

INTERGOVERNMENTAL AGREEMENT
BETWEEN BARRINGTON AREA PUBLIC LIBRARY DISTRICT
AND THE VILLAGE OF BARRINGTON

(RE: Roadway Project for the Relocation of Lake Zurich Road and Related Improvements)

THIS INTERGOVERNMENTAL AGREEMENT is entered into on this ____ day of _____, 2018, by and between the BOARD OF LIBRARY TRUSTEES OF BARRINGTON AREA PUBLIC LIBRARY DISTRICT, Lake, Cook, McHenry and Kane Counties, Illinois (the “Library” or the “Library District”), and the VILLAGE OF BARRINGTON, Cook and Lake Counties, Illinois (the “Village”) pursuant to authority of the Illinois Constitution and statutes. The Library and the Village are sometimes hereinafter individually referred to as a “party” and/or jointly referred to as the “parties”:

WITNESSETH:

WHEREAS, the Library District and the Village desire to cooperate with one another in a roadway project as hereinafter described; and

WHEREAS, Article VII, Section 10 of the Illinois Constitution of 1970 and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., authorize and encourage units of local government to enter into intergovernmental agreements with one another; and

WHEREAS, the Library District lies partly within and partly outside of the boundaries of the Village, and the Village lies wholly within the boundaries of the Library; and

WHEREAS, the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq., authorizes the Parties to transfer land for any public purpose under such terms and conditions as they shall mutually agree upon; and

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/11-61-1, et seq., including but not limited to 65 ILCS 5/11-76.1-1, et seq. authorize the Village to acquire real property for municipal purposes; and

WHEREAS, the Corporate Authorities of the Village have determined that certain property owned by the Library District is needed by the Village for roadway purposes and related public purposes in order to improve traffic safety for the public, for Village residents, and for Library patrons and staff of the Library District, and the Village has by its approval of the Ordinance authorizing this Agreement declared that it is necessary and convenient for the

Village to acquire and use the Library property for roadway purposes and related public purposes; and

WHEREAS, the parcels to be conveyed by the Library to the Village and/or to IDOT in fee simple title and the necessary temporary construction easement(s) are and shall be collectively referred to in this Agreement as the “Library Parcels”; and

WHEREAS, the Village and the Illinois Department of Transportation (“IDOT”) desire to cause Lake Zurich Road to be relocated by the construction of such new roadway through the properties of the Barrington Park District and the Library District to extend south to the signalized intersection at U.S. Route 14 (Northwest Highway) at Berry Road; and

WHEREAS, the Board of Trustees of the Library District acknowledge that the Library’s entrance road and parking facilities must be relocated, reconfigured and rebuilt as a result of the proposed relocation of Lake Zurich Road by the Village and the Illinois Department of Transportation (“IDOT”) (the “new Parking Facilities”) and a new entrance which will be constructed so as to provide ingress to and egress from a roundabout in Lake Zurich Road, as relocated, to the Library’s new Parking Facilities; and

WHEREAS, the Village has also agreed to cause to be constructed shared storm water detention on what will be a Village-owned parcel in between U.S. Route 14 (Northwest Highway) and Lake Zurich Road, as relocated, in order to provide detention for the new roadway and roundabout, the improved intersection of U.S. Route 14 and Berry Road, the new Library entrance, the Library District’s new Parking Facilities, as well as the existing Library Building, including any expansion thereof, and the existing upper parking lot, and the Village has agreed to maintain such storm water detention on the Village property in this area in perpetuity; and

WHEREAS, all of the interrelated new improvements as described above are sometimes collectively referred to herein as the “Roadway Project”; and

WHEREAS, the Village and IDOT intend to use the Library Parcels acquired by the Village and/or by IDOT as contemplated herein for public purposes for the construction, operation, and maintenance of the Roadway Project, including relocating and connecting Lake Zurich Road with the intersection of U.S. Route 14 and Berry Road and all of the related improvements of the Roadway Project, all as more fully described herein; and

WHEREAS, for purpose of the Roadway Project and/or future expansion of the Library Building and/or the Library parking facilities, it may be necessary to move to other locations certain existing easements over Library property held by the Village and/or its tenants for the

purpose of water and sewer lines, for pedestrian and bicycle access and for access to the Village's Water Tower; and

WHEREAS, it is the mutual desire of the Parties hereto to cooperate with one another to achieve the successful completion of the Roadway Project, all of the related new improvements, and the related real estate transfers of the Library Parcels, all as generally described herein and in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the Village and the Library District have by appropriate action of their respective corporate authorities, authorized the execution and delivery of this Agreement:

NOW THEREFORE, in consideration of the foregoing recitals, the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Library and the Village agree as follows:

1. Recitals: The parties hereto find that the recitals to this Agreement are true and correct and that each of the foregoing recitals is hereby incorporated herein by reference as their respective findings of fact the same as if each had been set forth in its entirety in the body of this Agreement.
2. Cooperation:
 - A. The parties hereto agree to and shall mutually cooperate in good faith in the implementation of this Agreement and the successful completion of the contemplated related real estate transfers of the Library Parcels and all of the improvements which are the subject of this Agreement and which collectively comprise the Roadway Project.
 - B. The Library will be provided with the same opportunity as the Village to consult with IDOT and have the same right to approve or disapprove all construction procedures including Roadway Project phasing and any Project changes, the continuing availability of Library parking, the timing of resurfacing of the Library's lower parking lot, and the timely completion of the Roadway Project.
 - C. During construction of the Roadway Project, the Village and IDOT shall stage and coordinate Roadway Project construction to provide continuous access and parking for Library patrons. This includes continuous access during normal Library hours of operation for pedestrians from adjacent public walkways to the building's primary entrance. It also includes continuous access during normal Library hours of operation for vehicles to the drive immediately in front of the building's primary entrance, as

well as continuous access to the East parking lot. If closures to any of the stated access areas are needed outside of normal Library hours, the Village shall notify the Library a minimum of 72 hours in advance. The Village will share up-to-date plans for staging and construction of the roadway and parking lot projects with Library representatives.

- D. If the Library and the Village have a disagreement relative to any interpretation of this Agreement or as to any aspect of the implementation of this Agreement, the parties agree to submit the matter first to non-binding mediation by a mediator mutually agreed upon by the parties. If any dispute is not resolved through non-binding mediation, each party shall have the right to exercise their respective remedies at law and/or in equity.
 - E. If such non-binding mediation as described above does not resolve such a disagreement, each party may agree to accept binding arbitration pursuant to the rules of the American Arbitration Association and which arbitration shall occur at the Library Building and as expeditiously as the issue at hand requires.
3. Term: The term of this Agreement shall be for a period of twenty (20) years from the date of execution by the last party to execute same, but said Agreement shall, without action by either party, automatically renew for successive additional twenty (20) year renewal terms unless, at least one hundred eighty (180) days prior to the expiration of the then current term, the parties mutually agree to terminate this Agreement at the end of the then current term.
4. Property for Roadway Project Purposes:
- A. Library Parcels Required for Roadway Project.
 - (i) