shall be responsible for tree maintenance and snow removal within the Subject Property. The Licensee shall be responsible for maintaining trails, trimming, and mowing within the Subject Property.
- D. The Licensee is responsible for ensuring that the Subject Property meets all applicable safety and building codes, including conducting an annual inspection and certification of Licensee's challenge course operations and elements.
- E. Licensee shall repair and/or replace as needed any items and facilities on the Subject Property that become worn beyond reasonable wear and tear, damaged, or are in a state of disrepair so as to cause a risk of injury or damage to persons or property. This includes completing maintenance and repairs as needed to the office and classroom facility. Any hazard shall be immediately repaired, or public access restricted, to insure the safety of the public.
- F. Licensee shall not use the Subject Property to stockpile materials such as, but not limited to, topsoil, woodchips, gravel, and lumber, unless the materials are part of an ongoing improvement project.
- G. The District retains the right of review and approval for any and all applications of pesticides, fertilizers, or other chemicals onto the Land. Pesticides, fertilizers, or other chemicals used by the Licensee on the Subject Property shall be used in accordance with label directions and applied only by Operators and Applicators licensed by the Illinois Department of Agriculture. Care shall be taken by the Licensee to prevent drift or movement of any pesticide, fertilizer or other chemical onto the Land.

**SECTION 8. CONSTRUCTION.**

- A. Licensee, as part of this Agreement, shall have permission to develop and construct certain facilities consistent with the uses of an outdoor education center. Such facilities must be approved in writing by the District prior to construction. The District shall give notice of such approval, or disapproval, within ninety (90) days of receiving the request. Such approvals shall not be unreasonably withheld.
- B. Licensee shall provide copies of as-built drawings and documents for all improvements made to the Subject Property. The Licensee shall be responsible for ensuring that any construction activities do not substantially conflict with activities of the District and other users of the property.



**SECTION 9. UNIFORM STANDARDS.** The Licensee agrees to implement the design standards of the District regarding architectural standards, signage, lighting, site furnishings, and other aesthetic material in order to maintain a uniform appearance throughout the Land.

**SECTION 10. PROTECTION OF NATURAL RESOURCES.** The Licensee acknowledges that the Land contains significant and valuable natural resources including wetlands, prairies, woodlands, waterways, flora and fauna. The Licensee shall make the protection of these natural resources foremost in the planning, development, maintenance, and use of the Subject Property and the Land. The Licensee shall utilize best construction practices and best management practices in the planning, development, maintenance, and use of the Subject Property and the Land to minimize, as much as is reasonably necessary, any harm or negative impact on the natural areas or scenic beauty of the Subject Property and the Land.

**SECTION 11. HAZARDOUS MATERIALS.** From and after the effective date hereof, Licensee (a) shall refrain from violating any federal, state, and local laws, ordinances, rules and regulations that prohibit, restrict or regulate any material defined therein as a hazardous, radioactive, toxic, or carcinogenic material, substance, pollutant, or contaminant ("Hazardous Materials") in the use of the Subject Property and the Land; and (b) shall not, and shall not permit its guests, invitees or agents, to handle, bury, store, retain, refine, produce, spill, allow to seep, leak, escape or leach, pump, pour, emit, empty, discharge, inject, dump, transfer, or otherwise dispose of or deal with Hazardous Materials in, on, under, or about the Subject Property and the Land.

**SECTION 12. LIMITATION OF LIABILITY; ASSUMPTION OF RISK; INDEMNIFICATION.**

- A. Except as required by Illinois law, the District shall not be liable or responsible to Licensee for any damage of any kind or nature whatsoever that arises from or relates in any way to Licensee's use of the Subject Property and the Land, except for those damages arising from or caused by the willful and wanton misconduct of the District. Licensee shall notify the District in writing of any significant condition of the Subject Property or the Land that may cause bodily injury or property damage, but such notification shall not constitute transfer of any liability from the Licensee to the District.
- B. Licensee shall hold harmless, indemnify and defend the District its commissioners, officers, agents, attorneys and employees against any and all losses, expenses, claims costs, causes and damages, including without limitation litigation costs and attorneys' fees resulting or alleged to result from (a) any failure on the part of Licensee to perform or comply with any terms or conditions of this Agreement which failure extends beyond any applicable cure period, or (b) any personal injuries or death or damages to property arising from or relating in any way to the use of the

Subject Property and the Land by Licensee, or its employees, contractors, guests, invitees, or agents, including any injuries, death or damages arising from their respective acts or omissions. The provisions and obligations of this Section shall survive this Agreement and the License granted herein and shall be in addition to, and shall not be limited by, the amounts of any insurance provided by Licensee pursuant to this agreement.

- C. Except as required by Illinois law, the Licensee shall not be liable or responsible to the District for any damage occasioned by the District's failure to keep the Subject Property and the Land in good repair, and the Licensee shall not be liable to the District for any damage of any kind or nature whatsoever that arises from or relates in any way to the District's use of the Subject Property and the Land, except for those damages arising from or caused by the willful and wanton misconduct of the Licensee. The District shall notify in writing of any condition of the Subject Property and the Land that may cause bodily injury or property damage, but such notification shall not constitute transfer of any liability from the District to the Licensee.
- D. The District shall hold harmless, indemnify, and defend the Licensee, its officers, agents, attorneys and employees against any and all losses, expenses, claims costs, causes and damages, including without limitation litigation costs and reasonable attorneys' fees resulting or alleged to result from (a) any failure on the part of the District to perform or comply with any terms or conditions of this Agreement which failure extends beyond any applicable cure period, or (b) any personal injuries or death or damages to property arising from or relating in any way to the use of the Subject Property and the Land by the District, or its employees, contractors, guests, invitees, or agents, including any injuries, death or damages arising from their respective acts or omissions. The provisions and obligations of this section shall survive this Agreement and the License granted herein and shall be in addition to, and shall not be limited by, the amounts of any insurance provided by the District to this Agreement.

### **SECTION 13. INSURANCE.**

- A. Licensee shall obtain and maintain, during the entire term of this Agreement and any hold over term, at its sole cost and expense, appropriate and adequate insurance for the term of this Agreement, as described on Exhibit B attached hereto. The District may, during the term of this Agreement, reasonably update the insurance required by the Licensee. The District shall maintain liability insurance coverage for personal injury and property damage on the Land in an amount to be determined by the District. As evidence of Coverage, each party shall provide a copy of all insurance policies or certificates of insurance to the other party on an annual basis. All such certificates of insurance shall list the other party as an additional insured.
- B. Licensee shall obtain, during the entire term of this Agreement and any hold over term, appropriate and adequate insurance from contractors, guests, invitees, agents,

vendors or the public, whose activities arise or relate in any way to the use of the Subject Property or the Land pursuant to policies reviewed and approved by the District. As evidence of coverage, Licensee shall provide certificates of insurance to the District. All such certificates of insurance shall list the District and Licensee as additional insured.

**SECTION 14. ENTRY.** Licensee agrees that the District, by its commissioners, officers, agents, attorneys and employees, may at any reasonable time, enter upon the Subject Property to inspect the same, to make repairs thereto, or for any other purpose related to the District's use, maintenance or interest in the Land. The District shall attempt to not disrupt any activities of the Licensee.

**SECTION 15. KEYS AND LOCKS.** Licensee shall supply the District keys to all locks located on the Subject Property. District shall supply Licensee with keys to locks on the Land as warranted. Both parties shall make a concerted effort to use universal locks and keys when practical.

**SECTION 16. STAFF MEETINGS.** The Licensee and the District shall schedule meetings on an as-needed basis on request by either the District or Licensee regarding construction, maintenance, programming, and other issues of the Subject Property and the Land.

**SECTION 17. RECREATIONAL EQUIPMENT STORAGE ACCESS AND SCHEDULED USE.** The Licensee and the District shall have access and scheduled use of certain recreational equipment owned by the Grundy / Kendall Regional Office of Education including canoes, canoe trailer, paddles, and safety vests. Recreational equipment shall be stored within the gated Boy Scout shop area. Licensee will be issued a key to access all shared use equipment, and Licensee and District agree to coordinate scheduling, access and use of the recreational equipment.

**SECTION 18. USE OF THE DISTRICT'S 10-PASSENGER VAN.** Licensee is granted in-county use of the District's 10-passenger van to transport program participants and canoes via trailer attachment to the launch and pickup site for Fox River paddling programs. During said use, the District shall be included as additional insured under the Grundy / Kendall Regional Office of Education – Kendall County Outdoor Education Center and Cooperative non-owned automobile liability coverage, which shall be considered primary coverage on a non-contributory basis when Grundy / Kendall Regional Office of Education is operating the vehicle.

Licensee general liability coverage shall be primary for all other program activities. Licensee is required to secure signed waivers from all program participants indemnifying the Kendall County Forest Preserve District.

**SECTION 19. TIME OF ESSENCE.** Time is of the essence in the performance of the terms and conditions of this Agreement.

**SECTION 20. ASSIGNMENT.**

- A. Licensee shall not re-license the Subject Property, nor shall Licensee assign this Agreement, or any of Licensee's rights or obligations hereunder, to any other party without prior written consent of the District.
- B. It is mutually agreed that Licensee is an independent entity, is not an employee or agent of the District, and is not subject to the supervision or control of the District, except in those areas identified in this Agreement.

**SECTION 21. REMOVAL OF LIENS.** Licensee shall, and without any charge to the District, keep the Subject Property and the Land free of any and all liens or encumbrances in favor of any person whatsoever for or by reason of any equipment, material, supplies, or other item furnished, labor performed, or other actions done in connection with Licensee's use or occupancy of the Subject Property and the Land (collectively, a "Lien"). If, due to the actions of Licensee, the Subject Property and the Land becomes, at Licensee's direction, encumbered with any Lien, Licensee shall remove such lien promptly or promptly cause the title insurance company to insure over such lien, in any event, not later than thirty (30) days after being directed to do so in writing by the District. The District shall have the right to remove or satisfy any Lien upon the Subject Property and the Land at any time, after such thirty (30) day notice to Licensee, and may recover from Licensee any amount that the District incurs to remove or satisfy such Lien, including the costs, expenses, reasonable attorney's fees and administrative expenses incurred by the District in connection therewith or by reason thereof.

**SECTION 22. COMPLIANCE WITH LAWS.** Licensee shall occupy the Subject Property in full accordance with all applicable laws, statutes, rules, regulations, ordinances, and requirements, and is prohibited from undertaking any activities in violation of such laws, statutes, rules, regulations, ordinances and requirements.

**SECTION 23. APPLICABLE LAW.** Regardless of the place of its physical execution, this Agreement shall be interpreted under and governed by the laws of the State of Illinois and venue shall be the County of Kendall.

**SECTION 24. ENFORCEMENT COSTS.** In the event either party brings an action to enforce the covenants, terms and conditions to be performed under this Agreement, the prevailing party shall be entitled to recover its reasonable costs, attorneys' fees and expenses. Either party is free to pursue any legal remedies at law or in equity.

**SECTION 25. DISPUTE.** Notwithstanding the terms and provisions of this Agreement, in the event that a dispute may arise between the District and the Licensee for any issue

not specifically addressed in this agreement, the District shall possess the final decision making authority.

**SECTION 26. SEVERABILITY; WAIVER.** If any provision of this Agreement shall be held invalid, the validity of any other provision of this Agreement that can be given effect without such invalid provision shall not be affected thereby. The waiver of one breach of any term, condition, covenant, or obligation of this Agreement shall not constitute approval for any subsequent breach thereof.

**SECTION 27. EXTENSION.** The District and Licensee shall, with the written approval of both the District and Licensee, extend this Agreement in term length.

**SECTION 28. AMENDMENT.** This Agreement may be amended or revised with the written approval of both the District and Licensee.

**SECTION 29. TERMINATION.**

- A. If, at any time during the term of this Agreement, either party fails to comply with, or fails to fulfill any of the terms or conditions of this Agreement, which failure is not cured within ninety (90) days after written notice from the other party or such longer period as may be reasonably necessary to cure such failure, the aggrieved party shall have the right, as its sole and exclusive remedy, to terminate this Agreement.
- B. Immediately upon termination of this Agreement, for whatever reason, all rights granted to the Licensee here under shall revert to the District, and the District shall have the right, at its sole and absolute discretion, to re-license the Subject Property.
- C. Upon termination of this Agreement, Licensee shall remove all equipment and property owned by the Licensee from the Subject Property and the Land that is not a permanent part of the Land or the buildings and facilities thereon.

**SECTION 30. NOTICES.** All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed received by the addressee thereof when delivered in person on a business day at the address set forth below or on the third business day after being deposited in any main or branch United States Post Office, for delivery at the address set forth below, by properly addressed, postage prepaid, certified or registered mail, return receipt requested.

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

Kendall County Forest Preserve District  
110 W. Madison Street  
Yorkville, IL 60560  
Attention: Executive Director

Notices and communications to the Licensee shall be addressed to and delivered at:

Grundy / Kendall Regional Office of Education  
109 West Ridge Street  
Yorkville, IL 60560  
Attention: Superintendent

By notice complying with the requirements of this Section, Licensee and the District each shall have the right to change the address or addressee or both for all future notices to it, but no notice of a change or address or addressee shall be effective until actually received.

**SECTION 31. LICENSE ONLY GRANTED.** This agreement grants only a license and licensed use the Land under the terms and conditions stated above. Nothing in this Agreement shall be construed to convey to Licensee any legal or equitable interest in the Land.

**SECTION 32. AGREEMENT IN DUPLICATION.** This agreement is executed in duplication and each party shall retain one completely executed copy, each of which is deemed an original.

**IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS Agreement to be executed, effective as of the date first written above.**

Grundy / Kendall Regional Office of Education  
109 West Ridge Street  
Yorkville, IL 60560

Kendall County Forest Preserve District  
110 W. Madison Street  
Yorkville, IL 60560

By: \_\_\_\_\_  
Christopher Mehochko, Superintendent

By: \_\_\_\_\_  
Judy Gilmour, President

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_  
Elizabeth Flowers, Secretary

## Exhibit A

### License Agreement Map

Office and classroom facility, sidewalks, storage sheds, trails, and teams challenge course at Hoover Forest Preserve



## Exhibit B Insurance Requirements

### General Liability

Each Occurrence	\$1,000,000
Damage to Rented Premises	\$100,000
Medical Expenses	\$1,000
Personal Injury	\$1,000,000
General Aggregate	\$3,000,000
Products	\$1,000,000

Automobile Liability (Hired/Non-Owned) \$1,000,000

### Excess/Umbrella Liability

Each Occurrence	\$2,000,000
Aggregate	\$2,000,000

### Workers' Compensation and Employers' Liability

Workers' Compensation	Statutory Limits
E.L. – Each Accident	\$2,000,000
E.L. – Disease – Each Employee	\$2,000,000
E.L. – Disease – Policy Limit	\$2,000,000



**FARM LICENSE AGREEMENT #22-02-003**

**Henneberry Property**

AGREEMENT made this 15<sup>TH</sup> day of February, 2022 between the KENDALL COUNTY FOREST PRESERVE DISTRICT, a Body Corporate and Politic, 110 West Madison Street, Yorkville, IL, 60560, Licensor, and, Albert Collins, Jr. of 9555 Ament Road, Yorkville, IL 60560, Licensee, including all heirs and assigns.

WHEREAS, the Licensor is the owner of certain lands situated in the County of Kendall, Township of Na-Au-Say and State of Illinois described as:

PIN#: 06-06-400-003, 06-06-496-003, 06-06-497-001, 06-06-497-002

WHEREAS, Licensee desires to use the above-described real estate, for farming purposes with the structures utilized for the storage of crops and farm implements, and Licensor desires to have the real estate farmed.

WHEREAS, both Licensee and Licensor hereby agree that there are 51.5 tillable acres suitable for row crops on the above referenced parcels, these tillable acres hereinafter referred to as the 'Subject Property'; and the Licensor hereby grants to the Licensee a farm License in exchange for the following goods, services, and considerations, submitted as a use fee for a term of one (1) year, beginning on February 16, 2022, and ending on December 31, 2022 subject to the conditions and limitations hereinafter mentioned.

Licensee shall pay Licensor a Base Rate of \$150 per tillable acre for the License year. The Base Rate shall be payable no later than May 31, 2022, and Licensee agrees that failure to pay by this date may terminate this License.

Crop Insurance shall be any funds from a multi-peril or crop hail claim on the Subject Property collected by the Licensee, less the premiums paid on such policy(s).

NOW, THEREFORE, in consideration of the grants, covenants, and conditions of this Agreement, IT IS HEREBY AGREED AS FOLLOWS:

1. The proceeding introductory language is made a part hereof and incorporated herein.
2. This Agreement grants only a contractual license to use the Subject Property under the terms and conditions state above. Further, the rights granted by District herein shall vest only in Licensee and no such rights shall vest in any of Licensee's employees, agents, subcontractors or partners, if any. Nothing in this Agreement shall be construed to convey to Licensee any legal or equitable interest in the Subject Property.
3. Licensor makes no claims as to the tax status of the Subject Property. In the event the Subject Property should be assessed and taxed pursuant to the process outlined in 35 ILCS 205/19, it shall be the obligation of the Licensee to pay such taxes as are incurred during the term

of this license. In the event the Subject Property becomes taxable at any time during the term of this License, Licensee shall be required to pay those taxes that are incurred during the term of this License. At the termination of this Agreement, Licensee shall pay tax incurred during the term of this license, though not yet due and owing. Where taxes have yet to be determined, Licensee shall pay the estimated taxes based on 100% of the previous year's taxes. Any such taxes shall be prorated as needed.

4. The Licensor agrees that the Licensee may, without further license on the part of the Licensor, use the Subject Property for the purpose of farming the land. If there are highly erodible soils on the Subject Property, the Licensee is responsible for maintaining the soil according to the methods adopted in Licensee's farming plan approved by the Kendall County Soil and Water Conservation District. Said report must be submitted to the Licensor on or before ground breaking on the first year covered by this License. Failure to submit this report by this date may terminate this License.

5. The Licensee has inspected the Subject Property and structures prior to signing this Agreement and accepts the conditions of these "as is."

6. The Licensee agrees to farm the Subject Property in a husband-like manner, utilizing conservation tillage methods.

7. Licensee shall keep and provide to the Licensor the following records:

- A. Soil Samples – The Licensee shall conduct annual soil testing (2.5 acre grid), with such costs split evenly with the Licensor. Soil test results shall be due to the Licensor by December 31, 2022. The Licensee shall apply the minimum amount of fertilizer required to maintain the soil fertility at:
  - i. For corn, P (phosphorus) shall be maintained at 80 pounds per acre and K (potassium) shall be maintained at 50 pounds per acre.
  - ii. For soybeans, P (phosphorus) shall be maintained at 50 pounds per acre and K (potassium) shall be maintained at 75 pounds per acre.
- B. Global Positioning System data of crops and yields harvested.
- C. Fertilizers and rates applied.
- D. Pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.

8. Fertilizer replacement of P (phosphorus) and K (potassium) will be calculated using crop removal method as outlined in the Illinois Agronomy Handbook. Replacement of P and K for a crop year calculated on total nutrient removal per tillable acre and applied at the Licensee's expense for product and application. No carry over credit will be allowed from previous year's application.

9. If Licensee applies limestone to the Subject Property, the cost of the limestone will be depreciated at 25% annually. If the Licensee farms the Subject Property for a period less than four (4) years, the Licensor will reimburse the Licensee for the cost of the limestone less the total annual depreciation. Lime shall be applied when less than 6.2.

10. The Licensee shall deliver and sell the crop yield to no buyers other than those listed below without the written approval of the Licensor.

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_

11. It is agreed that the tillable land on this farm should be devoted to row crops. The Licensor may require an un-tilled buffer a minimum of 10 feet from certain woodlands or waterways. This buffer shall be planted with a cover crop by the Licensee at the inception of this Licensee with a seed mix approved by Licensor. Licensor shall provide map to Licensee showing buffer areas to be planted.

12. Pesticide Use

- A. Licensee shall, and shall cause all other persons working on the Subject Property, to follow all label instructions of any pesticides used on the Subject Property. Upon signing this Agreement, Licensee shall supply Licensor with a copy of a valid State of Illinois pesticide applicator's license for each person who will be applying pesticide on the Subject Property during the term of this Agreement. If any such licenses expire during the term of this Agreement, Licensee shall be responsible for obtaining a renewal or new license to replace such an expired license and shall promptly provide Licensor with a copy thereof.
- B. No pesticides shall be stored on the Subject Property unless they are in original, labeled containers, and then only during the period during which such pesticide is applied, which shall not exceed ten (10) days.
- C. Licensee shall provide Licensor with a record of pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.
- D. Licensee is responsible, at the Licensee's sole expense, to repair any damage done to native vegetation due to pesticide drift and to repair rutting caused by farm equipment in non-tilled areas owned by the Licensor.

13. Licensee shall comply with all federal, state, and local laws, ordinances, rules and regulations that regulate, restrict or prohibit any material defined therein as a hazardous, radioactive, toxic or carcinogenic material, substance, pollutant, or contaminant when using such materials on the Subject Property.

14. The Licensee agrees to take care of the Subject Property, not to alter or change the physical landscape of the Subject Property and to farm and to maintain improvements in a careful and prudent manner.

15. Upon termination of this Agreement, Licensor may request the Licensee to provide services associated with restoration of the Subject Property. Such services may include plowing, herbiciding, tilling, seeding, and maintenance mowing.

16. Licensor reserves the right to enter upon said land to inspect, make improvements thereon, and for any and all lawful purposes arising from the ownership of the land so long as it does not interfere with the rights of the Licensee, as provided in this License.

17. The Licensee agrees that this License is purely a personal license to use the Subject Property for farming purposes. The Licensor may terminate this Agreement at any time and for

any reason by giving thirty (30) days notice in writing to that effect to the Licensee. In the event of any termination, Licensor shall pay the Licensee for planted but unharvested crops on the Subject Property on the basis of average county yield and unit price, based on available County data. Fertilizer and pesticide costs for planted but unharvested crops on the Subject Property shall be reimbursed, provided that the Licensee provides fertilizer and pesticide receipts for these costs. Other than amount for planted but unharvested crops, fertilizer and pesticide costs, as provided in this section, Licensee hereby waives its rights to request or seek any other amount from Licensor in the event the License granted herein is terminated.

18. Insurance & Liability

- A. The Licensee shall maintain one million dollars (\$1,000,000.00) of liability insurance on the Subject Property with an insurance company acceptable to the Licensor. Licensee shall purchase insurance with said company naming the Licensor as additional insured on the liability policy. Proof of such coverage must be on file with the Licensor on or before March 31, 2022. Failure to submit such proof by this date may terminate this License. Policy must cover all contractors hired by the Licensee to apply soil amendments, pesticides, or for other purposes, or the contractor must provide proof of insurance for the above referenced amount.
- B. Licensee shall obtain and maintain, at the Licensee's expense, appropriate and adequate insurance coverage for the Licensee's personal property in amounts determined by the Licensee to be adequate. Licensee shall provide a copy of all insurance policies to Licensor upon request of Licensor.
- C. Licensee shall hold harmless, indemnify, and defend the Licensor, its Commissioners, Officers, Agents, Attorneys and Employees against any and all losses, expenses, claims, costs, causes and damages, including without limitation litigation costs and attorneys' fees, on account of (a) any failure on the part of the Licensee to perform or comply with any terms or conditions of this Agreement, or (b) any personal injuries or death or damages to property arising from, occurring, growing out of, incident to, or resulting directly or indirectly from the grant of this License or the use of the Subject Property or the structures by Licensee. The provisions of this section shall be in addition to, and shall not be limited by, the amounts of any insurance provided by Licensee pursuant to this Agreement.

19. This License is not assignable or transferable to any person, company, or corporation, in whole or in part.

20. It is mutually agreed that the Licensee is an independent contractor, not subject to the control of the Licensor and is not an employee of the Licensor.

21. Licensee shall, and without any charge to District, keep the Subject Property free of any and all liens against the Subject Property in favor of any person whatsoever for or by reason of any equipment, material, supplies or other item furnished, labor performed or other thing done in connection with Licensee's use or occupancy of the Subject Property (a "Lien"). If the Subject Property becomes encumbered with any Lien, Licensor may, at Licensor's option, terminate this Agreement or direct Licensee to remove any such lien from the subject property. Licensee shall remove such Lien promptly and, in any event, not later than five (5) days after being directed to do so in writing by District. District shall have the right to remove or satisfy any Lien upon the Subject Property at any time with or without notice to Licensee, and shall be reimbursed by

Licensee within ten (10) days after such amount is incurred, any amount that District incurs to remove or satisfy the Lien, including the costs, expenses, attorneys' fees, and administrative expenses incurred by District in connection therewith or by reason thereof.

22. Licensee shall give all notices, pay all fees, and take all other action that may be necessary to ensure that all activities on the Subject Property are provided, performed, and completed in accordance with all applicable laws, statutes, rules, regulations, ordinances, and requirements, and all required governmental permits, licenses or other approvals and authorizations that may be required in connection with providing, performing, and completing such activities.

23. This Agreement shall be interpreted and enforced under the laws of the State of Illinois and the parties agree that the venue for any legal proceeding between them shall be Kendall County, Twenty-third Judicial Circuit, State of Illinois.

24. In any action with respect to this Agreement, the parties are free to pursue any legal remedies at law or in equity. The prevailing party by 75% or more of damages sought, in any action brought pursuant to this Agreement shall be entitled to reasonable attorneys' fees and court costs arising out of any action or claim to enforce the provisions of this Agreement.

25. If any provision of this Agreement shall be held invalid, the validity of any other provision of this Agreement that can be given effect without such invalid provision shall not be affected thereby. The waiver of one breach of any term, condition, covenant or obligation of this Agreement shall not be considered to be a waiver of that or any other term, condition, covenant or obligation or of any subsequent breach thereof.

26. This Agreement represents the entire agreement between the parties and there are no other promises or conditions in any other agreement whether oral or written. This agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.

Licensor: Kendall County Forest Preserve District

By: \_\_\_\_\_  
Judy Gilmour, President

Date: \_\_\_\_\_

Licensee:

By: \_\_\_\_\_  
Albert Collins, Jr. Farm Operator

Date: \_\_\_\_\_

**FARM LEASE AGREEMENT #22-02-004**

AGREEMENT made this 15<sup>TH</sup> day of February, 2022 between the KENDALL COUNTY FOREST PRESERVE DISTRICT, a Body Corporate and Politic, 110 West Madison Street, Yorkville, IL, 60560, Licensor; and Mark Mathre, of 16770 Lisbon Center Road, Newark, IL, 60541, and Tom Mathre, of 14109 Hughes Road, Newark, IL, 60541, Licensee, including all heirs and assigns.

WHEREAS, the Licensor is the owner of certain lands situated in the County of Kendall, Township of Fox and State of Illinois described as:

PIN#s: 04-03-300-002; 04-04-400-007; 04-04-400-011; 04-09-100-008; 04-10-100-001 (Millbrook North); and,

PIN#s: 04-16-151-007; 04-17-200-008; 04-17-300-003; 04-17-400-003; 04-20-200-001 (Millbrook South); and,

PIN#s: 04-28-300-002; 04-29-300-011; 04-29-300-013; 04-32-100-007; 04-32-100-005; 04-32-100-009 (Millington).

WHEREAS, Licensee desires to use the above-described real estate, for farming purposes with the structures utilized for the storage of crops and farm implements, and Licensor desires to have the real estate farmed and the buildings utilized.

WHEREAS, both Licensee and Licensor hereby agree that there are 157.31 tillable acres on the Millbrook North Parcel, 118.58 tillable acres on the Millbrook South Parcel, and 127.41 tillable acres on the Millington Parcel suitable for row crops, these tillable acres hereinafter referred to as the 'Subject Property'; and the Licensor hereby grants to the Licensee a farm License in exchange for the following goods, services, and considerations, submitted as a use fee for a term of one (1) year, beginning on February 16, 2022, and ending on December 31, 2022 subject to the conditions and limitations hereinafter mentioned.

Licensee shall pay Licensor a Base Rate of \$220 per tillable acres on the Millbrook North Parcel, \$235 per tillable acre on the Millbrook South Parcel, and \$200 per tillable acre on the Millington Parcel for the License year. The Base Rate shall be payable no later than May 31, 2022, and Licensee agrees that failure to pay by this date may terminate this License.

Licensee shall pay Licensor a Flexible Rate equal to:  
(((Average Grain Price - Basis) x Yield) + Crop Insurance) x 33.33%) - Base Rent  
(See Exhibit A for example.)

Average Grain Price shall be calculated by utilizing the closing price on the Chicago Board of Trade futures market on the first trading day of each month from January through October. The Basis shall be fixed at \$0.30 for corn and \$0.40 for soybeans.

The Yield shall be the amount of dry bushels harvested divided by the tillable acres as provided on page 1 of this agreement.

Crop Insurance shall be any funds from a multi-peril or crop hail claim on the Subject Property collected by the Licensee, less the premiums paid on such policy(s).

The Flexible Rate is payable on or before December 31, 2022. Should the computed Flexible Rate be less than the Base Rate, then the Base Rate shall be the total due to Licensor.

NOW, THEREFORE, in consideration of the grants, covenants, and conditions of this Agreement, IT IS HEREBY AGREED AS FOLLOWS:

1. The proceeding introductory language is made a part hereof and incorporated herein.
2. This Agreement grants only a contractual license to use the Subject Property under the terms and conditions state above. Further, the rights granted by District herein shall vest only in Licensee and no such rights shall vest in any of Licensee's employees, agents, subcontractors or partners, if any. Nothing in this Agreement shall be construed to convey to Licensee any legal or equitable interest in the Subject Property.
3. Licensor makes no claims as to the tax status of the Subject Property. In the event the Subject Property should be assessed and taxed pursuant to the process outlined in 35 ILCS 205/19, it shall be the obligation of the Licensee to pay such taxes as are incurred during the term of this license. In the event the Subject Property becomes taxable at any time during the term of this License, Licensee shall be required to pay those taxes that are incurred during the term of this License. At the termination of this Agreement, Licensee shall pay tax incurred during the term of this license, though not yet due and owing. Where taxes have yet to be determined, Licensee shall pay the estimated taxes based on 100% of the previous year's taxes. Any such taxes shall be prorated as needed.
4. The Licensor agrees that the Licensee may, without further license on the part of the Licensor, use the Subject Property for the purpose of farming the land. If there are highly erodible soils on the Subject Property, the Licensee is responsible for maintaining the soil according to the methods adopted in Licensee's farming plan approved by the Kendall County Soil and Water Conservation District. Said report must be submitted to the Licensor on or before ground breaking on the first year covered by this License. Failure to submit this report by this date may terminate this License.
5. The Licensee has inspected the Subject Property and structures prior to signing this Agreement and accepts the conditions of these "as is."
6. The Licensee agrees to farm the Subject Property in a husband-like manner, utilizing conservation tillage methods.
7. Licensee shall keep and provide to the Licensor the following records:
  - A. Soil Samples – The Licensee shall conduct annual soil testing (2.5 acre grid), with such costs split evenly with the Licensor. Soil test results shall be due to the Licensor by December 31, 2022. The Licensee shall apply the minimum amount of fertilizer required to maintain the soil fertility at:
    - i. For corn, elemental P (phosphorus) shall be maintained at 80 pounds per acre and elemental K (potassium) shall be maintained at 50 pounds per acre.

- ii. For soybeans, elemental P (phosphorus) shall be maintained at 50 pounds per acre and elemental K (potassium) shall be maintained at 75 pounds per acre.
  - B. Global Positioning System data of crops and yields harvested.
  - C. Fertilizers and rates applied.
  - D. Pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.
  
- 8. Fertilizer replacement of P (phosphorus) and K (potassium) will be calculated using crop removal method as outlined in the Illinois Agronomy Handbook. Replacement of P and K for a crop year calculated on total nutrient removal per tillable acre and applied at the Licensee's expense for product and application. No carry over credit will be allowed from previous year's application.
  
- 9. If Licensee applies limestone to the Subject Property, the cost of the limestone will be depreciated at 25% annually. If the Licensee farms the Subject Property for a period less than four (4) years, the Licensor will reimburse the Licensee for the cost of the limestone less the total annual depreciation. Lime shall be applied when less than 6.2.
  
- 10. The Licensee shall deliver and sell the crop yield to no buyers other than those listed below without the written approval of the Licensor. Licensee shall provide grain sheets to Licensor.
  - A. \_\_\_\_\_
  - B. \_\_\_\_\_
  - C. \_\_\_\_\_
  
- 11. It is agreed that the tillable land on this farm should be devoted to row crops. The Licensor may require an un-tilled buffer a minimum of 10 feet from certain woodlands or waterways. This buffer shall be planted with a cover crop by the Licensee at the inception of this Licensee with a seed mix approved by Licensor. Licensor shall provide a map to Licensee showing buffer areas to be planted.
  
- 12. Pesticide Use
  - A. Licensee shall, and shall cause all other persons working on the Subject Property, to follow all label instructions of any pesticides used on the Subject Property. Upon signing this Agreement, Licensee shall supply Licensor with a copy of a valid State of Illinois pesticide applicator's license for each person who will be applying pesticide on the Subject Property during the term of this Agreement. If any such licenses expire during the term of this Agreement, Licensee shall be responsible for obtaining a renewal or new license to replace such an expired license and shall promptly provide Licensor with a copy thereof.
  - B. No pesticides shall be stored on the Subject Property unless they are in original, labeled containers, and then only during the period during which such pesticide is applied, which shall not exceed ten (10) days.
  - C. Licensee shall provide Licensor with a record of pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.



- D. Licensee is responsible, at the Licensee's sole expense, to repair any damage done to native vegetation due to pesticide drift and to repair rutting caused by farm equipment in non-tilled areas owned by the Licensor.
13. Licensee shall comply with all federal, state, and local laws, ordinances, rules and regulations that regulate, restrict or prohibit any material defined therein as a hazardous, radioactive, toxic or carcinogenic material, substance, pollutant, or contaminant when using such materials on the Subject Property.
14. The Licensee agrees to pay all utility charges and services to the structures located on the property for the term of this Agreement. This includes a drying fee of \$0.01 per bushel capacity for use of the grain dryers at Millbrook South Forest Preserve, with capacity based on use estimated at 20,000 bushels, or \$200.00, invoiced for payment in November 2022, and included as part of the utility charge reimbursement invoice.
15. Licensee shall use the structures on Licensor property for storage purposes only and shall not permit anyone other than Licensee to utilize the structures without the prior written consent of the Forest Preserve Director. No dogs, cats, birds, or other animals or pets shall be kept in or about the structures. Licensee shall not permit the structures or surrounding property to be used for any unlawful purposes or in any manner that will unreasonably disturb neighbors or other tenants. Licensee shall not allow any signs or placards to be posted or placed on the structures without the prior written consent of the Forest Preserve Executive Director.
16. Licensee has inspected the structures prior to signing this Agreement and accepts this License with knowledge and concurrence of the existing condition of the structures. Licensee shall not make, permit, or allow any additions to or alterations of the structures without prior written consent of the Forest Preserve Director. Licensee shall deliver structures to District at the expiration or termination of this Agreement in as good condition as received, ordinary wear and tear expected. Repairs necessitated and routine maintenance shall be at the expense of the Licensee.
17. The Licensee agrees to take care of the Subject Property and the structures, not to alter or change the physical landscape of the Subject Property, or the structures on said property and to farm and to maintain improvements in a careful and prudent manner.
18. Upon termination of this Agreement, Licensor may request the Licensee to provide services associated with restoration of the Subject Property. Such services may include plowing, herbiciding, tilling, seeding, and maintenance mowing.
19. Licensor reserves the right to enter upon said land to inspect, make improvements thereon, and for any and all lawful purposes arising from the ownership of the land so long as it does not interfere with the rights of the Licensee, as provided in this License.
20. The Licensee agrees that this License is purely a personal license to use the Subject Property for farming purposes. The Licensor may terminate this Agreement at any time and for any reason by giving thirty (30) days notice in writing to that effect to the Licensee. In the event of any termination, Licensor shall pay the Licensee for planted but unharvested crops on the Subject Property on the basis of average county yield and unit price, based on available County

data. Fertilizer and pesticide costs for planted but unharvested crops on the Subject Property shall be reimbursed, provided that the Licensee provides fertilizer and pesticide receipts for these costs. Other than amount for planted but unharvested crops, fertilizer and pesticide costs, as provided in this section, Licensee hereby waives its rights to request or seek any other amount from Licensor in the event the License granted herein is terminated.

21. Insurance & Liability

- A. The Licensee shall maintain one million dollars (\$1,000,000.00) of liability insurance on the Subject Property with an insurance company acceptable to the Licensor. Licensee shall purchase insurance with said company naming the Licensor as additional insured on the liability policy. Proof of such coverage must be on file with the Licensor on or before March 31, 2022. Failure to submit such proof by this date may terminate this License. Policy must cover all contractors hired by the Licensee to apply soil amendments, pesticides, or for other purposes, or the contractor must provide proof of insurance for the above referenced amount.
- B. Licensee shall obtain and maintain, at the Licensee's expense, appropriate and adequate insurance coverage for the Licensee's personal property in amounts determined by the Licensee to be adequate. Licensee shall provide a copy of all insurance policies to Licensor upon request of Licensor.
- C. Licensee shall hold harmless, indemnify, and defend the Licensor, its Commissioners, Officers, Agents, Attorneys and Employees against any and all losses, expenses, claims, costs, causes and damages, including without limitation litigation costs and attorneys' fees, on account of (a) any failure on the part of the Licensee to perform or comply with any terms or conditions of this Agreement, or (b) any personal injuries or death or damages to property arising from, occurring, growing out of, incident to, or resulting directly or indirectly from the grant of this License or the use of the Subject Property or the structures by Licensee. The provisions of this section shall be in addition to, and shall not be limited by, the amounts of any insurance provided by Licensee pursuant to this Agreement.

22. This License is not assignable or transferable to any person, company, or corporation, in whole or in part.

23. It is mutually agreed that the Licensee is an independent contractor, not subject to the control of the Licensor and is not an employee of the Licensor.

24. Licensee shall, and without any charge to District, keep the Subject Property free of any and all liens against the Subject Property in favor of any person whatsoever for or by reason of any equipment, material, supplies or other item furnished, labor performed or other thing done in connection with Licensee's use or occupancy of the Subject Property (a "Lien"). If the Subject Property becomes encumbered with any Lien, Licensor may, at Licensor's option, terminate this Agreement or direct Licensee to remove any such lien from the subject property. Licensee shall remove such Lien promptly and, in any event, not later than five (5) days after being directed to do so in writing by District. District shall have the right to remove or satisfy any Lien upon the Subject Property at any time with or without notice to Licensee, and shall be reimbursed by Licensee within ten (10) days after such amount is incurred, any amount that District incurs to remove or satisfy the Lien, including the costs, expenses, attorneys' fees, and administrative expenses incurred by District in connection therewith or by reason thereof.

25. Licensee shall give all notices, pay all fees, and take all other action that may be necessary to ensure that all activities on the Subject Property are provided, performed, and completed in accordance with all applicable laws, statutes, rules, regulations, ordinances, and requirements, and all required governmental permits, licenses or other approvals and authorizations that may be required in connection with providing, performing, and completing such activities.

26. This Agreement shall be interpreted and enforced under the laws of the State of Illinois and the parties agree that the venue for any legal proceeding between them shall be Kendall County, Twenty-third Judicial Circuit, State of Illinois.

27. In any action with respect to this Agreement, the parties are free to pursue any legal remedies at law or in equity. The prevailing party by 75% or more of damages sought, in any action brought pursuant to this Agreement shall be entitled to reasonable attorneys' fees and court costs arising out of any action or claim to enforce the provisions of this Agreement.

28. If any provision of this Agreement shall be held invalid, the validity of any other provision of this Agreement that can be given effect without such invalid provision shall not be affected thereby. The waiver of one breach of any term, condition, covenant or obligation of this Agreement shall not be considered to be a waiver of that or any other term, condition, covenant or obligation or of any subsequent breach thereof.

29. This Agreement represents the entire agreement between the parties and there are no other promises or conditions in any other agreement whether oral or written. This agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.

Licensors - Kendall County Forest Preserve District

By: \_\_\_\_\_  
Judy Gilmour, President

Date: \_\_\_\_\_

Licensee:

By: \_\_\_\_\_  
Mark Mathre, Farm Operator

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tom Mathre, Farm Operator

Date: \_\_\_\_\_

Exhibit A

Flexible Rate Calculation Example

For the following values for a 100 acre site with a base rent of \$200 per acre:

Average grain price = Corn \$5 per bushel

Basis = \$0.30 per bushel

Yield = 200 bushels per acre x 100 acres = 20,000 bushels

Crop Insurance = 0

Base Rent = 100 acres x \$200 per acre = \$20,000

$$(((\text{Average Grain Price} - \text{Basis}) \times \text{Yield}) + \text{Crop Insurance}) \times 33.33\% - \text{Base Rent}$$

$$(((\$5 - \$0.30) \times 20,000) + 0) \times 33.33\% - \$20,000 = \$11,330.20$$

The base rate amount is due May 31.

The flexible rate amount is due December 31.

**FARM LICENSE AGREEMENT #22-02-005**

**Little Rock Creek Forest Preserve Property**

AGREEMENT made this 15<sup>TH</sup> day of February, 2022 between the KENDALL COUNTY FOREST PRESERVE DISTRICT (hereinafter "Licensor"), a Body Corporate and Politic, 110 West Madison Street, Yorkville, IL, 60560, and the Licensee, Tom Anderson of 628 Rustic Rook Drive, Somonauk, IL 60552, including all heirs and assigns.

WHEREAS, the Licensor is the owner of certain lands situated in the County of Kendall, Township of Little Rock Creek and State of Illinois described as:

PIN#s: 01-33-400-006 (full) and 01-33-200-004 (partial)

WHEREAS, Licensee desires to use a portion of the above-described real estate for farming purposes, and Licensor desires to have the real estate farmed.

WHEREAS, both Licensee and Licensor hereby agree that there are 6.25 tillable acres suitable for row crops on the above referenced parcels, these tillable acres hereinafter referred to as the 'Subject Property'; and the Licensor hereby grants to the Licensee a farm license in exchange for the following goods, services, and considerations, submitted as a use fee for a term of one (1) year, beginning on February 16, 2022, and ending on December 31, 2022 subject to the conditions and limitations hereinafter mentioned, with the per acre fee and license including the use of the farm equipment storage building located along Burr Oak Road on parcel 01-33-400-006 beginning on February 16, 2022 and ending on March 31, 2023.

WHEREAS, Licensee shall pay Licensor a Base Rate of \$100 per tillable acre for the License year. Licensee shall plant all tillable acres in soybeans in preparation for Licensor's cropland conversion to natural cover commencing on or around November 1, 2022. Licensee shall submit and follow a pesticide management plan to insure that no residual pesticides that could potentially impact or otherwise damage nursery stock planted after November 1, 2022 persists in cropland soils.

The Base Rate shall be payable no later than May 30, 2022, and Licensee agrees that failure to pay by this date may terminate this License.

NOW, THEREFORE, in consideration of the grants, covenants, and conditions of this Agreement, IT IS HEREBY AGREED AS FOLLOWS:

1. The proceeding introductory language is made a part hereof and incorporated herein.
2. This Agreement grants only a contractual license to use the Subject Property under the terms and conditions state above. Further, the rights granted by District herein shall vest only in Licensee and no such rights shall vest in any of Licensee's employees, agents, subcontractors or partners, if any. Nothing in this Agreement shall be construed to convey to Licensee any legal or equitable interest in the Subject Property.

3. The Licensor agrees that the Licensee may, without further license on the part of the Licensor, use the Subject Property for the purpose of farming the land. If there are highly erodible soils on the Subject Property, the Licensee is responsible for maintaining the soil according to the methods adopted in Licensee's farming plan approved by the Kendall County Soil and Water Conservation District. Said report must be submitted to the Licensor on or before ground breaking on the first year covered by this License. Failure to submit this report by this date may terminate this License.

4. The Licensee has inspected the Subject Property and structures prior to signing this Agreement and accepts the conditions of these "as is."

5. The Licensee agrees to farm the Subject Property in a husband-like manner, utilizing conservation tillage methods.

6. Licensee shall keep and provide to the Licensor the following records:

- A. Soil Samples – The Licensee shall conduct annual soil testing (2.5 acre grid), with such costs split evenly with the Licensor. Soil test results shall be due to the Licensor by December 30, 2022. The Licensee shall apply the minimum amount of fertilizer required to maintain the soil fertility at:
  - i. For corn, P (phosphorus) shall be maintained at 80 pounds per acre and K (potassium) shall be maintained at 50 pounds per acre.
  - ii. For soybeans, P (phosphorus) shall be maintained at 50 pounds per acre and K (potassium) shall be maintained at 75 pounds per acre.
- B. Global Positioning System data of crops and yields harvested.
- C. Fertilizers and rates applied.
- D. Pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.

7. Fertilizer replacement of P (phosphorus) and K (potassium) will be calculated using crop removal method as outlined in the Illinois Agronomy Handbook. Replacement of P and K for a crop year calculated on total nutrient removal per tillable acre and applied at the Licensee's expense for product and application. No carry over credit will be allowed from previous year's application.

8. If Licensee applies limestone to the Subject Property, the cost of the limestone will be depreciated at 25% annually. If the Licensee farms the Subject Property for a period less than four (4) years, the Licensor will reimburse the Licensee for the cost of the limestone less the total annual depreciation. Lime shall be applied when less than 6.2.

9. The Licensee shall deliver and sell the crop yield to no buyers other than those listed below without the written approval of the Licensor.

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_

10. It is agreed that the tillable land on this farm should be devoted to row crops. The Licensor may require an un-tilled buffer a minimum of 10 feet from certain woodlands or waterways. This buffer shall be planted with a cover crop by the Licensee at the inception of this

Licensee with a seed mix approved by Licensor. Licensor shall provide map to Licensee showing buffer areas to be planted.

11. Pesticide Use

- A. Licensee shall, and shall cause all other persons working on the Subject Property, to follow all label instructions of any pesticides used on the Subject Property. Upon signing this Agreement, Licensee shall supply Licensor with a copy of a valid State of Illinois pesticide applicator's license for each person who will be applying pesticide on the Subject Property during the term of this Agreement. If any such licenses expire during the term of this Agreement, Licensee shall be responsible for obtaining a renewal or new license to replace such an expired license and shall promptly provide Licensor with a copy thereof.
- B. No pesticides shall be stored on the Subject Property unless they are in original, labeled containers, and then only during the period during which such pesticide is applied, which shall not exceed ten (10) days.
- C. Licensee shall provide Licensor with a record of pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.
- D. Licensee is responsible, at the Licensee's sole expense, to repair any damage done to native vegetation due to pesticide drift and to repair rutting caused by farm equipment in non-tilled areas owned by the Licensor.

12. Licensee shall comply with all federal, state, and local laws, ordinances, rules and regulations that regulate, restrict or prohibit any material defined therein as a hazardous, radioactive, toxic or carcinogenic material, substance, pollutant, or contaminant when using such materials on the Subject Property.

13. The Licensee agrees to take care of the Subject Property, not to alter or change the physical landscape of the Subject Property and to farm and to maintain improvements in a careful and prudent manner.

14. Upon termination of this Agreement, Licensor may request the Licensee to provide services associated with restoration of the Subject Property. Such services may include plowing, herbiciding, tilling, seeding, and maintenance mowing.

15. Licensor reserves the right to enter upon said land to inspect, make improvements thereon, and for any and all lawful purposes arising from the ownership of the land so long as it does not interfere with the rights of the Licensee, as provided in this License.

16. The Licensee agrees that this License is purely a personal license to use the Subject Property for farming purposes. The Licensor may terminate this Agreement at any time and for any reason by giving thirty (30) days notice in writing to that effect to the Licensee. In the event of any termination, Licensor shall pay the Licensee for planted but unharvested crops on the Subject Property on the basis of average county yield and unit price, based on available County data. Fertilizer and pesticide costs for planted but unharvested crops on the Subject Property shall be reimbursed, provided that the Licensee provides fertilizer and pesticide receipts for these costs. Other than amount for planted but unharvested crops, fertilizer and pesticide costs, as

provided in this section, Licensee hereby waives its rights to request or seek any other amount from Licensor in the event the License granted herein is terminated.

17. Insurance & Liability

- A. The Licensee shall maintain one million dollars (\$1,000,000.00) of liability insurance on the Subject Property with an insurance company acceptable to the Licensor. Licensee shall purchase insurance with said company naming the Licensor as additional insured on the liability policy. Proof of such coverage must be on file with the Licensor on or before March 31st of the License year. Failure to submit such proof by this date may terminate this License. Policy must cover all contractors hired by the Licensee to apply soil amendments, pesticides, or for other purposes, or the contractor must provide proof of insurance for the above referenced amount.
- B. Licensee shall obtain and maintain, at the Licensee's expense, appropriate and adequate insurance coverage for the Licensee's personal property in amounts determined by the Licensee to be adequate. Licensee shall provide a copy of all insurance policies to Licensor upon request of Licensor.
- C. Licensee shall hold harmless, indemnify, and defend the Licensor, its Commissioners, Officers, Agents, Attorneys and Employees against any and all losses, expenses, claims, costs, causes and damages, including without limitation litigation costs and attorneys' fees, on account of (a) any failure on the part of the Licensee to perform or comply with any terms or conditions of this Agreement, or (b) any personal injuries or death or damages to property arising from, occurring, growing out of, incident to, or resulting directly or indirectly from the grant of this License or the use of the Subject Property or the structures by Licensee. The provisions of this section shall be in addition to, and shall not be limited by, the amounts of any insurance provided by Licensee pursuant to this Agreement.

18. This License is not assignable or transferable to any person, company, or corporation, in whole or in part.

19. It is mutually agreed that the Licensee is an independent contractor, not subject to the control of the Licensor and is not an employee of the Licensor.

20. Licensee shall, and without any charge to District, keep the Subject Property free of any and all liens against the Subject Property in favor of any person whatsoever for or by reason of any equipment, material, supplies or other item furnished, labor performed or other thing done in connection with Licensee's use or occupancy of the Subject Property (a "Lien"). If the Subject Property becomes encumbered with any Lien, Licensor may, at Licensor's option, terminate this Agreement or direct Licensee to remove any such lien from the subject property. Licensee shall remove such Lien promptly and, in any event, not later than five (5) days after being directed to do so in writing by District. District shall have the right to remove or satisfy any Lien upon the Subject Property at any time with or without notice to Licensee, and shall be reimbursed by Licensee within ten (10) days after such amount is incurred, any amount that District incurs to remove or satisfy the Lien, including the costs, expenses, attorneys' fees, and administrative expenses incurred by District in connection therewith or by reason thereof.

21. Licensee shall give all notices, pay all fees, and take all other action that may be necessary to ensure that all activities on the Subject Property are provided, performed, and completed in



accordance with all applicable laws, statutes, rules, regulations, ordinances, and requirements, and all required governmental permits, licenses or other approvals and authorizations that may be required in connection with providing, performing, and completing such activities.

22. This Agreement shall be interpreted and enforced under the laws of the State of Illinois and the parties agree that the venue for any legal proceeding between them shall be Kendall County, Twenty-third Judicial Circuit, State of Illinois.

23. In any action with respect to this Agreement, the parties are free to pursue any legal remedies at law or in equity. The prevailing party by 75% or more of damages sought, in any action brought pursuant to this Agreement shall be entitled to reasonable attorneys' fees and court costs arising out of any action or claim to enforce the provisions of this Agreement.

24. If any provision of this Agreement shall be held invalid, the validity of any other provision of this Agreement that can be given effect without such invalid provision shall not be affected thereby. The waiver of one breach of any term, condition, covenant or obligation of this Agreement shall not be considered to be a waiver of that or any other term, condition, covenant or obligation or of any subsequent breach thereof.

25. This Agreement represents the entire agreement between the parties and there are no other promises or conditions in any other agreement whether oral or written. This agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.

Licensor: Kendall County Forest Preserve District

By: \_\_\_\_\_  
Judy Gilmour, President

Date: \_\_\_\_\_

Licensees:

By: \_\_\_\_\_  
Tom Anderson

Date: \_\_\_\_\_

**FARM LICENSE AGREEMENT #22-02-006**

**Henneberry Property**

AGREEMENT made this 15<sup>TH</sup> day of February, 2022 between the KENDALL COUNTY FOREST PRESERVE DISTRICT (hereinafter "Licensor"), a Body Corporate and Politic, 110 West Madison Street, Yorkville, IL, 60560, and the Licensees, Maurice and Chris Ormiston of 2028 Post Street, Ottawa, IL 61350, including all heirs and assigns.

WHEREAS, the Licensor is the owner of certain lands situated in the County of Kendall, Township of Na-Au-Say and State of Illinois described as:

PIN#: 06-06-400-003

WHEREAS, Licensee desires to use a portion of the above-described real estate for farming purposes, and Licensor desires to have the real estate farmed.

WHEREAS, both Licensee and Licensor hereby agree that there are 3.75 tillable acres suitable for row crops on the above referenced parcels, these tillable acres hereinafter referred to as the 'Subject Property'; and the Licensor hereby grants to the Licensee a farm License in exchange for the following goods, services, and considerations, submitted as a use fee for a term of one (1) year, beginning on February 16, 2022, and ending on December 31, 2022 subject to the conditions and limitations hereinafter mentioned.

Licensee shall pay Licensor a Base Rate of \$100 per tillable acre for the License year. The Base Rate shall be payable no later than May 30, 2022, and Licensee agrees that failure to pay by this date may terminate this License.

NOW, THEREFORE, in consideration of the grants, covenants, and conditions of this Agreement, IT IS HEREBY AGREED AS FOLLOWS:

1. The proceeding introductory language is made a part hereof and incorporated herein.
2. This Agreement grants only a contractual license to use the Subject Property under the terms and conditions state above. Further, the rights granted by District herein shall vest only in Licensee and no such rights shall vest in any of Licensee's employees, agents, subcontractors or partners, if any. Nothing in this Agreement shall be construed to convey to Licensee any legal or equitable interest in the Subject Property.
3. Licensor makes no claims as to the tax status of the Subject Property. In the event the Subject Property should be assessed and taxed pursuant to the process outlined in 35 ILCS 205/19, it shall be the obligation of the Licensee to pay such taxes as are incurred during the term of this license. In the event the Subject Property becomes taxable at any time during the term of this License, Licensee shall be required to pay those taxes that are incurred during the term of this License. At the termination of this Agreement, Licensee shall pay tax incurred during the term of this license, though not yet due and owing. Where taxes have yet to be determined, Licensee shall pay the estimated taxes based on 100% of the previous year's taxes. Any such taxes shall be prorated as needed.

4. The Licensor agrees that the Licensee may, without further license on the part of the Licensor, use the Subject Property for the purpose of farming the land. If there are highly erodible soils on the Subject Property, the Licensee is responsible for maintaining the soil according to the methods adopted in Licensee’s farming plan approved by the Kendall County Soil and Water Conservation District. Said report must be submitted to the Licensor on or before ground breaking on the first year covered by this License. Failure to submit this report by this date may terminate this License.

5. The Licensee has inspected the Subject Property and structures prior to signing this Agreement and accepts the conditions of these “as is.”

6. The Licensee agrees to farm the Subject Property in a husband-like manner, utilizing conservation tillage methods.

7. Licensee shall keep and provide to the Licensor the following records:

- A. Soil Samples – The Licensee shall conduct annual soil testing (2.5 acre grid), with such costs split evenly with the Licensor. Soil test results shall be due to the Licensor by December 30, 2022. The Licensee shall apply the minimum amount of fertilizer required to maintain the soil fertility at:
  - i. For corn, P (phosphorus) shall be maintained at 80 pounds per acre and K (potassium) shall be maintained at 50 pounds per acre.
  - ii. For soybeans, P (phosphorus) shall be maintained at 50 pounds per acre and K (potassium) shall be maintained at 75 pounds per acre.
- B. Global Positioning System data of crops and yields harvested.
- C. Fertilizers and rates applied.
- D. Pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.

8. Fertilizer replacement of P (phosphorus) and K (potassium) will be calculated using crop removal method as outlined in the Illinois Agronomy Handbook. Replacement of P and K for a crop year calculated on total nutrient removal per tillable acre and applied at the Licensee’s expense for product and application. No carry over credit will be allowed from previous year’s application.

9. If Licensee applies limestone to the Subject Property, the cost of the limestone will be depreciated at 25% annually. If the Licensee farms the Subject Property for a period less than four (4) years, the Licensor will reimburse the Licensee for the cost of the limestone less the total annual depreciation. Lime shall be applied when less than 6.2.

10. The Licensee shall deliver and sell the crop yield to no buyers other than those listed below without the written approval of the Licensor.

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_

11. It is agreed that the tillable land on this farm should be devoted to row crops. The Licensor may require an un-tilled buffer a minimum of 10 feet from certain woodlands or

waterways. This buffer shall be planted with a cover crop by the Licensee at the inception of this Licensee with a seed mix approved by Licensor. Licensor shall provide map to Licensee showing buffer areas to be planted.

12. Pesticide Use

- A. Licensee shall, and shall cause all other persons working on the Subject Property, to follow all label instructions of any pesticides used on the Subject Property. Upon signing this Agreement, Licensee shall supply Licensor with a copy of a valid State of Illinois pesticide applicator's license for each person who will be applying pesticide on the Subject Property during the term of this Agreement. If any such licenses expire during the term of this Agreement, Licensee shall be responsible for obtaining a renewal or new license to replace such an expired license and shall promptly provide Licensor with a copy thereof.
- B. No pesticides shall be stored on the Subject Property unless they are in original, labeled containers, and then only during the period during which such pesticide is applied, which shall not exceed ten (10) days.
- C. Licensee shall provide Licensor with a record of pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.
- D. Licensee is responsible, at the Licensee's sole expense, to repair any damage done to native vegetation due to pesticide drift and to repair rutting caused by farm equipment in non-tilled areas owned by the Licensor.

13. Licensee shall comply with all federal, state, and local laws, ordinances, rules and regulations that regulate, restrict or prohibit any material defined therein as a hazardous, radioactive, toxic or carcinogenic material, substance, pollutant, or contaminant when using such materials on the Subject Property.

14. The Licensee agrees to take care of the Subject Property, not to alter or change the physical landscape of the Subject Property and to farm and to maintain improvements in a careful and prudent manner.

15. Upon termination of this Agreement, Licensor may request the Licensee to provide services associated with restoration of the Subject Property. Such services may include plowing, herbiciding, tilling, seeding, and maintenance mowing.

16. Licensor reserves the right to enter upon said land to inspect, make improvements thereon, and for any and all lawful purposes arising from the ownership of the land so long as it does not interfere with the rights of the Licensee, as provided in this License.

17. The Licensee agrees that this License is purely a personal license to use the Subject Property for farming purposes. The Licensor may terminate this Agreement at any time and for any reason by giving thirty (30) days notice in writing to that effect to the Licensee. In the event of any termination, Licensor shall pay the Licensee for planted but unharvested crops on the Subject Property on the basis of average county yield and unit price, based on available County data. Fertilizer and pesticide costs for planted but unharvested crops on the Subject Property shall be reimbursed, provided that the Licensee provides fertilizer and pesticide receipts for these costs. Other than amount for planted but unharvested crops, fertilizer and pesticide costs, as

provided in this section, Licensee hereby waives its rights to request or seek any other amount from Licensor in the event the License granted herein is terminated.

18. Insurance & Liability

- A. The Licensee shall maintain one million dollars (\$1,000,000.00) of liability insurance on the Subject Property with an insurance company acceptable to the Licensor. Licensee shall purchase insurance with said company naming the Licensor as additional insured on the liability policy. Proof of such coverage must be on file with the Licensor on or before March 31st of the year of the License. Failure to submit such proof by this date may terminate this License. Policy must cover all contractors hired by the Licensee to apply soil amendments, pesticides, or for other purposes, or the contractor must provide proof of insurance for the above referenced amount.
- B. Licensee shall obtain and maintain, at the Licensee's expense, appropriate and adequate insurance coverage for the Licensee's personal property in amounts determined by the Licensee to be adequate. Licensee shall provide a copy of all insurance policies to Licensor upon request of Licensor.
- C. Licensee shall hold harmless, indemnify, and defend the Licensor, its Commissioners, Officers, Agents, Attorneys and Employees against any and all losses, expenses, claims, costs, causes and damages, including without limitation litigation costs and attorneys' fees, on account of (a) any failure on the part of the Licensee to perform or comply with any terms or conditions of this Agreement, or (b) any personal injuries or death or damages to property arising from, occurring, growing out of, incident to, or resulting directly or indirectly from the grant of this License or the use of the Subject Property or the structures by Licensee. The provisions of this section shall be in addition to, and shall not be limited by, the amounts of any insurance provided by Licensee pursuant to this Agreement.

19. This License is not assignable or transferable to any person, company, or corporation, in whole or in part.

20. It is mutually agreed that the Licensee is an independent contractor, not subject to the control of the Licensor and is not an employee of the Licensor.

21. Licensee shall, and without any charge to District, keep the Subject Property free of any and all liens against the Subject Property in favor of any person whatsoever for or by reason of any equipment, material, supplies or other item furnished, labor performed or other thing done in connection with Licensee's use or occupancy of the Subject Property (a "Lien"). If the Subject Property becomes encumbered with any Lien, Licensor may, at Licensor's option, terminate this Agreement or direct Licensee to remove any such lien from the subject property. Licensee shall remove such Lien promptly and, in any event, not later than five (5) days after being directed to do so in writing by District. District shall have the right to remove or satisfy any Lien upon the Subject Property at any time with or without notice to Licensee, and shall be reimbursed by Licensee within ten (10) days after such amount is incurred, any amount that District incurs to remove or satisfy the Lien, including the costs, expenses, attorneys' fees, and administrative expenses incurred by District in connection therewith or by reason thereof.

22. Licensee shall give all notices, pay all fees, and take all other action that may be necessary to ensure that all activities on the Subject Property are provided, performed, and completed in

accordance with all applicable laws, statutes, rules, regulations, ordinances, and requirements, and all required governmental permits, licenses or other approvals and authorizations that may be required in connection with providing, performing, and completing such activities.

23. This Agreement shall be interpreted and enforced under the laws of the State of Illinois and the parties agree that the venue for any legal proceeding between them shall be Kendall County, Twenty-third Judicial Circuit, State of Illinois.

24. In any action with respect to this Agreement, the parties are free to pursue any legal remedies at law or in equity. The prevailing party by 75% or more of damages sought, in any action brought pursuant to this Agreement shall be entitled to reasonable attorneys' fees and court costs arising out of any action or claim to enforce the provisions of this Agreement.

25. If any provision of this Agreement shall be held invalid, the validity of any other provision of this Agreement that can be given effect without such invalid provision shall not be affected thereby. The waiver of one breach of any term, condition, covenant or obligation of this Agreement shall not be considered to be a waiver of that or any other term, condition, covenant or obligation or of any subsequent breach thereof.

26. This Agreement represents the entire agreement between the parties and there are no other promises or conditions in any other agreement whether oral or written. This agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.

Licensor: Kendall County Forest Preserve District

By: \_\_\_\_\_  
Judy Gilmour, President

Date: \_\_\_\_\_

Licensees:

By: \_\_\_\_\_  
Maurice Ormiston, Jr.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chris Ormiston

Date: \_\_\_\_\_

**FARM LEASE AGREEMENT #22-02-007**

**Baker Woods Forest Preserve**

This AGREEMENT is made this 15<sup>TH</sup> day of February, 2022 between the KENDALL COUNTY FOREST PRESERVE DISTRICT, a Body Corporate and Politic, 110 West Madison Street, Yorkville, IL, 60560, Lessor, and Kyle Connell, of 7485 Nettle Creek Road, Morris, Illinois, 60450, Lessee, including all heirs and assigns.

WHEREAS, the Lessor is the owner of certain lands situated in the County of Kendall, Township of Seward and State of Illinois described as:

PIN#s:           Field A and B: 09-16-200-013  
                  Field C: 09-10-300-002 and 09-09-400-003

WHEREAS, Lessee desires to use the above-described real estate for farming purposes and Lessor desires to have the real estate farmed.

WHEREAS, both Lessee and Lessor hereby agree that there are 106.7 tillable acres suitable for row crops on the above referenced parcels, these tillable acres hereinafter referred to as the 'Subject Property'; and the Lessor hereby grants to the Lessee a farm lease in exchange for the following goods, services, and considerations, submitted as a use fee for a term of one (1) year, beginning on February 16, 2022, and ending on December 31, 2022 subject to the conditions and limitations hereinafter mentioned.

Lessee shall pay Lessor a **Base Rate** of \$250.00 (two-hundred and fifty dollars) only per tillable acre for the 58.78-acres of tillable soils converted over to hay production in 2020. The Base Rate only shall be paid for acres in hay production, payable no later than May 31, 2022, and Lessee agrees that failure to pay by this date may terminate this Lease Agreement.

Lessee shall pay Lessor a **Base Rate** of \$215.00 (two-hundred and fifteen dollars) per tillable acre for the remaining 47.92-acres of tillable soils under row crop production, plus a **Flexible Rate**. The Base Rate is payable no later than May 31, 2022, and Lessee agrees that failure to pay by this date may terminate this Lease Agreement.

Lessee shall pay Lessor a **Flexible Rate** equal to:  
(((Average Grain Price - Basis) x Yield) + Crop Insurance) x 33.33%) - Base Rent  
(See Exhibit A for example.)

Average Grain Price shall be calculated by utilizing the closing price on the Chicago Board of Trade futures market on the first trading day of each month from January through October. The Basis shall be fixed at \$0.30 for corn and \$0.40 for soybeans.

The Yield shall be the amount of dry bushels harvested divided by the tillable acres as provided on page one of this agreement.

Crop Insurance shall be any funds from a multi-peril or crop hail claim on the Subject Property collected by the Lessee, less the premiums paid on such policy(s).

The Flexible Rate is payable on or before December 31 of each Lease year. Should the computed Flexible Rate be less than the Base Rate, then the Base Rate shall be the total due to Lessor.

NOW, THEREFORE, in consideration of the grants, covenants, and conditions of this Agreement, IT IS HEREBY AGREED AS FOLLOWS:

1. The proceeding introductory language is made a part hereof and incorporated herein.
2. This Agreement grants only a contractual lease to use the Subject Property under the terms and conditions state above. Further, the rights granted by District herein shall vest only in Lessee and no such rights shall vest in any of Lessee's employees, agents, subcontractors or partners, if any. Nothing in this Agreement shall be construed to convey to Lessee any legal or equitable interest in the Subject Property.
3. Lessor makes no claims as to the tax status of the Subject Property. In the event the Subject Property should be assessed and taxed pursuant to the process outlined in 35 ILCS 205/19, it shall be the obligation of the Lessee to pay such taxes as are incurred during the term of this lease. In the event the Subject Property becomes taxable at any time during the term of this Lease, Lessee shall be required to pay those taxes that are incurred during the term of this Lease. At the termination of this Agreement, Lessee shall pay tax incurred during the term of this lease, though not yet due and owing. Where taxes have yet to be determined, Lessee shall pay the estimated taxes based on 100% of the previous year's taxes. Any such taxes shall be prorated as needed.
4. The Lessor agrees that the Lessee may, without further license on the part of the Lessor, use the Subject Property for the purpose of farming the land. If there are highly erodible soils on the Subject Property, the Lessee is responsible for maintaining the soil according to the methods adopted in Lessee's farming plan approved by the Kendall County Soil and Water Conservation District. Said report must be submitted to the Lessor on or before ground breaking on the first year covered by this License. Failure to submit this report by this date may terminate this License.
5. The Lessee has inspected the Subject Property prior to signing this Agreement and accepts the condition of this "as is."
6. The Lessee agrees to farm the Subject Property in a husband-like manner, utilizing conservation tillage methods.
7. Lessee shall keep and provide to the Lessor the following records:
  - A. Soil Samples – The Lessee shall conduct annual soil testing (2.5 acre grid), with such costs split evenly with the Lessor. Soil test results shall be due to the Lessor by December 31. The Lessee shall apply the minimum amount of fertilizer required to maintain the soil fertility based on the following:
    - i. For corn, elemental P (phosphorus) shall be maintained at 80 pounds per acre and elemental K (potassium) shall be maintained at 50 pounds per acre.



ii. For soybeans, elemental P (phosphorus) shall be maintained at 50 pounds per acre and elemental K (potassium) shall be maintained at 75 pounds per acre.

- B. Global Positioning System data of crops and yields harvested.
- C. Fertilizers and rates applied.
- D. Pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.

9. Fertilizer replacement of P (phosphorus) and K (potassium) will be calculated using crop removal method as outlined in the Illinois Agronomy Handbook. Replacement of P and K for a crop year calculated on total nutrient removal per tillable acre and applied at the Lessee's expense for product and application. No carry over credit will be allowed from previous year's application.

10. If Lessee applies limestone to the Subject Property, the cost of the limestone will be depreciated at 25% annually. If the Lessee farms the Subject Property for a period less than four (4) years, the Lessor will reimburse the Lessee for the cost of the limestone less the total annual depreciation. Lime shall be applied when soil pH is less than 6.2.

11. The Lessee shall deliver and sell the crop yield to no buyers other than those listed below without the written approval of the Lessor. Lessee shall provide grain sheets to Lessor.

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_

12. It is agreed that the tillable land on this farm should be devoted to hay and row crop production. The Lessor may require an un-tilled buffer a minimum of 10 feet from certain woodlands or waterways. This buffer shall be planted with a cover crop by the Lessee at the inception of this Lease with a seed mix approved by Lessor. Lessor shall provide map to Lessee showing buffer areas to be planted.

Licensee may exercise an option to convert the 47.92-acres in row crop production as described in this Agreement for hay production. Base rent on acres converted from row crop production to hay production will be charged a base rent only of \$250.00 per acre payable by May 30 for each lease-year, with no calculated yield payment owed for those acres converted for hay production.

13. Pesticide Use

- A. Lessee shall, and shall cause all other persons working on the Subject Property, to follow all label instructions of any pesticides used on the Subject Property. Upon signing this Agreement, Lessee shall supply Lessor with a copy of a valid State of Illinois pesticide applicator's license for each person who will be applying pesticide on the Subject Property during the term of this Agreement. If any such licenses expire during the term of this Agreement, Lessee shall be responsible for obtaining a renewal or new license to replace such an expired license and shall promptly provide Lessor with a copy thereof.
- B. No pesticides shall be stored on the Subject Property unless they are in original, labeled containers, and then only during the period during which such pesticide is applied, which shall not exceed ten (10) days.

- C. Lessee shall provide Lessor with a record of pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application.
- D. Licensee shall provide Licensor with a record of pesticide applications, including dates of applications, types and amounts of pesticide used, fields treated, and the identity of the applicator for each application. Use of atrazine (weed control) and neonicotinoid pesticides (seed treatments including imidacloprid, thiamethoxam, and clothianidin formulas) are prohibited from application within the license area.
- E. Lessee is responsible, at the Lessee's sole expense, to repair any damage done to native vegetation due to pesticide drift and to repair rutting caused by farm equipment in non-tilled areas owned by the Lessor.

14. Lessee shall comply with all federal, state, and local laws, ordinances, rules and regulations that regulate, restrict or prohibit any material defined therein as a hazardous, radioactive, toxic or carcinogenic material, substance, pollutant, or contaminant when using such materials on the Subject Property.

15. The Lessee agrees to take care of the Subject Property, not to alter or change the physical landscape of the Subject Property and to farm in a careful and prudent manner.

16. Upon termination of this Agreement, Lessor may request the Lessee to provide services associated with restoration of the Subject Property. Such services may include plowing, herbiciding, tilling, seeding, and maintenance mowing. Financial arrangement shall be mutually agreed upon by Lessor and Lessee should these services be requested.

17. Lessor reserves the right to enter upon said land to inspect, make improvements thereon, and for any and all lawful purposes arising from the ownership of the land so long as it does not interfere with the rights of the Lessee, as provided in this Lease.

18. The Lessee agrees that this Lease is purely a personal lease to use the Subject Property for farming purposes. The Lessor may terminate this Agreement at any time and for any reason by giving thirty (30) days notice in writing to that effect to the Lessee. In the event of any termination, Lessor shall pay the Lessee for planted but unharvested crops on the Subject Property on the basis of average county yield and unit price, based on available County data. Fertilizer and pesticide costs for planted but unharvested crops on the Subject Property shall be reimbursed, provided that the Lessee provides fertilizer and pesticide receipts for these costs. Other than amount for planted but unharvested crops, and fertilizer and pesticide costs, as provided in this section, Lessee hereby waives its rights to request or seek any other amount from Lessor in the event the License granted herein is terminated.

19. Insurance & Liability

- A. The Lessee shall maintain one million dollars (\$1,000,000.00) of liability insurance on the Subject Property with an insurance company acceptable to the Lessor. Lessee shall purchase insurance with said company naming the Lessor as additional insured on the liability policy. Proof of such coverage must be on file with the Lessor on or before March 30th of the first year of the License. Failure to submit such proof by this date may terminate this License. Policy must cover all contractors hired by the Lessee to apply soil

amendments, pesticides, or for other purposes, or the contractor must provide proof of insurance for the above referenced amount.

- B. Lessee shall obtain and maintain, at the Lessee's expense, appropriate and adequate insurance coverage for the Lessee's personal property in amounts determined by the Lessee to be adequate. Lessee shall provide a copy of all insurance policies to Lessor upon request of Lessor.
- C. Lessee shall hold harmless, indemnify, and defend the Lessor, its Commissioners, Officers, Agents, Attorneys and Employees against any and all losses, expenses, claims, costs, causes and damages, including without limitation litigation costs and attorneys' fees, on account of (a) any failure on the part of the Lessee to perform or comply with any terms or conditions of this Agreement, or (b) any personal injuries or death or damages to property arising from, occurring, growing out of, incident to, or resulting directly or indirectly from the grant of this License or the use of the Subject Property or the structures by Lessee. The provisions of this section shall be in addition to, and shall not be limited by, the amounts of any insurance provided by Lessee pursuant to this Agreement.

20. This Lease is not assignable or transferable to any person, company, or corporation, in whole or in part.

21. It is mutually agreed that the Lessee is an independent contractor, not subject to the control of the Lessor and is not an employee of the Lessor.

22. Lessee shall, and without any charge to District, keep the Subject Property free of any and all liens against the Subject Property in favor of any person whatsoever for or by reason of any equipment, material, supplies or other item furnished, labor performed or other thing done in connection with Lessee's use or occupancy of the Subject Property (a "Lien"). If the Subject Property becomes encumbered with any Lien, Lessor may, at Lessor's option, terminate this Agreement or direct Lessee to remove any such lien from the subject property. Lessee shall remove such Lien promptly and, in any event, not later than five (5) days after being directed to do so in writing by District. District shall have the right to remove or satisfy any Lien upon the Subject Property at any time with or without notice to Lessee, and shall be reimbursed by Lessee within ten (10) days after such amount is incurred, any amount that District incurs to remove or satisfy the Lien, including the costs, expenses, attorneys' fees, and administrative expenses incurred by District in connection therewith or by reason thereof.

23. Lessee shall give all notices, pay all fees, and take all other action that may be necessary to ensure that all activities on the Subject Property are provided, performed, and completed in accordance with all applicable laws, statutes, rules, regulations, ordinances, and requirements, and all required governmental permits, licenses or other approvals and authorizations that may be required in connection with providing, performing, and completing such activities.

24. This Agreement shall be interpreted and enforced under the laws of the State of Illinois and the parties agree that the venue for any legal proceeding between them shall be Kendall County, Twenty-third Judicial Circuit, State of Illinois.

25. In any action with respect to this Agreement, the parties are free to pursue any legal remedies at law or in equity. The prevailing party by 75% or more of damages sought, in any

action brought pursuant to this Agreement shall be entitled to reasonable attorneys' fees and court costs arising out of any action or claim to enforce the provisions of this Agreement.

26. If any provision of this Agreement shall be held invalid, the validity of any other provision of this Agreement that can be given effect without such invalid provision shall not be affected thereby. The waiver of one breach of any term, condition, covenant or obligation of this Agreement shall not be considered to be a waiver of that or any other term, condition, covenant or obligation or of any subsequent breach thereof.

27. This Agreement represents the entire agreement between the parties and there are no other promises or conditions in any other agreement whether oral or written. This agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.

Lessor:

Kendall County Forest Preserve District

By: \_\_\_\_\_  
Judy Gilmour, President

Date: \_\_\_\_\_

Lessee:

By: \_\_\_\_\_  
Kyle Connell, Farm Operator

Date: \_\_\_\_\_

Exhibit A

Flexible Rate Calculation Example

For the following values for a 100 acre site with a base rent of \$200 per acre:

Average grain price = Corn \$5 per bushel

Basis = \$0.30 per bushel

Yield = 200 bushels per acre x 100 acres = 20,000 bushels

Crop Insurance = 0

Base Rent = 100 acres x \$200 per acre = \$20,000

$$(((\text{Average Grain Price} - \text{Basis}) \times \text{Yield}) + \text{Crop Insurance}) \times 33.33\% - \text{Base Rent}$$

$$(((\$5 - \$0.30) \times 20,000) + 0) \times 33.33\% - \$20,000 = \$11,330.20$$

The base rate amount is due May 31.

The flexible rate amount is due December 31.

**KENDALL COUNTY FOREST PRESERVE DISTRICT**  
**JOB DESCRIPTION**

**CLASS TITLE:** Forest Preserve Grounds and Projects Manager  
**WAGE CATEGORY:** FLSA Non-Exempt  
**REPORTS TO:** Grounds and Natural Resources Division Supervisor  
**EFFECTIVE DATE:** February 15, 2022

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**SUMMARY:**

Responsible for performing a variety of grounds maintenance duties including, but not limited to, the maintenance and upkeep of the District's grounds, buildings and public use areas and assist with the District's natural areas repair, preservation and management. This position assists in the development and implementation of natural resources, habitat, and preserve improvement projects for the District. This position provides supervision of full time, part-time, and seasonal grounds maintenance employees. This position receives daily instructions and direction from the Grounds and Natural Resources Division Supervisor.

**ESSENTIAL DUTIES AND RESPONSIBILITIES:**

The duties for this position shall include, but not be limited to, the following:

- Performs a variety of horticultural tasks including, but not limited to, mowing, edging, aerating, trimming, fertilizing, weed control, seeding and maintenance of turf areas, tree and shrub trimming, planting, and pruning, removal of damaged sod, and installation of new sod.
- Splits, loads and hauls firewood.
- Gathers, loads and hauls refuse and vegetation from grounds and user areas.
- Removes snow and ice from District roads/walks/trails, utilizing both snow plow and manual methods.
- Regularly uses, maintains and repairs tools of the trade (both powered and non-powered equipment) including, but not limited to, welder, sandblaster, grinder, cutting torch, air sprayer, power washer, chainsaw, and other mechanical hand tools.
- Hauls and moves materials, supplies, furnishings and machinery, as needed, for District and public use.
- Safely and effectively operates, maintains and repairs District vehicles and equipment including, but not limited to, small dump trucks, snow blowers, salt spreaders, sod cutters, rototiller, chain saws, trimmers, sweepers, front end loaders, backhoes, and forklifts.
- Repairs and maintains District trails by performing duties including, but not limited to, removal of fallen trees and limbs; repair any damage caused by erosion or other factors; and installation of wood chips, limestone screenings and other trail surfaces.
- Assists with general road repairs including, but not limited to, asphalt patching and gravel road maintenance.
- Constructs, installs and repairs District facilities and structures, picnic shelters, bridges, fencing, bollards, posts, signage, seasonal equipment, and any other facilities and structures necessary for the District.
- Repairs plumbing, electrical, HVAC, carpentry and paint, as needed, at District facilities and structures.
- Inspects, maintains, and repairs District restrooms including daily cleaning and trash removal.
- Participates in emergency preparedness and response activities as assigned.
- Communicates District rules and regulations to the public.
- Performs other duties as directed by supervisor, the Director and/or Director's designee.
- Performs duties that include office or non-manual work that support the to the management and general business operations of the District, which include the exercise of independent judgment with respect to matters of significance including, but not limited to the following:

- Receives, investigates and responds to grievances received from the public.
- Develops and maintains professional collaboration with other natural resource program coordinators and administrators, community organizations, and environmental educators both within and outside of Kendall County, Illinois.
- Communicates professionally and effectively with the Grounds and Natural Resources Division Supervisor, District staff, and the public.
- Assist in the implementation of all natural resources, habitat, and preserve improvement projects for the District by performing duties including, but not limited to the following:
  - Secures supplies and equipment needed to complete natural resources and habitat improvement projects.
  - Assist in the implementation of the District's prescribed burn program, brush removal, seed collecting and other natural area management tasks at District locations and preserves.
  - Supports grant project implementation for preserve improvement and natural areas management projects.
  - Provides assistance with project coordination, and directly participates in natural area restoration projects.
  - Supervises assigned staff members, outside contractors and volunteers supporting natural resource management and preserve improvement projects within District preserves.
- Assist in the coordination and implementation the District's annual bow hunt program.
- Assists in the coordination of reservations for the District's public programs and facility use reservations by performing tasks including, but not limited to:
  - Communicates the reservation process and rules to clients
  - Assists in the scheduling of staff to support the District's facility use
- Customarily and regularly performs supervisory and management duties including, but not limited to the following:
  - Supervises trained and untrained volunteers participating in natural area management workdays.
  - Assists in the interviewing, selecting, and training grounds maintenance staff;
  - Assists with the development of employee performance evaluations;
  - Assists in the apportioning and scheduling of work among grounds maintenance employees and natural area volunteers within the grounds maintenance division;
  - Provides for the safety and security of the employees, volunteers, visitors, and District property;
- Coordinates setup for events, rental functions, and volunteer work days, ensuring facilities are clean with equipment preparations complete prior to the start of restoration work days.
- Maintains a safe and clean environment at all times and enforces all District safety rules and policies.
- Provides first aid or take other emergency measures when necessary as indicated in student, volunteer and staff emergency protocol and procedures.
- Maintains regular attendance and punctuality.

**SUPERVISORY RESPONSIBILITIES:**

- This position regularly supervises part-time and seasonal employees at Harris Forest Preserve.
- This position supervises Grounds Maintenance full-time and part-time staff, volunteers in the District's volunteer workdays, and staff assignments for ground maintenance projects.

**QUALIFICATIONS:**

- To perform this job successfully, an individual must be able to perform all essential duties satisfactorily. The requirements listed below are representative of the knowledge, skill and/or ability required for the position.

**A. EDUCATION and/or EXPERIENCE:**

- High school diploma or general education degree (GED).
- A preferred minimum of two (2) years' experience with supervising grounds and/or building and amenity maintenance projects or similar role, or equivalent combination of training and experience.
- Requires knowledge of grounds maintenance tools and equipment use.
- Completion of all assigned equipment and natural areas management training.
- Experience in leading and coordinating volunteer-based work days and natural resource projects.
- Knowledge of Microsoft Office programs including, but not limited to, Excel, Word and PowerPoint.
- Knowledge of office practices, principles of modern record keeping, and setup and prepare, create and organize files

**B. LANGUAGE SKILLS:**

- Ability to write reports and correspondence.
- Ability to speak effectively with the public, including individuals of all ages and ability levels, and employees of the District.
- Good knowledge of the English language, spelling and grammar.

**C. MATHEMATICAL SKILLS:**

- Ability to add, subtract, multiply, and divide in all units of measure, using whole numbers, common fractions, and decimals.
- Ability to compute rate, ratio, and percent and to draw and interpret bar graphs.

**D. REASONING ABILITY:**

- Ability to employ safe work practices and use sound judgment while leading volunteer programs.
- Ability to complete projects from beginning to end with minimal supervision.
- Possess positive conservation ethic and respect towards living things and the natural environment.
- Ability to apply common sense understanding to carry out instructions furnished in written, oral, or diagram form.
- Ability to deal with problems involving several concrete variables in standardized situations.

**E. CERTIFICATES, LICENSES, REGISTRATIONS:**

- Certification in related trades preferred.
- Master Naturalist, Certified Interpretive Guide, or other environmental certification preferred. May be actively pursuing an environmentally related certificate.
- Current CPR/First Aid certification or ability to obtain one within the first ninety (90) days of employment.
- A prescribed fire burn training certificate and S190 course completion or, in the alternative, successfully complete S190 coursework within the first ninety (90) days of employment.
- A valid Illinois Driver's License
- A valid Illinois Pesticide Applicator License or, in the alternative, obtain a valid Illinois Pesticide Operator's License within the first ninety (90) days of employment.
- All other training, certificates and registrations required for the specific duties performed.

**PHYSICAL DEMANDS:**

- Employee must be able to successfully operate all District tools and equipment required to perform assigned job duties.
- Employee must frequently lift and/or move up to 50 pounds, and occasionally up to 75 pounds.
- Employee must be able to use hands and fingers to handle, feel, and operate equipment.
- Employee must be able to reach, push and pull with hands and arms.
- Employee must be able to talk and hear in person and via use of telephone.



- Specific vision abilities required by this job include close vision, depth perception and distance vision.
- Employee must be able to sit, kneel, stand and bend for extended periods of time.
- Employee must be able to walk on uneven terrain for extended periods of time.
- Employee must be able to provide instruction while walking outside and in varying weather conditions.
- Employee must be comfortable being outside in various types of weather for extended periods of time.

**WORK ENVIRONMENT:**

- The weather and temperature will not be consistent during the course of employment.
- The noise level in the work environment will vary from moderately quiet to loud.
- Employee must be able to perform all assigned job duties during normal business hours and after normal business hours, as required in the event of an emergency or special event.
- Employee is required to provide own transportation to travel to and from meetings, training, conferences, and the various District preserves and locations.
- Employee will be required to operate a motor vehicle and other restoration work vehicles and equipment to perform assigned job duties.
- Employee is required to work regularly with children and the general public.

The above information is not intended to be all-inclusive and can be expanded or modified as necessary.

Kendall County Forest Preserve District

January 26, 2022

Mr. David Guritz

Director – Kendall County Forest Preserve District

RE: Proposal for Inventory and Assess of Lyons/Young Forest Preserve in 2022

During the 2022 growing season I will inventory the approximately 170 acres of the Lyons/Young Forest Preserve in Kendall County for its vascular flora. This will involve visiting the site at different times during the growing season to ensure that species with different phenologies are accurately identified and recorded. From these inventories, a species list will be generated that will calculate the Floristic Quality of the site.

In addition to the inventory list, I will describe the various plant communities at Lyons/Young Forest Preserve and record any regionally rare and state listed species that are encountered and make recommendations for monitoring rare plant species on the site through the Chicago Botanic Gardens' Plants of Concern Monitoring Program. The site will be evaluated to look at the general conditions and how many of the rare plant species are still present from the flora list compiled in 1991.

Also, I will collect specimens and voucher plant species not known from Kendall County (using the 2017 Flora of the Chicago Region) and deposit these specimens at the Morton Arboretum Herbarium.

As mentioned earlier, this will involve floral inventories and inspection of the site during the 2022 growing season, data entry and analysis of Floristic Quality information and writing up a final report will be delivered to the Kendall County Forest Preserve District by November 1, 2022.

The total costs for the projects described above, and report, will be \$3,500.00 due to the size and complexity of the site.

Please let me know if you have any questions or if I can provide any further information.

Thank you.

Scott N. Kobal

26W121 Durfee Road

Wheaton, IL 60189-7867

**CONTRACT  
BETWEEN OWNER and FIRM  
FOR LANDSCAPE ARCHITECTURAL SERVICES  
AT FOX RIVER BLUFFS FOREST PRESERVE  
FOR KENDALL COUNTY FOREST PRESERVE DISTRICT**

**Kendall County Forest Preserve District**

110 W. Madison  
Yorkville, Illinois 60560  
Phone: 630-553-4025.....

The Owner

And

Upland Design Ltd.  
24042 Lockport St., Suite 200  
Plainfield, IL 60544  
Phone: 815.254.0091.....

The Firm

Owner and Firm agree as set forth below:

**1. Firm’s Basic Services**

The Firm agrees to provide its professional services in accordance with skill and care ordinarily in accordance with generally accepted standards of its profession. The Construction Documents shall comply with applicable building and zoning codes, laws and regulations in effect as of the date of submission of such Construction Documents for permitting. **See Attachment A for Project Scope of Services**, which is incorporated herein by reference. This contract and the Project Scope of Services, as incorporated herein, shall be referred to as the “Contract”. The Scope of Services to be provided by Firm pursuant to the terms of this Contract shall hereinafter be referred to as the “Project”.

**2. Excluded Services**

The Firm and sub-consultants will not be responsible for the following: Hydrologic/hydraulic modeling the floodplain/floodway, wetland mitigation, archeological services, environmental testing, subsurface conditions and material testing, boundary survey, topographic survey, soil borings, construction layout; construction scheduling; construction work; work-site safety, labor negotiations, permit fees or court appearances as part of these services.

Hazardous Materials: The scope of the Firm’s services for this Contract does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead, or other hazardous materials, as defined by Federal, State, and local laws or regulations. However, if Firm becomes aware of any of these hazardous materials, Firm agrees to promptly notify Owner.

**3. Construction Phase Services**

The term “Contractor”, as used herein, shall mean any person, firm or corporation, whether hired by Owner or Firm through competitive bidding, contracted to oversee or perform construction services during the construction phase of the Project. “Contractor” as used herein, also includes a general contractor and a subcontractor.

If Firm performs any services during the construction phase of the Project, Firm and its consultants shall have no responsibility to supervise, direct, nor shall it have control over Contractor’s work. The Firm and its consultants shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the Contractor. The Firm does not guarantee the performance of the construction

contract by the Contractor and does not assume responsibility for the Contractor's failure to furnish and perform its work in accordance with the Contract.

#### 4. Firm's Insurance

Firm shall provide to Owner proof of insurance with coverage limits as set forth in this Section 4. The Firm shall maintain insurance with the following coverage:

All coverage shall be placed with insurers authorized to conduct business in Illinois with a current A.M. Best's rating of no less than A:VII. Each insurance policy on which Owner is an additional insured shall not be cancelled by the insurer without thirty (30) calendar days prior written notice, given by the insurance carrier to Owner at the address set forth herein, except for non-renewal for failure to pay premium which notice shall be ten (10) days.

**Minimum Scope and Limit of Insurance.** All coverage shall be at least as broad as the following:

*Commercial General Liability ("CGL"):* Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be \$2,000,000.

*Umbrella/Excess Liability:* Limits of liability equal to or greater than \$2,000,000 per occurrence and \$2,000,000 in aggregate.

*Automobile Liability:* Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Firm has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

*Workers' Compensation Insurance:* Insurance as required by the State of Illinois, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$500,000 per accident for bodily injury or disease.

*Professional Liability (Errors and Omissions) Insurance.* Professional insurance appropriate to Firm's profession, with limit no less than \$2,000,000 per claim and \$2,000,000 aggregate.

If Firm maintains broader coverage and/or higher limits than the minimums shown above, Owner shall be entitled to the broader coverage and/or the higher limits maintained by the Firm. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Owner.

**Additional Insured Status.** Owner and its, past, present, and future Commissioners, officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of the operations performed by or on behalf of Firm. General liability coverage can be provided in the form of an endorsement to Firm's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

**Primary Coverage.** For any claims related to this Contract, the Firm's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 with respect to

Owner, its past present and future Commissioners, officers, officials, employees, and volunteers. Any general liability insurance maintained by Owner, its past present or future officers, officials, employees, or volunteers shall be excess of Firm's insurance and shall not contribute with it.

**Waiver of Subrogation.** Firm hereby grants to Owner and its, past, present, and future its officers, officials, employees and volunteers, a waiver of any right to subrogation which any insurer of said Firm may acquire against Owner by virtue of the payment of any loss under such insurance. Firm agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Owner has received a waiver of subrogation endorsement from the insurer.

**Self-Insured Retentions.** Self-insured retentions must be declared to and approved by Owner. Owner may require the Firm provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Owner.

**Claims Made Policies.** If any of the required policies provide coverage on a claims-made basis, (1) the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work, (2) insurance must be maintained and evidence of insurance must be provided *for at least four (4) years after completion of the services*, and (3) if coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Firm must purchase "extended reporting" coverage for a minimum of *five (5) years* after completion of services under the Contract.

**Verification of Coverage.** Firm shall furnish Owner with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Owner before services begins. However, failure to obtain the required documents prior to the services beginning shall not waive the Firm's obligation to provide them. Owner reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Consultants, Sub-Consultants and Contractors.** Firm shall require and verify that all consultants maintain insurance meeting all the requirements stated herein, and Firm shall require that Owner is an additional insured on insurance required from its consultants.

## 5. Owner Responsibilities

The Owner has designated David Guritz, Executive Director, as the contact person(s) for this Project. The Firm will direct correspondence and information to the contact person. The Owner will provide pertinent information to the Firm in a timely manner so as not to hinder or delay the Firm performing its service in a timely and cost effective manner throughout the Project.

Notwithstanding the foregoing, any notice required or permitted to be given pursuant to this Contract shall be duly given if sent by fax, certified mail or courier service and received, in the case of notice to Owner to David Guritz, with a copy to:

Kendall County State's Attorney  
807 John Street,  
Yorkville, Illinois, 60560,  
Fax (630)-553-4204.

And, in the case of Firm, to:

Upland Design Ltd.  
24042 Lockport St., Suite 200  
Plainfield, IL 60544  
Phone: 815.254.0091

The Owner agrees to provide Firm with existing base information for the site and will assist the Firm with obtaining other information as requested. The Firm will rely on the accuracy and completeness of such information provided by the Owner. The Owner agrees to advise Firm of any known or suspected contaminants at the Project Site and the Owner shall be solely responsible for all subsurface soil conditions. Owner will provide the Firm with a copy of the land survey and legal description; Phase I Environmental Survey; Phase I Archaeological Survey and subsurface Drain Rile survey.

Right of Entry: When entry to property is required for the Firm and/or sub-consultant to perform its services, the Owner agrees to obtain legal right-of-entry on the property.

#### 6. Project Schedule

The Firm shall render its services as expeditiously as is consistent with professional skill and care. During the course of the Project, anticipated and unanticipated events may impact any Project schedule. The Firm shall make the Owner aware of events that will impact the Project schedule within seven (7) days of the Firm becoming aware of such events.

#### 7. Compensation and Payments

The Owner shall pay to the Firm the following lump sum not to exceed prices for the work described herein plus the cost of reimbursable costs.

##### Professional Fees

Site Survey	\$ 2,300
Construction Documents	\$16,500
Permitting	\$ 4,000
Bidding	\$ 1,000
Construction Admin	\$ 5,000
<b>Total Professional Fee</b>	<b>\$28,800</b>

Firm shall submit request(s) for payment to the Owner. Payment requests shall be made monthly for that portion of the Project that has been completed. The Owner agrees to make the requested payment in compliance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et seq.)

Firm agrees to attend all meetings set forth in Exhibit A. Any additional meetings may be added at a rate of \$620.00/meeting, provided such additional meetings have been pre-approved in writing by the

Owner. No additional services shall be added to the Contract without the prior written authorization from the Owner.

**Reimbursable Costs:** Firm will bill direct non-payroll expenses, not to exceed the amount of \$1,200.00 incurred by Firm while performing services pursuant to this Contract at cost plus 0%. Non-payroll expenses include copies, printing, boards, plans and handouts, postage, delivery and tolls. Mileage will be billed at current IRS rates. Any additional non-payroll expenses to be incurred by Firm must be pre-approved in writing by the Owner. At the request of Owner, Firm shall provide to Owner documentation necessary to support the billing of non-payroll expenses.

**Additional Services:** At the written request of the Owner, additional meetings or services may be added at the professional service rates listed herein. No additional services shall be added to the Contract without prior written authorization from the Owner.

Principal Landscape Architect	\$ 166/hour
Landscape Architect	\$ 145/hour
Landscape Designer	\$ 128/hour

**8. Suspension or Termination of Services**

If the Owner in good faith determines that the Firm prosecutes, or fails to prosecute its work in such manner as to hinder or delay the completion of the Project, the Owner may serve written notice to the Firm setting forth any complaint about Firm’s performance of its services. The Firm shall have seven (7) days from receipt of such written notice in which to take corrective action. If the Firm fails to take appropriate corrective action within said seven (7) day period, the Owner may exercise the following remedies:

- a. Terminate the Firm’s services by a written notice effective on the date such written notice is served on the Firm; and,
- b. Order the remaining necessary services be done by another firm, if desired.
- c. If the Owner in good faith exercises the above remedies, Owner shall be responsible to pay the Firm only for the services performed prior to termination of the Contract.
- d. The Firm may, in good faith, terminate this Contract for non-payment by Owner upon seven (7) days written notice. If terminated, Owner agrees to pay the Firm for all Basic and Approved Additional Services rendered and Reimbursable Expenses incurred up to the date of termination. Upon not less than seven (7) days’ written notice, Firm may suspend the performance of its services if Owner fails to pay the Firm in full, within the time period for payment as set forth in this Contract, for services rendered or expenses incurred. The Firm shall have no liability because of such suspension of service or termination due to nonpayment.

**9. Indemnification**

The Firm agrees, to the fullest extent permitted by law, to indemnify and hold harmless Owner, its past, present and future Commissioners, officials, department heads, and employees, (hereinafter collectively referred to as “Indemnitees”) from and against all liability, judgments, or other liabilities including costs, reasonable fees and expenses of defense recoverable under applicable law incurred by Indemnitees to a third party arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature to such third party as well as for any breach of any covenant in this Contract or ancillary documents and any breach by Firm of any representations or warranties made within the Contract (collectively, the “Claims”), to the extent such Claims result from up to the amount of this contract fee for services from loss and expense, including reasonable attorneys’ fees,

to the extent caused by Firm's negligent acts, errors or omissions in the performance of the services under this Contract and those of its agents, employees or consultants. In the event of joint or concurrent negligence, Firm shall bear only that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of the third parties and Indemnitees) which caused the personal injury or damage. Nothing stated herein shall be deemed to require the Firm to indemnify or hold harmless any Indemnitee for its own negligence or fault.

Releasees' participation in its defense shall not remove Firm's duty to indemnify, defend, and hold Releasees harmless, as set forth above. Indemnitees do not waive their defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) by reason of this indemnification provision. Indemnification shall survive the termination of this Contract.

#### 10. Dispute Resolution

Owner and Firm may, but shall not be required to mediate claims or disputes arising out of or relating to this Contract as a condition precedent to litigation. The mediation shall be conducted by an agreed upon mediation service acceptable to the parties. A demand for mediation shall be made within a reasonable time after a claim or dispute arises and the parties agree to participate in mediation in good faith. Mediation fees shall be shared equally. In no event shall any demand for mediation be made after such claim or dispute would be barred by the applicable law.

Notwithstanding the foregoing, in any action with respect to this Contract, the parties are free to pursue any legal remedies at law or in equity. If Owner is required to take legal action to enforce performance of any of the terms, provisions, covenants, and conditions of this Contract, and by reason thereof, Owner is required to use the services of an attorney, then Owner shall be entitled to reasonable attorneys' fees, court costs and expenses incurred by Owner pertaining thereto and in enforcement of any remedy, including costs and fees relating to any appeal.

#### 11. Ownership of Documents

Copies of the final bid documents may be retained by the Owner at the completion of the Project for its records in both print and digital PDF versions. All instruments of professional service prepared by the Firm, including, but not limited to, drawings and specifications, are the property of the Firm, and these documents shall not be reused on other projects without Firm's written permission. Firm grants to Owner a non-exclusive license to use the instruments of professional service prepared by the Firm, including, but not limited to, drawings and specifications, upon payment as set forth herein. Any reuse or distribution to third parties without such express written permission and project-specific adaptation by the Firm will be at the Owner's sole risk and without liability to the Firm or its employees, and its consultants unless disclosure of same is required under applicable law.

Notwithstanding the foregoing, it is understood and agreed to by the Firm that all contracts entered into by a government body, such as Owner, and any documents that may be produced under such contract may be open to public review and as such will be on file with the Executive Director of Owner and may be discussed in open session of a board meeting of the Owner pursuant to the Illinois Open Meetings Act (5 ILCS 120/1 et seq.) and/or may be released pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.).

The Firm reserves the right to include representations of the Project in its promotional and professional materials.

#### 12. Governing Law

This Contract shall be construed in accordance with the laws and Constitution of the State of Illinois and if any provision is invalid for any reason such invalidation shall not render invalid other provisions which can be given effect without the invalid provision. Firm and Owner agree that the venue for any



legal proceedings between them shall be in the Circuit Court of Kendall County, Illinois, Twenty-Third Judicial Circuit, State of Illinois.

**13. Entire Contract and Severability**

This Contract and its attachment is the entire and integrated Contract between Owner and the Firm for this Project and supersedes all prior negotiations, statements or contracts, either written or oral. This Contract may be amended only by written instrument signed by both Owner and Firm.

In the event that any term or provision of this Contract is found to be void, invalid, or unenforceable for any reason, that term or provision shall be deemed to be stricken from this Contract, and the balance of this Contract shall survive and remain enforceable.

**14. No Assignment**

Neither party can assign, sublet, sell or transfer its interests in this Contract without the other party's written permission.

**15. Expiration of Proposal**

If this Contract is not accepted within 120 days, the offer to perform the described services is withdrawn and shall be null and void.

**17. Special Terms and Conditions**

Firm agrees to abide by the following provisions and further agrees to incorporate the following provisions into any bid specifications for the Project requiring that any bidding contractor be bound to Owner for same:

- A. Firm and its respective officers and employees agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. Firm shall require its consultants to be bound by this provision in its consulting agreements.
- B. Firm shall perform its Scope of Services and warrant that all services to be undertaken by Firm, its consultants, contractors, and their respective officers, employees, agents, consultants, and sub-consultants shall be carried out by competent and properly trained personnel in accordance with the highest standards of care and to the satisfaction of the Owner.
- C. Firm shall comply and shall require that its consultants comply with all provisions of the Substance Abuse Prevention on Public Works Act, 820 ILCS 256/1 *et seq.* and the Illinois Drug Free Workplace Act, 30 ILCS 580/1 *et seq.*
- D. Firm shall comply and require that its consultants, comply with all applicable federal, state or local laws and regulatory requirements and to secure such licenses as may be required for its employees and to conduct business in the state, municipality, county or location. Such obligation includes compliance with, but is not limited to environmental laws, civil rights laws, and labor laws.
- E. It is understood and agreed that Firm is an independent contractor and is not an employee of, partner of, agent of, or in a joint venture with Owner. Firm understands and agrees that Firm is solely responsible for paying all wages, benefits and any other compensation due and owing to their respective officers, and employees for the performance of services set forth in this Contract. Firm further understands and agrees that it is solely responsible for making all required payroll deductions and other tax and wage withholdings pursuant to state and federal law for its officers and employees. Firm also acknowledges its obligation to obtain the required insurance coverage for the benefit of Firm and its officers and employees and agrees that Owner is not responsible for

providing any insurance coverage for the benefit of Firm, or its officers, employees and consultants.

- F. Firm shall exercise general and overall control of its officers, employees, and consultants. Firm agrees that it shall not assign any employee to perform services at Owner's facilities or on Owner's property on behalf of Firm, or Firm's consultants, unless they have completed a criminal background investigation for each individual to be performing services at the Project site. In the event the individual's criminal background investigation reveals that the individual has a conviction record that has not been sealed, expunged or impounded under Section 5.2 of the Criminal Identification Act, Firm agrees that the individual shall not be assigned to perform services on or at Owner's facilities or property absent prior written consent from Owner. Owner, at any time, for any reason and in Owner's sole discretion, may require Firm and/or Firm's consultants, to remove any individual from performing any further services under this Contract.
- G. Firm certifies that Firm and its parent companies, subsidiaries, and affiliates are not barred from entering into this Contract or contracts entered into through the competitive bidding process, where applicable, as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or as a result of a violation of 820 ILCS 130/1 et seq. (the Illinois Prevailing Wage Act). Firm further certifies by signing this Contract that Firm and its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 et seq. and have not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity. Nor has Firm made an admission of guilt of such conduct that is a matter of record, nor has any official, officer, agent, or employee of the Firm been so convicted nor made such an admission.
- H. Firm hereby waives any claim of lien against subject premises on behalf of Firm, and shall require same of its consultants employed by the Firm to perform services in connection with this Contract. Upon completion of the Project and as a condition prior to payment in full, Firm shall tender to Owner a final waiver of lien for its consultants.
- I. Firm agrees to assume the entire liability for all personal injury claims suffered by their its own employees, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon payment under the Worker's Compensation Act, for personal injury to its own employees. court interpretations of said Act or otherwise and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner, and its past, present and future Commissioners, elected officials, employees, agents and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence. Indemnitees are designated and recognized as explicit third-party beneficiaries of this waiver within the general contract and all subcontracts entered into in furtherance of the general contract.

#### 18. Contractor Provisions

Firm shall incorporate Section 17 into any bid specifications for the Project and require that contractors comply with same. In addition to the foregoing, Firm shall incorporate the following provisions into any bid specifications for the Project:

- A. Prevailing Wage. This contract calls for the construction of a "public work" within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the PWA"). The PWA requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. The Illinois

Department of Labor (“Department”) publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The Department revises the prevailing wage rates and the contractor/subcontract has an obligation to check the Department’s website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Department’s website. All contractors and subcontractors rendering services under this Contract must comply with all requirements of the PWA, including, but not limited to, all wage requirements and notice and record keeping duties.

- B. If, during the term of this Contract, there is a period of excessive unemployment in Illinois as defined in the Employment of Illinois Workers on Public Works Act, 30 ILCS 570/0.01 et seq., (hereinafter referred to as “the Act”), contractor agrees to employ Illinois residents on this Project, in accordance with the Act. Contractor understands that the Act defines (a) “period of excessive unemployment” as “as any month following two consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5%, as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures”, and (b) “Illinois resident laborer” as “any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident.” See 30 ILCS 570/1. Contractor understands and agrees that their failure to comply with this provision of the Contract may result in immediate termination of the Contract.
- C. Should the total cost of the work to be performed Contractor pursuant to this Contract exceed \$50,000.00, Contractor must furnish, supply and deliver a payment bond in the amount of one hundred and ten percent (110%) of the contract price.

**19. Miscellaneous**

Owner and Firm affirm no Forest Preserve Commissioner, officer or elected official has a direct or indirect pecuniary interest in Firm or this Contract, or, if any Forest Preserve Commissioner, officer or elected official does have a direct or indirect pecuniary interest in Firm or this Contract, that interest, and the procedure followed to effectuate this Contract has and will comply with 50 ILCS 105/3.

This Contract may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Contract.

Owner and Firm each hereby represent and warrant that their respective signatures set forth below have been and are on the date of this Contract duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract this 15th day of February, 2022.

Kendall County Forest Preserve District

Upland Design Ltd.

Sign: \_\_\_\_\_

Sign:  \_\_\_\_\_

By: Judy Gilmour, President

By: Michelle A. Kelly, President,  
Upland Design Ltd

## ATTACHMENT A SCOPE OF SERVICES



### Fox River Bluffs Forest Preserve

February 15, 2022

#### Kendall County Forest Preserve District

#### Horse and Hike RTP Development

The Kendall County Forest Preserve District, the Owner, undertook a master plan process in 2018 with the assistance of Upland Design Ltd, the Firm, for the Fox River Bluffs Horse and Hike trail development. This area has been identified as part of the Fox River Trail System which is a State and Nationally identified Priority Trail System. This multi-phase development began in 2015 with an OSLAD/LWCF grant and a grant from the Illinois Clean Energy Community Foundation. This next phase includes a 1.05-mile trail loop with spur within the 166-acre site. Amenities for this phase include the following:

- Site Preparation and Grading
- Gravel Parking Lot with ADA Vehicular Asphalt Paving Spaces
- Soil Erosion and Control
- Turf Grass with Blanket
- Limestone Screen Trail – 5,500 Linear Feet
- Drainage

The project is to be publically bid as one package.

**Project Scope:** The Firm along with its consulting civil engineer, Hey and Associates Inc. and surveyor, Prairie Land Survey, proposes to accomplish the following service items to assist Owner. An approximate timeline is indicated for each service item, and actual dates will be set to accommodate Owner needs. The Project is to be implemented through public bidding and construction by a general contractor.



**Base Information**

**February-April 2022**

**Kick-Off Site Visit:** A kick-off meeting at the site will take place with Owner's staff. The approximate locations of the trail and parking lot will be staked in the field with the Owner's staff. Project schedule and goals will be discussed.

**Survey:** A topographic survey will be completed by an Illinois Registered Land Surveyor, for the areas where construction will occur as staked at the kick-off meeting. The survey will be used as a base for construction document preparation.

**Soil Borings:** The Firm will obtain a quote on Owner's behalf from a geotechnical company that can perform soil boring and analysis. The Owner shall hire the geotechnical company directly. The intent of the boring report will be to determine the soil's load bearing capacity as well as the topsoil depths at the proposed construction area.

**Wetland/Floodplain/Floodway:** Unless required by permitting agencies, a wetland delineation will not be part of this phase. The proposed work will be located away from known wetland areas. The Project construction areas are also not near known flood plain or flood way on the site.

**Construction Plans, Specifications and Bid Proposal**

**May-July 2022**

The Firm shall prepare site development plans based on the proposed elements listed above and the field staking. The plans will include relocation of the kiosk sign board. The cost estimate will be updated from the master plan estimate. A meeting will be held with the Owner's Committee of the Whole to review plans, preliminary details, costs and chart of furniture including benches and signage. (1 meeting)

Based on the design development plans, the Firm will prepare a set of construction plans, specifications and bid proposal for public bidding. These Construction Documents will address the following:

- Existing Conditions and Removal
- Layout
- Grading and Drainage
- Soil Erosion Control
- Proposed Landscape Restoration
- Construction Details
- General and Technical Specifications
- Bid Proposal Form

The specifications will cover each area of construction. A review meeting at 95% complete C Documents will take place with the Owner's staff. An updated estimate of construction costs will be available for review at this meeting. Comments from this meeting will be incorporated into the Construction Documents. (1 meeting)

**Permits:** It is expected that Kendall County building and stormwater permits will be required for the Project. Firm will prepare a memorandum documenting any site stormwater needs along with required application forms and exhibits to accompany the plans. A pre-submittal meeting with the County will be scheduled to review the Project. No work is proposed in floodplain nor wetland areas so IDNR and Corp of Engineer permits are not included. A wetland delineation is not expected to be required. It is listed as an optional service if the County requires that work. No wetland mitigation is proposed. An IEPA NOI permit will be required, and the design team will submit this as well. The Owner will pay for any permit fees.

**Bidding**

**December 2022-January 2023**

The bid documents will be distributed through Accurate Repro who will provide both digital and paper copies as requested by bidders. The Firm will contact contractors with an invitation to bid. The Owner will place the legal ad in a local paper and perform any other procedure as required by local purchasing policies. The Firm will be available to answer questions during bidding, will be present at the bid opening, check bids for math accuracy, and review the bids with Owner's staff. If necessary, references will be contacted and a letter summarizing bidding and references will be written. (1 meeting)

**Construction Observation**

**Spring 2023**

Upon award of a contract, the Firm will make six total site visits. The Owner's staff will make additional site visits during construction. Contractor submittals and pay applications will be reviewed by the Firm prior to forwarding to the Owner. Certified Payroll will not be reviewed by the Firm. At Project completion, the last site visit will be a walk through with the Owner's staff in order to develop a punch list. The Firm will be available by phone to answer questions, review pay applications and submittals. (6 site visits)

The Firm shall have the authority to act on behalf of the Owner only to the extent provided in this Contract. The Firm shall not have control over, charge of, or responsibility for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction work, nor shall the Firm be responsible for the Contractor's failure to perform the construction work in accordance with the requirements of the Contract Documents.

**Optional Wetland Consultation and Delineation:**

**FIELD INVESTIGATION AND WETLAND DELINEATION REPORT**

The presence of the Fox River, seasonal tributaries and ravines leading to the river may dictate that a wetland investigation and delineation may be requested by regulatory agencies. In the event wetland coordination is requested, the Firm will provide the following scope of services. The Firm will complete a field investigation for wetlands and perform a routine wetland delineation applying the general procedures detailed in the 1987 USACE's wetland delineation manual and the 2010 Regional Supplement-Midwest Region. The Firm will identify and flag the wetland boundaries for surveying by the Project surveyor. The Firm will review the survey for consistency with its field notes and use it to prepare the report.

Also, the Firm will conduct a farmed wetland determination in accordance with Natural Resources Conservation Service’s guidelines for any areas that have been in row crop agriculture in the past five years.

The Firm will survey the wetland flags utilizing a sub-meter grade Global Positioning System (GPS) Device or equivalent field survey method, but because of tree canopy interference in the ravines the wetland flags may need to be located by the Firm’s or the Owner’s project surveyor. The Firm will review the survey for consistency with our field notes. The Firm will provide an electronic file (CAD format; tied into Illinois State Plane Coordinates or other as specified by your firm).

The report will include an aerial photograph showing the surveyed wetland boundaries, required USACE dataforms for sample points, observed vegetative species lists, representative color photos, farmed wetland determination, and other necessary data. The Firm will provide a pdf of the final report to Owner for Owner’s use.

Please note that if the fieldwork for the wetland delineation will occur outside the normal growing season (May 1 to October 1), the USACE may possibly require the collection of additional data during the growing season. Supplemental data collection requiring additional fieldwork would need to be billed on a time and materials basis according to the Firm’s standard rates.

End of Attachment A.





February 7, 2022

Dave Guritz, Director  
Kendall County Forest Preserve District  
110 W Madison Street  
Yorkville, IL 60560

Re: Fox River Bluffs- Agreement Review

Dear Dave,

I am writing in reply to the final items in the Fox River Bluff Agreement that are of concern because of insurability ramifications. Upland Design has reviewed each of these with our attorney Laurie Randolph and our insurance agent. Upland can only agree to contract language that is insurable for our protection and as well the District's. In the event of a claim or suit, we want to make sure we have insurance to cover Upland and the District can access the insurance policy proceeds for the claims it may make.

Below are the three sections of concern and a short description of how each negates our existing insurance below each. Only the sections in yellow are of concern. Our attorney has shared suggestion on improving the language and a copy of that is attached.

**9. Indemnification**

The Firm agrees, to the fullest extent permitted by law, to indemnify and hold harmless Owner, its past, present and future Commissioners, officials, department heads, and employees, (hereinafter collectively referred to as "Indemnitees") from and against all liability, judgments, or other liabilities including costs, reasonable fees and expenses of defense recoverable under applicable law incurred by Indemnitees to a third party arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature to such third party as well as for any breach of any covenant in this Contract or ancillary documents and any breach by Firm of any representations or warranties made within the Contract (collectively, the "Claims"), to the extent such Claims result from up to the amount of this contract fee for services from loss and expense, including reasonable attorneys' fees,

to the extent caused by Firm's negligent acts, errors or omissions in the performance of the services under this Contract and those of its agents, employees or consultants. In the event of joint or concurrent negligence, Firm shall bear only that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of the third parties and Indemnitees) which caused the personal injury or damage. Nothing stated herein shall be deemed to require the Firm to indemnify or hold harmless any Indemnitee for its own negligence or fault.

Page 1 of 3

**Upland Design Ltd.**

1250 W 18th Street, Chicago, IL 60608 24042 Lockport Street, Plainfield, IL 60544  
312.350.4088 uplandDesign.com 815.254.0091

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Releasees' participation in its defense shall not remove Firm's duty to indemnify, defend, and hold Releasees harmless, as set forth above. Indemnitees do not waive their defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) by reason of this indemnification provision. Indemnification shall survive the termination of this Contract.

Reason this negates insurance: Indemnification provisions are covered under professional liability only for liability the indemnitee incurs to a third party to the extent the liability arises from a negligent act or omission of the Firm or anyone for whose negligent acts or omissions the Firm may be liable in the rendering of professional services. There is typically no indemnification coverage for breach of covenants as covenants are not owed to a third party, only to the District which would be a straight breach of contract claim. But to the extent such covenants rise to the level of express warranties, a claim for breach of covenant would not be insurable. Express warranties are not covered by the pl insurance (or any other insurance a design professional has). Attorney's fees are only covered by insurance to the extent recoverable under applicable law. So if the indemnitees must pay third party attorney's fees as part of the liability it incurs, then the pl policy will cover it. There is no coverage for a "defend" obligation under a professional liability policy as there can be no additional insureds on the pl policy. Further the District would not want to be an additional insured on a pl policy because an insured cannot be a claimant under the policy. The District would not be able to make a claim under Upland's pl policy in the event of defective professional services.

#### **10. Dispute Resolution**

Owner and Firm may, but shall not be required to mediate claims or disputes arising out of or relating to this Contract as a condition precedent to litigation. The mediation shall be conducted by an agreed upon mediation service acceptable to the parties. A demand for mediation shall be made within a reasonable time after a claim or dispute arises and the parties agree to participate in mediation in good faith. Mediation fees shall be shared equally. In no event shall any demand for mediation be made after such claim or dispute would be barred by the applicable law.

Notwithstanding the foregoing, in any action with respect to this Contract, the parties are free to pursue any legal remedies at law or in equity. If Owner is required to take legal action to enforce performance of any of the terms, provisions, covenants, and conditions of this Contract, and by reason thereof, Owner is required to use the services of an attorney, then Owner shall be entitled to reasonable attorneys' fees, court costs and expenses incurred by Owner pertaining thereto and in enforcement of any remedy, including costs and fees relating to any appeal.

Reason this negates insurance: Upland has no insurance that covers prevailing party attorney's fees provisions assumed by contract. Further, this provision does not even require that the Owner prevail, but even if it did, this would not be covered by any insurance a design professional would have.

#### **17. Special Terms and Conditions**

Firm agrees to abide by the following provisions and further agrees to incorporate the following provisions into any bid specifications for the Project requiring that any bidding contractor be bound to Owner for same:

B. Firm shall perform its Scope of Services and warrant that all services to be undertaken by Firm, its consultants, contractors, and their respective officers, employees, agents, consultants, and sub-consultants shall be carried out by competent and properly trained personnel in accordance with the highest standards of care and to the satisfaction of the Owner.

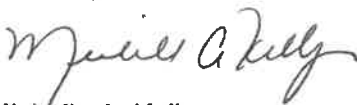
Reason this negates insurance: Express warranties are not covered by any insurance a design professional maintains. There is no insurance coverage for a design professional who agrees to be bound by a higher standard of care than the law would impose on them as that is akin to an express warranty. This language can be rewritten as follows to maximize the insurability in the event of a claim: "All services to be undertaken by Firm, its consultants and their respective officer, employees and sub-consultants shall be carried out by competent and properly trained personnel in accordance with reasonable skill and care expected such design professionals performing similar services in the locale of this Project." The standard of care cannot be determined by the Owner who is not a design professional but is determined by how Upland's peers would perform.

D. Firm shall comply and require that its consultants, comply with all applicable federal, state or local laws and regulatory requirements and to secure such licenses as may be required for its employees and to conduct business in the state, municipality, county or location. Such obligation includes compliance with environmental laws and civil rights laws.

I. Firm agrees to assume the entire liability for all personal injury claims suffered by their its own employees, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon payment under the Worker's Compensation Act, for personal injury to its own employees. court interpretations of said Act or otherwise and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner, and its past, present and future Commissioners, elected officials, employees, agents and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence. Indemnitees are designated and recognized as explicit third-party beneficiaries of this waiver within the general contract and all subcontracts entered into in furtherance of the general contract.

Reason this negates insurance: Upland's insurance will not cover an agreement to assume "entire" liability upfront with respect to claims when the facts of such claims are not even known. The indemnification provision is not insurable for the reasons stated with respect to the indemnification provision in Section 9 above and is duplicative of that section. Upland has no coverage for the "defend" obligation. Upland can cover with insurance indemnification of Indemnitees who incur liability to a third party to the extent such liability is caused by a negligent act or omission of Upland or anyone for whose negligent acts or omissions it is liable. This agreement is not a general contract nor a subcontract in furtherance of a general contract, nor can Upland agree that your employees are third party beneficiaries of this agreement.

Thank you for your patience and attention to this matter.  
Sincerely,



Michelle A. Kelly,  
President and Principal Landscape Architect

**CONTRACT  
BETWEEN OWNER and FIRM  
FOR LANDSCAPE ARCHITECTURAL SERVICES  
AT FOX RIVER BLUFFS FOREST PRESERVE  
FOR KENDALL COUNTY FOREST PRESERVE DISTRICT**

**Kendall County Forest Preserve District**

110 W. Madison  
Yorkville, Illinois 60560  
Phone: 630-553-4025.....

The Owner

And

Upland Design Ltd.  
24042 Lockport St., Suite 200  
Plainfield, IL 60544  
Phone: 815.254.0091.....

The Firm

Owner and Firm agree as set forth below:

**1. Firm’s Basic Services**

The Firm agrees to provide its professional services in accordance with skill and care ordinarily in accordance with generally accepted standards of its profession. The Construction Documents shall comply with applicable building and zoning codes, laws and regulations in effect as of the date of submission of such Construction Documents for permitting. **See Attachment A for Project Scope of Services**, which is incorporated herein by reference. This contract and the Project Scope of Services, as incorporated herein, shall be referred to as the “Contract”. The Scope of Services to be provided by Firm pursuant to the terms of this Contract shall hereinafter be referred to as the “Project”.

**2. Excluded Services**

The Firm and sub-consultants will not be responsible for the following: Hydrologic/hydraulic modeling the floodplain/floodway, wetland mitigation, archeological services, environmental testing, subsurface conditions and material testing, boundary survey, topographic survey, soil borings, construction layout; construction scheduling; construction work; work-site safety, labor negotiations, permit fees or court appearances as part of these services.

Hazardous Materials: The scope of the Firm’s services for this Contract does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead, or other hazardous materials, as defined by Federal, State, and local laws or regulations. However, if Firm becomes aware of any of these hazardous materials, Firm agrees to promptly notify Owner.

**3. Construction Phase Services**

The term “Contractor”, as used herein, shall mean any person, firm or corporation, whether hired by Owner or Firm through competitive bidding, contracted to oversee or perform construction services during the construction phase of the Project. “Contractor” as used herein, also includes a general contractor and a subcontractor.

If Firm performs any services during the construction phase of the Project, Firm and its consultants shall have no responsibility to supervise, direct, nor shall it have control over Contractor’s work. The Firm and its consultants shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the Contractor. The Firm does not guarantee the performance of the construction

contract by the Contractor and does not assume responsibility for the Contractor's failure to furnish and perform its work in accordance with the Contract.

#### 4. Firm's Insurance

Firm shall provide to Owner proof of insurance with coverage limits as set forth in this Section 4. The Firm shall maintain insurance with the following coverage:

All coverage shall be placed with insurers authorized to conduct business in Illinois with a current A.M. Best's rating of no less than A:VII. Each insurance policy on which Owner is an additional insured shall not be cancelled by the insurer without thirty (30) calendar days prior written notice, given by the insurance carrier to Owner at the address set forth herein, except for non-renewal for failure to pay premium which notice shall be ten (10) days.

**Minimum Scope and Limit of Insurance.** All coverage shall be at least as broad as the following:

*Commercial General Liability ("CGL"):* Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be \$2,000,000.

*Umbrella/Excess Liability:* Limits of liability equal to or greater than \$2,000,000 per occurrence and \$2,000,000 in aggregate.

*Automobile Liability:* Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Firm has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

*Workers' Compensation Insurance:* Insurance as required by the State of Illinois, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$500,000 per accident for bodily injury or disease.

*Professional Liability (Errors and Omissions) Insurance.* Professional insurance appropriate to Firm's profession, with limit no less than \$2,000,000 per claim and \$2,000,000 aggregate.

If Firm maintains broader coverage and/or higher limits than the minimums shown above, Owner shall be entitled to the broader coverage and/or the higher limits maintained by the Firm. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Owner.

**Additional Insured Status.** Owner and its, past, present, and future Commissioners, officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of the operations performed by or on behalf of Firm. General liability coverage can be provided in the form of an endorsement to Firm's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

**Primary Coverage.** For any claims related to this Contract, the Firm's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 with respect to

Owner, its past present and future Commissioners, officers, officials, employees, and volunteers. Any general liability insurance maintained by Owner, its past present or future officers, officials, employees, or volunteers shall be excess of Firm's insurance and shall not contribute with it.

**Waiver of Subrogation.** Firm hereby grants to Owner and its, past, present, and future its officers, officials, employees and volunteers, a waiver of any right to subrogation which any insurer of said Firm may acquire against Owner by virtue of the payment of any loss under such insurance. Firm agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Owner has received a waiver of subrogation endorsement from the insurer.

**Self-Insured Retentions.** Self-insured retentions must be declared to and approved by Owner. Owner may require the Firm provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Owner.

**Claims Made Policies.** If any of the required policies provide coverage on a claims-made basis, (1) the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work, (2) insurance must be maintained and evidence of insurance must be provided for at least four (4) years after completion of the services, and (3) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Firm must purchase "extended reporting" coverage for a minimum of five (5) years after completion of services under the Contract.

**Verification of Coverage.** Firm shall furnish Owner with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Owner before services begins. However, failure to obtain the required documents prior to the services beginning shall not waive the Firm's obligation to provide them. Owner reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Consultants, Sub-Consultants and Contractors.** Firm shall require and verify that all consultants maintain insurance meeting all the requirements stated herein, and Firm shall require that Owner is an additional insured on insurance required from its consultants.

## 5. Owner Responsibilities

The Owner has designated David Guritz, Executive Director, as the contact person(s) for this Project. The Firm will direct correspondence and information to the contact person. The Owner will provide pertinent information to the Firm in a timely manner so as not to hinder or delay the Firm performing its service in a timely and cost effective manner throughout the Project.

Notwithstanding the foregoing, any notice required or permitted to be given pursuant to this Contract shall be duly given if sent by fax, certified mail or courier service and received, in the case of notice to Owner to David Guritz, with a copy to:

Kendall County State's Attorney  
807 John Street,  
Yorkville, Illinois, 60560,  
Fax (630)-553-4204.

And, in the case of Firm, to:

Upland Design Ltd.  
24042 Lockport St., Suite 200  
Plainfield, IL 60544  
Phone: 815.254.0091

The Owner agrees to provide Firm with existing base information for the site and will assist the Firm with obtaining other information as requested. The Firm will rely on the accuracy and completeness of such information provided by the Owner. The Owner agrees to advise Firm of any known or suspected contaminants at the Project Site and the Owner shall be solely responsible for all subsurface soil conditions. Owner will provide the Firm with a copy of the land survey and legal description; Phase I Environmental Survey; Phase I Archaeological Survey and subsurface Drain Rile survey.

Right of Entry: When entry to property is required for the Firm and/or sub-consultant to perform its services, the Owner agrees to obtain legal right-of-entry on the property.

#### 6. Project Schedule

The Firm shall render its services as expeditiously as is consistent with professional skill and care. During the course of the Project, anticipated and unanticipated events may impact any Project schedule. The Firm shall make the Owner aware of events that will impact the Project schedule within seven (7) days of the Firm becoming aware of such events.

#### 7. Compensation and Payments

The Owner shall pay to the Firm the following lump sum not to exceed prices for the work described herein plus the cost of reimbursable costs.

##### Professional Fees

Site Survey	\$ 2,300
Construction Documents	\$16,500
Permitting	\$ 4,000
Bidding	\$ 1,000
Construction Admin	\$ 5,000
<b>Total Professional Fee</b>	<b>\$28,800</b>

Firm shall submit request(s) for payment to the Owner. Payment requests shall be made monthly for that portion of the Project that has been completed. The Owner agrees to make the requested payment in compliance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*)

Firm agrees to attend all meetings set forth in Exhibit A. Any additional meetings may be added at a rate of \$620.00/meeting, provided such additional meetings have been pre-approved in writing by the

Owner. No additional services shall be added to the Contract without the prior written authorization from the Owner.

**Reimbursable Costs:** Firm will bill direct non-payroll expenses, not to exceed the amount of \$1,200.00 incurred by Firm while performing services pursuant to this Contract at cost plus 0%. Non-payroll expenses include copies, printing, boards, plans and handouts, postage, delivery and tolls. Mileage will be billed at current IRS rates. Any additional non-payroll expenses to be incurred by Firm must be pre-approved in writing by the Owner. At the request of Owner, Firm shall provide to Owner documentation necessary to support the billing of non-payroll expenses.

**Additional Services:** At the written request of the Owner, additional meetings or services may be added at the professional service rates listed herein. No additional services shall be added to the Contract without prior written authorization from the Owner.

Principal Landscape Architect	\$ 166/hour
Landscape Architect	\$ 145/hour
Landscape Designer	\$ 128/hour

**8. Suspension or Termination of Services**

If the Owner in good faith determines that the Firm prosecutes, or fails to prosecute its work in such manner as to hinder or delay the completion of the Project, the Owner may serve written notice to the Firm setting forth any complaint about Firm's performance of its services. The Firm shall have seven (7) days from receipt of such written notice in which to take corrective action. If the Firm fails to take appropriate corrective action within said seven (7) day period, the Owner may exercise the following remedies:

- a. Terminate the Firm's services by a written notice effective on the date such written notice is served on the Firm; and,
- b. Order the remaining necessary services be done by another firm, if desired.
- c. If the Owner in good faith exercises the above remedies, Owner shall be responsible to pay the Firm only for the services performed prior to termination of the Contract.
- d. The Firm may, in good faith, terminate this Contract for ~~non-payment by Owner~~ upon seven (7) days written notice. If terminated, Owner agrees to pay the Firm for all Basic and Approved Additional Services rendered and Reimbursable Expenses incurred up to the date of termination. Upon not less than seven (7) days' written notice, Firm may suspend the performance of its services if Owner fails to pay the Firm in full, within the time period for payment as set forth in this Contract, for services rendered or expenses incurred. The Firm shall have no liability because of such suspension of service or termination due to nonpayment.

**9. Indemnification**

The Firm agrees, to the fullest extent permitted by law, to indemnify and hold harmless Owner, its past, present and future Commissioners, officials, department heads, and employees, (hereinafter collectively referred to as "Indemnitees") from and against all liability, judgments, or other liabilities including costs, reasonable fees and expenses of defense recoverable under applicable law incurred by Indemnitees to a third party arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature to such third party ~~as well as for any breach of any covenant in this Contract or ancillary documents and any breach by Firm of any representations or warranties made within the Contract (collectively, the "Claims"), to the extent such Claims result from up to the amount of this contract fee for services from loss and expense, including reasonable attorneys' fees,~~



to the extent caused by Firm's negligent acts, errors or omissions in the performance of the services under this Contract and those of its agents, employees or consultants. In the event of joint or concurrent negligence, Firm shall bear only that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of the third parties and Indemnitees) which caused the personal injury or damage. Nothing stated herein shall be deemed to require the Firm to indemnify or hold harmless any Indemnitee for its own negligence or fault.

~~Releasees' participation in its defense shall not remove Firm's duty to indemnify, defend, and hold Releasees harmless, as set forth above. Indemnitees do not waive their defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) by reason of this indemnification provision. Indemnification shall survive the termination of this Contract.~~

#### 10. Dispute Resolution

Owner and Firm may, but shall not be required to mediate claims or disputes arising out of or relating to this Contract as a condition precedent to litigation. The mediation shall be conducted by an agreed upon mediation service acceptable to the parties. A demand for mediation shall be made within a reasonable time after a claim or dispute arises and the parties agree to participate in mediation in good faith. Mediation fees shall be shared equally. In no event shall any demand for mediation be made after such claim or dispute would be barred by the applicable law.

~~Notwithstanding the foregoing, in any action with respect to this Contract, the parties are free to pursue any legal remedies at law or in equity. If Owner is required to take legal action to enforce performance of any of the terms, provisions, covenants, and conditions of this Contract, and by reason thereof, Owner is required to use the services of an attorney, then Owner shall be entitled to reasonable attorneys' fees, court costs and expenses incurred by Owner pertaining thereto and in enforcement of any remedy, including costs and fees relating to any appeal.~~

#### 11. Ownership of Documents

Copies of the final bid documents may be retained by the Owner at the completion of the Project for its records in both print and digital PDF versions. All instruments of professional service prepared by the Firm, including, but not limited to, drawings and specifications, are the property of the Firm, and these documents shall not be reused on other projects without Firm's written permission. Firm grants to Owner a non-exclusive license to use the instruments of professional service prepared by the Firm, including, but not limited to, drawings and specifications, upon payment as set forth herein. Any reuse or distribution to third parties without such express written permission and project-specific adaptation by the Firm will be at the Owner's sole risk and without liability to the Firm or its employees, and its consultants unless disclosure of same is required under applicable law.

Notwithstanding the foregoing, it is understood and agreed to by the Firm that all contracts entered into by a government body, such as Owner, and any documents that may be produced under such contract may be open to public review and as such will be on file with the Executive Director of Owner and may be discussed in open session of a board meeting of the Owner pursuant to the Illinois Open Meetings Act (5 ILCS 120/1 et seq.) and/or may be released pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.).

The Firm reserves the right to include representations of the Project in its promotional and professional materials.

#### 12. Governing Law

This Contract shall be construed in accordance with the laws and Constitution of the State of Illinois and if any provision is invalid for any reason such invalidation shall not render invalid other provisions which can be given effect without the invalid provision. Firm and Owner agree that the venue for any

legal proceedings between them shall be in the Circuit Court of Kendall County, Illinois, Twenty-Third Judicial Circuit, State of Illinois.

**13. Entire Contract and Severability**

This Contract and its attachment is the entire and integrated Contract between Owner and the Firm for this Project and supersedes all prior negotiations, statements or contracts, either written or oral. This Contract may be amended only by written instrument signed by both Owner and Firm.

In the event that any term or provision of this Contract is found to be void, invalid, or unenforceable for any reason, that term or provision shall be deemed to be stricken from this Contract, and the balance of this Contract shall survive and remain enforceable.

**14. No Assignment**

Neither party can assign, sublet, sell or transfer its interests in this Contract without the other party's written permission.

**15. Expiration of Proposal**

If this Contract is not accepted within 120 days, the offer to perform the described services is withdrawn and shall be null and void.

**17. Special Terms and Conditions**

Firm agrees to abide by the following provisions and further agrees to incorporate the following provisions into any bid specifications for the Project requiring that any bidding contractor be bound to Owner for same:

- A. Firm and its respective officers and employees agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. Firm shall require its consultants to be bound by this provision in its consulting agreements.
- B. ~~Firm shall perform its Scope of Services and warrant that a~~ All services to be undertaken by Firm, its consultants, ~~contractors,~~ and their respective officers, employees, agents, ~~consultants,~~ and sub-consultants shall be carried out by competent and properly trained personnel in accordance with the standards of care set forth in this contract. ~~highest standards of care and to the satisfaction of the Owner.~~
- C. Firm shall comply and shall require that its consultants comply with all provisions of the Substance Abuse Prevention on Public Works Act, 820 ILCS 256/1 *et seq.* and the Illinois Drug Free Workplace Act, 30 ILCS 580/1 *et seq.*
- D. Firm shall comply and require that its consultants, comply with all applicable federal, state or local laws and regulatory requirements ~~and to secure such licenses as may be required for its employees and to conduct business in the state, municipality, county or location. Such obligation includes compliance with,~~ but is not limited to environmental laws, civil rights laws, and labor laws.
- E. It is understood and agreed that Firm is an independent contractor and is not an employee of, partner of, agent of, or in a joint venture with Owner. Firm understands and agrees that Firm is solely responsible for paying all wages, benefits and any other compensation due and owing to their respective officers, and employees for the performance of services set forth in this Contract. Firm further understands and agrees that it is solely responsible for making all required payroll deductions and other tax and wage withholdings pursuant to state and federal law for its officers and employees. Firm also acknowledges its obligation to obtain the required insurance coverage

for the benefit of Firm and its officers and employees and agrees that Owner is not responsible for providing any insurance coverage for the benefit of Firm, or its officers, employees and consultants.

- F. Firm shall exercise general and overall control of its officers, employees, and consultants. Firm agrees that it shall not assign any employee to perform services at Owner's facilities or on Owner's property on behalf of Firm, or Firm's consultants, unless they have completed a criminal background investigation for each individual to be performing services at the Project site. In the event the individual's criminal background investigation reveals that the individual has a conviction record that has not been sealed, expunged or impounded under Section 5.2 of the Criminal Identification Act, Firm agrees that the individual shall not be assigned to perform services on or at Owner's facilities or property absent prior written consent from Owner. Owner, at any time, for any reason and in Owner's sole discretion, may require Firm and/or Firm's consultants, to remove any individual from performing any further services under this Contract.
- G. Firm certifies that Firm and its parent companies, subsidiaries, and affiliates are not barred from entering into this Contract or contracts entered into through the competitive bidding process, where applicable, as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or as a result of a violation of 820 ILCS 130/1 et seq. (the Illinois Prevailing Wage Act). Firm further certifies by signing this Contract that Firm and its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 et seq. and have not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity. Nor has Firm made an admission of guilt of such conduct that is a matter of record, nor has any official, officer, agent, or employee of the Firm been so convicted nor made such an admission.
- H. Firm hereby waives any claim of lien against subject premises on behalf of Firm, and shall require same of its consultants employed by the Firm to perform services in connection with this Contract. Upon completion of the Project and as a condition prior to payment in full, Firm shall tender to Owner a final waiver of lien for its consultants.
- I. ~~Firm agrees to assume the entire liability for all personal injury claims suffered by their its own employees, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon payment under the Worker's Compensation Act, for personal injury to its own employees. court interpretations of said Act or otherwise and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend the Owner, and its past, present and future Commissioners, elected officials, employees, agents and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees recoverable under applicable law, that the Indemnitees incur to a third party may sustain as a result of such claims, to the extent caused by a negligent act or omission of Firm or anyone for whose negligent acts or omissions Firm is responsible for, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence. Indemnitees are designated and recognized as explicit third-party beneficiaries of this waiver within the general contract and all subcontracts entered into in furtherance of the general contract.~~

### 18. Contractor Provisions

Firm shall incorporate Section 17 into any bid specifications for the Project and require that contractors comply with same. In addition to the foregoing, Firm shall incorporate the following provisions into any bid specifications for the Project:

- A. Prevailing Wage. This contract calls for the construction of a "public work" within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/01 et seq. ("the PWA"). The PWA

requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. The Illinois Department of Labor (“Department”) publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The Department revises the prevailing wage rates and the contractor/subcontract has an obligation to check the Department’s website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Department’s website. All contractors and subcontractors rendering services under this Contract must comply with all requirements of the PWA, including, but not limited to, all wage requirements and notice and record keeping duties.

- B. If, during the term of this Contract, there is a period of excessive unemployment in Illinois as defined in the Employment of Illinois Workers on Public Works Act, 30 ILCS 570/0.01 et seq., (hereinafter referred to as “the Act”), contractor agrees to employ Illinois residents on this Project, in accordance with the Act. Contractor understands that the Act defines (a) “period of excessive unemployment” as “as any month following two consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5%, as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures”, and (b) “Illinois resident laborer” as “any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident.” See 30 ILCS 570/1. Contractor understands and agrees that their failure to comply with this provision of the Contract may result in immediate termination of the Contract.
- C. Should the total cost of the work to be performed Contractor pursuant to this Contract exceed \$50,000.00, Contractor must furnish, supply and deliver a payment bond in the amount of one hundred and ten percent (110%) of the contract price.

**19. Miscellaneous**

Owner and Firm affirm no Forest Preserve Commissioner, officer or elected official has a direct or indirect pecuniary interest in Firm or this Contract, or, if any Forest Preserve Commissioner, officer or elected official does have a direct or indirect pecuniary interest in Firm or this Contract, that interest, and the procedure followed to effectuate this Contract has and will comply with 50 ILCS 105/3.

This Contract may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Contract.

Owner and Firm each hereby represent and warrant that their respective signatures set forth below have been and are on the date of this Contract duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract this 15<sup>TH</sup> day of February, 2022.

Kendall County Forest Preserve District

Upland Design Ltd.

Sign: \_\_\_\_\_

Sign:  \_\_\_\_\_

By: Judy Gilmour, President

By: Michelle A. Kelly, President,  
Upland Design Ltd

## ATTACHMENT A SCOPE OF SERVICES



### Fox River Bluffs Forest Preserve

February 15, 2022

#### Kendall County Forest Preserve District

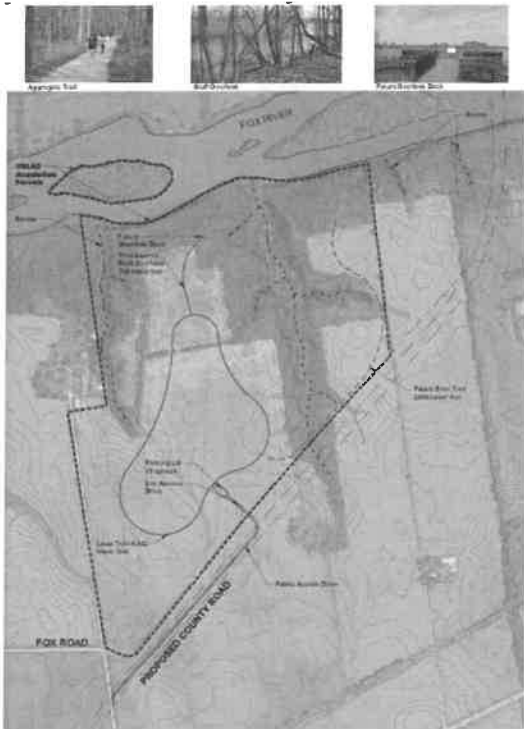
#### Horse and Hike RTP Development

The Kendall County Forest Preserve District, the Owner, undertook a master plan process in 2018 with the assistance of Upland Design Ltd, the Firm, for the Fox River Bluffs Horse and Hike trail development. This area has been identified as part of the Fox River Trail System which is a State and Nationally identified Priority Trail System. This multi-phase development began in 2015 with an OSLAD/LWCF grant and a grant from the Illinois Clean Energy Community Foundation. This next phase includes a 1.05-mile trail loop with spur within the 166-acre site. Amenities for this phase include the following:

- Site Preparation and Grading
- Gravel Parking Lot with ADA Vehicular Asphalt Paving Spaces
- Soil Erosion and Control
- Turf Grass with Blanket
- Limestone Screen Trail – 5,500 Linear Feet
- Drainage

The project is to be publically bid as one package.

**Project Scope:** The Firm along with its consulting civil engineer, Hey and Associates Inc. and surveyor, Prairie Land Survey, proposes to accomplish the following service items to assist Owner. An approximate timeline is indicated for each service item, and actual dates will be set to accommodate Owner needs. The Project is to be implemented through public bidding and construction by a general contractor.



**Base Information**

**February-April 2022**

**Kick-Off Site Visit:** A kick-off meeting at the site will take place with Owner's staff. The approximate locations of the trail and parking lot will be staked in the field with the Owner's staff. Project schedule and goals will be discussed.

**Survey:** A topographic survey will be completed by an Illinois Registered Land Surveyor, for the areas where construction will occur as staked at the kick-off meeting. The survey will be used as a base for construction document preparation.

**Soil Borings:** The Firm will obtain a quote on Owner's behalf from a geotechnical company that can perform soil boring and analysis. The Owner shall hire the geotechnical company directly. The intent of the boring report will be to determine the soil's load bearing capacity as well as the topsoil depths at the proposed construction area.

**Wetland/Floodplain/Floodway:** Unless required by permitting agencies, a wetland delineation will not be part of this phase. The proposed work will be located away from known wetland areas. The Project construction areas are also not near known flood plain or flood way on the site.

**Construction Plans, Specifications and Bid Proposal**

**May-July 2022**

The Firm shall prepare site development plans based on the proposed elements listed above and the field staking. The plans will include relocation of the kiosk sign board. The cost estimate will be updated from the master plan estimate. A meeting will be held with the Owner's Committee of the Whole to review plans, preliminary details, costs and chart of furniture including benches and signage. (1 meeting)

Based on the design development plans, the Firm will prepare a set of construction plans, specifications and bid proposal for public bidding. These Construction Documents will address the following:

- Existing Conditions and Removal
- Layout
- Grading and Drainage
- Soil Erosion Control
- Proposed Landscape Restoration
- Construction Details
- General and Technical Specifications
- Bid Proposal Form

The specifications will cover each area of construction. A review meeting at 95% complete C Documents will take place with the Owner's staff. An updated estimate of construction costs will be available for review at this meeting. Comments from this meeting will be incorporated into the Construction Documents. (1 meeting)

**Permits:** It is expected that Kendall County building and stormwater permits will be required for the Project. Firm will prepare a memorandum documenting any site stormwater needs along with required application forms and exhibits to accompany the plans. A pre-submittal meeting with the County will be scheduled to review the Project. No work is proposed in floodplain nor wetland areas so IDNR and Corp of Engineer permits are not included. A wetland delineation is not expected to be required. It is listed as an optional service if the County requires that work. No wetland mitigation is proposed. An IEPA NOI permit will be required, and the design team will submit this as well. The Owner will pay for any permit fees.

### **Bidding**

**December 2022-January 2023**

The bid documents will be distributed through Accurate Repro who will provide both digital and paper copies as requested by bidders. The Firm will contact contractors with an invitation to bid. The Owner will place the legal ad in a local paper and perform any other procedure as required by local purchasing policies. The Firm will be available to answer questions during bidding, will be present at the bid opening, check bids for math accuracy, and review the bids with Owner's staff. If necessary, references will be contacted and a letter summarizing bidding and references will be written. (1 meeting)

### **Construction Observation**

**Spring 2023**

Upon award of a contract, the Firm will make six total site visits. The Owner's staff will make additional site visits during construction. Contractor submittals and pay applications will be reviewed by the Firm prior to forwarding to the Owner. Certified Payroll will not be reviewed by the Firm. At Project completion, the last site visit will be a walk through with the Owner's staff in order to develop a punch list. The Firm will be available by phone to answer questions, review pay applications and submittals. (6 site visits)

The Firm shall have the authority to act on behalf of the Owner only to the extent provided in this Contract. The Firm shall not have control over, charge of, or responsibility for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction work, nor shall the Firm be responsible for the Contractor's failure to perform the construction work in accordance with the requirements of the Contract Documents.

### **Optional Wetland Consultation and Delineation:**

#### **FIELD INVESTIGATION AND WETLAND DELINEATION REPORT**

The presence of the Fox River, seasonal tributaries and ravines leading to the river may dictate that a wetland investigation and delineation may be requested by regulatory agencies. In the event wetland coordination is requested, the Firm will provide the following scope of services. The Firm will complete a field investigation for wetlands and perform a routine wetland delineation applying the general procedures detailed in the 1987 USACE's wetland delineation manual and the 2010 Regional Supplement-Midwest Region. The Firm will identify and flag the wetland boundaries for surveying by the Project surveyor. The Firm will review the survey for consistency with its field notes and use it to prepare the report.



Also, the Firm will conduct a farmed wetland determination in accordance with Natural Resources Conservation Service's guidelines for any areas that have been in row crop agriculture in the past five years.

The Firm will survey the wetland flags utilizing a sub-meter grade Global Positioning System (GPS) Device or equivalent field survey method, but because of tree canopy interference in the ravines the wetland flags may need to be located by the Firm's or the Owner's project surveyor. The Firm will review the survey for consistency with our field notes. The Firm will provide an electronic file (CAD format; tied into Illinois State Plane Coordinates or other as specified by your firm).

The report will include an aerial photograph showing the surveyed wetland boundaries, required USACE dataforms for sample points, observed vegetative species lists, representative color photos, farmed wetland determination, and other necessary data. The Firm will provide a pdf of the final report to Owner for Owner's use.

Please note that if the fieldwork for the wetland delineation will occur outside the normal growing season (May 1 to October 1), the USACE may possibly require the collection of additional data during the growing season. Supplemental data collection requiring additional fieldwork would need to be billed on a time and materials basis according to the Firm's standard rates.

End of Attachment A.



Client#: 852903

UPLANDES

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

6/02/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> USI Ins Svcs LLC Euclid-Prof 2021 Spring Road, Suite 100 Oak Brook, IL 60523 312 442-7200	<b>CONTACT NAME:</b> Laurie Cloninger	<b>FAX (A/C, No):</b> 610 537-4939
	<b>PHONE (A/C, No, Ext):</b> 630 625-5219	
<b>INSURED</b>  Upland Design, Ltd. 24042 W Lockport St Ste 200 Plainfield, IL 60544	<b>E-MAIL ADDRESS:</b> laurie.cloninger@usi.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A : Sentinel Insurance Company Ltd.</b>	<b>NAIC #</b> <b>11000</b>
	<b>INSURER B : Hartford Accident &amp; Indemnity Company</b>	<b>22357</b>
	<b>INSURER C : Trumbull Insurance Company</b>	<b>27120</b>
	<b>INSURER D : Travelers Casualty &amp; Surety Co. of Amer</b>	<b>31194</b>
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		83SBANX7798	06/01/2021	06/01/2022	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:					
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		83UECZH3952	06/01/2021	06/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000		83SBANX7798	06/01/2021	06/01/2022	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	83WEGCE4083	06/01/2021	06/01/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000
D	Professional Liability		106930763	06/01/2021	06/01/2022	\$3,000,000 each claim / \$3,000,000 annual aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Professional Liability is written on a 'claims made' policy.  
Some or all officers are excluded from Workers Compensation coverage.

**CERTIFICATE HOLDER****CANCELLATION**

Upland Design, Ltd.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Kendall County Forest Preserve District  
Reciprocal Access and Designated Trail Riding License Agreement

This Reciprocal Access and Designated Trail Riding License Agreement (“Agreement”) is entered into upon the date of the last signature below, by and between the Kendall County Forest Preserve District, a body politic and Illinois unit of local government (hereinafter the “District”), and Robert Bright, as Trustee of the Madison Trust and Castle Bank, N/A (hereinafter to as “Bright”), the premises located at 10978 Crimmins Rd, Newark, IL 6054, being a primary residence of the Bright Family.

RECITALS

1. The District owns certain parcels of land commonly known as the Millington Forest Preserve in Newark, Illinois identifiable by the following Parcel ID Numbers: 04-29-300-011; 04-29-300-013; 04-32-100-007; 04-32-100-009; 04-32-100-005, and 04-28-300-002).
2. Bright owns the property known as Brighter Daze Farm in Newark, Illinois, which includes those parcels of land identifiable by the Parcel ID Numbers (“PINS”) 04-30-400-007; 04-29-300-010 and 04-29-300-012, including an access drive to Millington Forest Preserve located on said parcels of land (“Access Drive”).
3. Millington Forest Preserve contains natural areas, stream corridors and agricultural lands that includes an unimproved turf trail corridor.
4. The District desires permitted access to the Access Drive, as set forth in further detail in the attached **Exhibit A** incorporated herein by reference, to provide vehicular and equipment access by District staff, farm operators licensed by the District, and other District contractors for the purposes of supporting row crop farming, and natural area and natural resources management activities, and other preserve maintenance activities.
5. Bright desires permitted access to the Millington Forest Preserve unimproved trail system for the purpose of horseback riding on designated trails as set forth in further detail in the **Exhibit B** incorporated herein by reference (the “Designated Trail Corridor”), and to provide voluntary assistance maintaining the Designated Trail Corridor.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the District and Bright agree as follows:

1. Incorporation

The foregoing recitals are hereby incorporated into this section as if fully reinstated herein.

2. Reciprocal Grant of License - License Period

Subject to the terms and conditions contained in this Agreement, the District grants to Bright a **twelve-month license and permit (the “Bright License”) beginning on February 16, 2022 and ending on February 22, 2023** to access the Designated Trail Corridor for horseback riding

from sunrise to sunset. Such use is to be in accordance with this Agreement. The District shall issue twenty (20) permit tags representing the total number of horses owned or boarded by Bright's family members, employees, and patrons for display when accessing the Designated Trail Corridor. Family members, employees, and patrons of Bright shall also have a non-exclusive right to use of the Designated Trail Corridor pursuant to the terms of this Agreement and the Kendall County Forest Preserve District's General Use Ordinance.

Subject to the terms and conditions of this Agreement, Bright grants to the District a **twelve-month license (the "District License") beginning on February 16, 2022 and ending on February 22, 2023** to access Millington Forest Preserve for District purposes utilizing the Bright's existing Access Drive located only on those parcels named within provision 2 of the above Recitals, and further identifiable on Exhibit A.

The Access Drive and the Designated Trail Corridor may be collectively referred to herein as the "Licensed Areas".

### 3. Non-Exclusive Licenses

Both the Bright License and the District License shall be non-exclusive. The District and Bright shall continue their respective uses of the Licensed Areas subject to the terms and conditions of this Agreement and the Kendall County Forest Preserve District's General Use Ordinance.

This Agreement is not, and does not, constitute a lease or other rental agreement. Both Bright's and District's non-exclusive rights to use the Licensed Areas may be terminated in accordance with the terms set forth in this Agreement, where applicable.

Should conflicts in the Parties' use of the Designated Trail Corridor arise, District activities taking place at Millington Forest Preserve shall take precedence over Bright's permitted access to the Designated Trail Corridors. Bright shall temporarily cease its use of the Designated Trail Corridor under this Agreement and the Bright License when such use conflicts with the District's use of the Designated Trail Corridor ("Bright's Conflicting Use"). Bright's Conflicting Use shall cease until such a time when Bright's use of the Designated Trail Corridor no longer conflicts with District's use of same. The District shall provide notice to Bright of the potential of a conflicting use of the Designated Trail Corridor within a reasonable time of District becoming aware of same.

### 4. District Access to the Access Drive

The District shall have the right, but not the obligation, to access Millington Forest Preserve using the Access Drive between 9 am and 4 pm Monday through Thursday ("Regular Business Hours"). The District shall use the Access Drive in such manner as to not unreasonably interfere with the rights of Bright under this Agreement, including but not limited to driving at or below a speed limit of ten miles per hour (10 mph). Bright shall provide to the District reasonable use of the Access Drive outside of Regular Business Hours upon request from the District as set forth in this Section 4.

The District acknowledges that Bright utilizes a gate to control access to the Access Drive. Bright shall provide to District use of the apparatus responsible for operating the gate, including but not limited to any access codes necessary for gate operation, to permit District use of the Access Drive within Regular Business Hours.

Should the District require use of the Access Drive outside of Regular Business Hours, the District shall request same from Bright as set forth herein. The District shall make a request to use the Access Drive outside of Regular Business Hours by contacting representatives of Bright via telephone or email using the following contact information:

- a. Primary contact: Robert Bright  
Ph: (630) 417-1548  
Email: [BobSr2@route66construction.com](mailto:BobSr2@route66construction.com)
- b. Secondary contact: Joann Bright-Theis  
Ph: (630) 774-0042  
Email: [joannbright91@gmail.com](mailto:joannbright91@gmail.com)
- c. Alternate Contact: Nicola Bright  
Ph: (815) 695-9955  
[nicola@ryanex.com](mailto:nicola@ryanex.com)
- d. Alternate Contact: Adam Theis  
Ph: (630) 880-6387  
Email: [atheis@griffithfoods.com](mailto:atheis@griffithfoods.com)

The District shall make such a request at least twenty-four (24) hours prior to requiring use of the Access Drive outside of Regular Business Hours. Bright shall comply with District's request upon receipt of sufficient request as set forth above.

#### 5. Payment Provisions

Bright shall provide a lump sum payment to the District of one dollar (\$1.00) paid-in-hand representing payment in full for the twelve-month License for use of the Designated Trail Corridor. District shall provide a lump sum payment to Bright of one dollar (\$1.00) paid-in-hand representing payment in full for the District License.

#### 6. Trail Maintenance

Bright, its contractors, agents and volunteers may, at Bright's own expense, perform routine maintenance within the Designated Trail Corridor ("Routine Maintenance"). Routine Maintenance shall be limited to clearing of overhanging limbs or vegetation within the Designated Trail Corridor. No motorized power equipment, mowers, or chemicals which may cause trail compaction, erosion or other impacts to surrounding flora and vegetation may be used or applied during Routine Maintenance without receiving prior written permission from the District's Executive Director. Bright shall not make any structural improvements and/or changes to the District's property without the prior written consent of the District. Bright shall email the District at [dguritz@co.kendall.il.us](mailto:dguritz@co.kendall.il.us) at least twenty-four (24) hours prior to entering the Designated Trail Corridor to perform any Routine Maintenance. Bright shall be prohibited from performing Routine Maintenance when instructed not to do so by the District or its Executive Director.

Bright shall indemnify, defend and hold-harmless the District, its officials, officers, employees, including their past, present, and future Commissioners, elected officials and agents, from any cause or claim related to or arising out of Bright's, its contractor's, agents and/or volunteer's Routine Maintenance in conformity with the indemnification provisions provided herein.

Bright may, with the prior written consent of District, contract out Routine Maintenance of the Designated Trail Corridor provided that any contractor engaged by Bright for such purpose, or

any subcontractor of such contractor, is approved by the District and complies with the insurance and indemnification requirements contained herein ("Maintenance Contractor"). Bright acknowledges and agrees that the District expressly withholds prior authorization from Bright to contract out any Routine Maintenance or any other work that would constitute a "public work" under the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*)

Bright shall have the following clauses placed within any contracts with Maintenance Contractors who will be tasked with maintenance activities, including but not limited to Routine Maintenance, in the Licensed Areas:

- a. Maintenance Contractor shall indemnify, hold harmless and defend with counsel of the District's own choosing, the District, its officials, officers, employees, including their past, present, and future Commissioners, elected officials and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property (collectively, "Claims"), to the extent such Claims result from the performance of this contract by Contractor or those Claims are due to any negligent, intentional, or willful acts, errors, omissions or misconduct of Contractor in its performance under this Agreement. Nothing contained herein shall be construed as prohibiting the District, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Indemnification obligations shall survive the termination of this Agreement.
  
- b. Maintenance Contractor shall obtain and continue in force, during the term of the Agreement, all insurance as set forth below. Each insurance policy shall not be cancelled or changed without thirty (30) days prior written notice, given by the insurance carrier to the District. Before starting work hereunder, Contractor shall deposit with the District certificates evidencing the insurance it is to provide hereunder: (a) Worker's Compensation and Occupational Disease Disability insurance, as required by the State of Illinois, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease, (b) Employer's comprehensive general liability insurance for both personal injury and property damage in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 aggregate per project, (c) Comprehensive business automobile liability insurance in the minimum amount of \$1,000,000 combined single limit, (d) Minimum umbrella occurrence insurance of \$5,000,000 per occurrence and \$5,000,000 aggregate, (e) and if Professional Services shall be contracted for, Professional liability insurance in the minimum amount of \$1,000,000 combined single limit. The District shall be named as an Additional Insured on a Primary and Non-Contributory basis with respect to all liability coverage. Further, all liability and workers' compensation policies must include a waiver of subrogation in favor of the District. The District shall also be designated as the certificate holder. The District's or BrighterDaze Farm, LLC failure to demand such certificate of insurance shall not act as a waiver of Contractor's obligation to maintain the insurance required under this Agreement. The insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect Contractor, nor be deemed as a limitation on Contractor's liability to the District in this Agreement.

Maintenance Contractor will also obtain Insurance against damage or destruction to the District's property and all Property, whether or not owned by the District; that is located at the site of the work, providing "all risk" peril coverage, in the amount of 100% of

replacement costs (collectively "All Risk Insurance"). Such insurance shall have an agreed amount endorsement if available.

All policies of insurance required hereunder shall be written by carriers which possess an A- policyholders rating or better and a minimum Class VII financial size category as listed at the time of issuance by A.M. Best Insurance Reports (the aforesaid rating classifications to be adjusted if and to the extent that Best adjusts its rating categories).

At the request of Bright, the District may consider reducing insurance and liability coverage limits for Maintenance Contractors. Bright shall submit written requests specifically outlining the work to be performed and available insurance coverage limits to the District at least forty-five (45) days in advance of the work to be performed in order to provide sufficient time for the District to consider and approve or deny the Bright 's request. At least thirty (30) days prior to the beginning of any such contract or subcontract work on the Licensed Areas, Bright shall submit to the District a list of all persons or entities who will provide maintenance services on behalf of Bright together with their certificates of insurance demonstrating compliance with the insurance requirements set forth above. The District may require, but is not obligated to provide, its approval of Maintenance Contractors prior to the services being rendered, and if required, such approval shall not be unreasonably withheld or delayed.

- c. Maintenance Contractors shall comply with all federal, state and local rules, regulations and licensing requirements, including without limitation licensing requirements of Kendall County and the District, in the conduct of their business and the performance of maintenance services.
- d. Maintenance Contractors and their consultants, employees, contractors, subcontractors, and agents agree to comply with all provisions of the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 et seq. and the Illinois Drug Free Workplace Act, 30 ILCS 580/1 et seq.
- e. Maintenance Contractors, their officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations.
- f. Maintenance Contractor agrees to comply with all applicable federal, state and local laws and regulatory requirements and to secure such licenses as may be required for its employees and to conduct business in the state, municipality, county and location. Such obligation includes, but is not limited to, environmental laws, civil rights laws, prevailing wage and labor laws.
- g. All services to be undertaken by Maintenance Contactor shall be carried out by competent and properly trained personnel of Maintenance Contractor to the highest standards and to the satisfaction of District. All services, materials and components shall conform to relevant manufacturers' and equipment suppliers' specifications, and all materials and spare parts shall be obtained from the original equipment manufacturers or from suppliers approved by them. No warranties implied or explicit may be waived or denied.

- h. It is understood and agreed that Maintenance Contractor is an independent contractor and is not an employee of, partner of, agent of, or in a joint venture with the District. Maintenance Contractor understands and agrees that Maintenance Contractor is solely responsible for paying all wages, benefits and any other compensation due and owing to Maintenance Contractor's officers, employees, and agents for the performance of services set forth in the contract. Maintenance Contractor further understands and agrees that Maintenance Contractor is solely responsible for making all required payroll deductions and other tax and wage withholdings pursuant to state and federal law for Maintenance Contractor's officers, employees and/or agents who perform services as set forth in the Agreement. Maintenance Contractor also acknowledges its obligation to obtain appropriate insurance coverage for the benefit of Maintenance Contractor, Maintenance Contractor's officers, employees and agents and agrees that District is not responsible for providing any insurance coverage for the benefit of Maintenance Contractor, Maintenance Contractor's officers, employees and agents. Maintenance Contractor hereby agrees to defend with counsel of District's own choosing, indemnify and waive any right to recover alleged damages, penalties, interest, fees (including attorneys' fees), and/or costs from District, its Commissioners, board members, officials, employees, insurers, and agents for any alleged injuries that Maintenance Contractor, its officers, employees and/or agents may sustain while performing services under the Agreement.
- i. Maintenance Contractor shall exercise general and overall control of its officers, employees and/or agents. Maintenance Contractor agrees that no one shall be assigned to perform work at District's facilities or on District property on behalf of Maintenance Contractor, Maintenance Contractor's consultants, subcontractors and their respective officers, employees, agents and assigns unless Maintenance Contractor has completed a criminal background investigation for each individual to be performing work at the site. In the event that the individual's criminal background investigation reveals that the individual has a conviction record that has not been sealed, expunged or impounded under Section 5.2 of the Criminal Identification Act, Maintenance Contractor agrees that the individual shall not be assigned to perform work on or at District's facilities or on District Property absent prior written consent from District. District, at any time, for any reason and in District's sole discretion, may require Maintenance Contractor and/or Maintenance Contractor's consultants, and/or subcontractors to remove any individual from performing any further work under the contract.
- j. Maintenance Contractor hereby waives any claim of lien against subject premises on behalf of Maintenance Contractor, its officers, insurers, employees, agents, suppliers and/or sub-contractors employed by this Agreement. Upon completion of the project and as a condition prior to payment in full, Maintenance Contractor shall tender to District a final waiver of lien for all subcontractors and/or suppliers.
- k. The District, at any time, for any reason and in the District's sole discretion, may require any of Licensee's Maintenance Contractors, and/or subcontractors to be removed and enjoined from performing any further work on District property.

Prior to performing maintenance, including but not limited to Routine Maintenance, on the Licensed Areas, Bright shall provide to the District in writing the name, address, telephone number and email address of the Maintenance Contractor hired to complete any maintenance work and that of Bright's authorized representative(s) who will have authority to make decisions



and take actions on behalf of Bright, with respect to this Agreement, and Bright's obligations hereunder, including in the event of an emergency situation requirement immediate action.

The District shall have the exclusive right to designate the route, if allowed, for machinery and equipment across District property and the placement of materials on District property for all such activity. District, Bright and any above described Maintenance Contractors shall cooperate with respect to the commencement, timing and location of such activities so as not to unreasonably disturb or interfere with the District's and/or public's activities elsewhere on District property.

Bright shall be responsible for the protection of all maintenance work (including, but not limited to, all work performed by Bright, its agents or any Maintenance Contractor(s) or contractor(s) employed by Bright) until its completion, and shall, at Bright's own expense, replace damaged or lost materials or repair damaged parts of the maintenance work, and that Bright shall be liable therefore. Bright shall remove from the vicinity of the maintenance work upon its completion all surplus material or equipment belonging to Bright, its agents or the Maintenance Contractor or sub-contractor employed by Bright, or used under their direction during maintenance. Bright shall remove all surplus materials, and debris of all kinds from the maintenance site, or portions of property at or adjacent to the site of the maintenance.

The District shall have no liability or responsibility for the protection, safety or condition of the Licensed Areas, Bright's or Bright's Contractor's Agents, Equipment, Employees, Horses or Trail Riders, and Bright hereby waives and all claims against the District in regard to the same.

Bright shall immediately advise the District of any damage to any District property.

The District shall assume no liability or responsibility for property lost or stolen on District property, or for personal injuries sustained on District property during Bright's use or Maintenance Contractor's use of any District property and Bright hereby waives, releases, protects, indemnifies and shall defend the District of any and all claims against the District in regard to the same as set forth below.

## 7. Indemnification

To the extent allowable by law, Bright shall indemnify, hold harmless and defend with counsel of the District's own choosing, the District, its officials, officers, employees, including their past, present, and future Commissioners and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property (collectively, "Claims"), to the extent such Claims directly or indirectly result from the Bright's usage of the Licensed Areas, Bright's maintenance of the Licensed Areas, Maintenance Contractor's maintenance of the Licensed Areas, or those claims are due to any negligent, intentional and/or willful acts, errors, omissions or misconduct of Bright or its agents, including but not limited to Maintenance Contractors, in its performance of this Agreement, or any other activities under the Bright License. Nothing contained herein shall be construed as prohibiting the District from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Indemnification obligations shall survive the termination of this Agreement.

To the fullest extent permitted by the laws of the State of Illinois, Bright hereby waives any and all rights or claims Bright may have at any time against the District, its Commissioners, officers,

agents and employees for injury to or the death of any person, or for damage, destruction or loss of any property, sustained or incurred by Bright or any person claiming by, through or under Bright in connection with the exercise by such persons and the rights and privileges granted to Bright hereunder, or the conduct of the occurring on the Licensed Areas, except to the extent that such loss, damage or destruction is caused by the willful and wanton conduct of the District or District's agents and employees. Bright also waives any claims for any personal injury or any loss or damages caused by fire, vandalism, theft or other casualty, to or of any vehicle, equipment, merchandise or personal property on District property at any time arising out of the period of this Agreement.

Further, Bright's Maintenance Contractors shall, to the fullest extent permitted by the laws of the State of Illinois, indemnify the District to the extent required by Bright under the terms of this Agreement, and at their sole expense shall provide and maintain adequate insurance as outlined in Section 6 above. Nothing in this Agreement shall be deemed to constitute a waiver by the District of any immunity from liability which the District may now or hereafter possess under Illinois law, whether by statute, common law, or otherwise.

#### 8. Provision and Maintenance of Equipment

Bright and Bright's Maintenance Contractors shall be responsible for selecting only equipment that meets any and all safety standards and ratings applicable to such equipment. It is further understood that the District shall have no obligation to provide any of the above referenced equipment.

#### 9. Bright's Rights and Obligations

In performing under the terms of this Agreement, Bright shall adhere to all applicable laws, regulations and Kendall County and District ordinances, rules, regulations, policies, and procedures. Bright and all of Bright's employees, contractors, volunteers, members, agents, and participants shall follow the District's General Use Ordinance whenever on District Property. (General Use Ordinance is available here: [http://www.co.kendall.il.us/wp-content/uploads/FP\\_GenUseOrd.pdf](http://www.co.kendall.il.us/wp-content/uploads/FP_GenUseOrd.pdf)). Violation of the District's General Use Ordinance shall result in the immediate suspension of this License Agreement pending review of the violation and determination of penalty by the District's Board of Commissioners.

Bright shall inspect the Designated Trail Corridor prior to executing this Agreement to determine that the Designated Trail Corridor is reasonably suited for the use(s) contemplated by Bright. Thereafter, Bright shall inspect the Licensed Areas prior to and subsequent to each use by Bright to identify any potential safety hazards. Bright shall take all reasonable and appropriate measures to protect all participants and officials and any other persons reasonably anticipated to be present during, or involved in, the uses contemplated by this Agreement and the Bright License, from known or foreseeable safety hazards. Bright shall promptly advise the District of any known or foreseeable safety hazards upon Bright obtaining knowledge of same, and prior to using, or allowing others to use the Licensed Areas.

Bright shall use the Designated Trail Corridor at its own risk. Bright is solely responsible for any and all supervision and security services for its use of the Designated Trail Corridor, and acknowledges that the District shall not provide, nor shall it be obligated to provide, any security or protection in connections with the Bright's use of the Designated Trail Corridor.

#### 10. Term, Termination and Modification

Either party reserves the right to request from the other party alterations the terms and conditions of this Agreement, or to terminate this Agreement and any license issued hereunder after providing fourteen (14) days advance written notice. The District reserves the right to terminate the Bright License without notice due to the misconduct of Bright or any person associated with Bright or actions of those present at the Bright 's event that involve misuse, destruction, or damage to District property, or for any violation of this Agreement of restrictions set forth in the permit issued under the Bright License. Further, the District reserves the right to terminate this Agreement without notice for purposes deemed necessary for public safety, necessary for the preservation of property.

Unless sooner terminated in accordance with the provisions of this Agreement, and subject to the survival of certain obligations as provided in this Agreement, this Agreement shall terminate for all purposes on February 22, 2023. Use of designated trail by Bright after this date will be considered a violation of the District's General Use Ordinance.

#### 11. No Third Party Beneficiary / Joint Venture

This Agreement is entered into solely for the benefit of the District and Bright, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entirety who is not a party to this Agreement, or to acknowledge, establish or impose any legal duty to any third party. This Agreement does not create, acknowledge, or imply a joint league, joint function, joint venture, partnership or joint enterprise between Bright and District.

#### 12. Liens

Bright covenants and agrees that it will not permit or suffer any lien to be put upon, or arise or accrue against the District's Property or the Designated Trail Corridor, in favor of any person or persons, individual or corporate, for furnishing either labor or material, for equipment supplied to or work to be performed on District property or the Designated Trail Corridor. Bright further covenants and agrees to hold the District, District property and the Licensed Areas free from any and all liens, or rights of claims of lien, which may, or might arise or accrue under, or be based upon any mechanic's lien law, or other similar laws, of the State of Illinois, now or hereafter in force.

All contracts and agreements that may be made by Bright, relating to the provision of labor or material for any work to be performed on the Licensed Areas, shall expressly state that the interest of the District in and to the Licensed Areas shall be wholly free from, and not subject to any lien or claim of any contractor, subcontractor, mechanic, materialman or laborer, whether based upon any law or regulations of the State of Illinois, or any other authority, now or hereafter in force to be enacted, and Bright also hereby agrees and covenants that it will not enter into any contract for such work, which shall not, in express terms, contain the aforesaid provisions. Bright shall require a release of lien prior to remitting any payment to a Maintenance Contractor.

#### 13. General Provisions

The indemnification provisions set forth in this Agreement and all other rights and obligations of the District and Bright which by their terms may necessarily be exercised or performed after the

termination of this Agreement or expiration of this Agreement, shall survive such termination or expiration.

This Agreement shall be construed in accordance with the laws and Constitution of the State of Illinois. If any provision of this Agreement is declared invalid or unenforceable, the remaining provisions shall continue in full force and effect to the fullest extent permitted by law.

The parties agree that the venue for any legal proceedings between them shall be the Circuit Court of Kendall County, Illinois, Twenty-Third Judicial Circuit, State of Illinois.

Both parties affirm no District officer or elected official has a direct or indirect pecuniary interest in Bright or this Agreement, or, if any District officer or elected official does have a direct or indirect pecuniary interest in Bright or this Agreement, that interest, and the procedure followed to effectuate this Agreement has and will comply with 50 ILCS 105/3.

Bright agrees to comply with all applicable federal, state and local laws and regulatory requirements and to secure such licenses as may be required for its employees and contractors and to conduct business in the state, municipality, county and location. Such obligation includes, but is not limited to, environmental laws, civil rights laws, prevailing wage and labor laws.

Any notice required or permitted to be given pursuant to this Agreement shall be duly given if sent by fax, certified mail, or courier service and received, in the case of notice to the District, Kendall County Forest Preserve District, Attention: Director, 110 West Madison Street, Yorkville, Illinois, 60560, fax (630) 553-4023 with copy sent to: Kendall County State's Attorney, 807 John Street, Yorkville, Illinois, 60560, fax (630) 553-4204.

And, in the case of Bright, to: Robert Bright 10978 Crimmins Rd, Newark, IL

Neither party shall assign, sublet, sell, or transfer its interest in this Agreement without the prior written consent of the other.

No waiver by the District of any default of Bright shall be implied from any omission by the District to take any action on account of such default if such default persists or be repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

Headings of sections are for convenience only and do not limit or construe the contents of the sections.

This Agreement represents the entire and integrated Agreement between the District and Bright and supersedes all prior written and/or oral negotiations, representations or agreements between the District and Bright. To be valid, any amendment or modification to this Agreement must be in writing, dated a date subsequent to the date of this Agreement, and signed by both parties.

Bright, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations.

This Agreement may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Agreement.

The parties each hereby warrant and represent that their respective signatures set forth below have been and are on the date of this Agreement duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Agreement.

IN WITNESS WHEREOF, the District and the Bright has caused this Agreement to be executed by a duly authorized officer thereof as of the date first above written.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Judy Gilmour, President  
Kendall County Forest Preserve District

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Robert Bright, Trustee  
Madison Trust Castle Bank N/A





==== Designated Equestrian Trail Corridor

IL 71

Millington  
Forest  
Preserve

Crimmin Road



Kendall County GIS  
maps.co.kendall.il.us/portal  
Map Created: 9/15/2021

# Millington FP Designated Trail Corridor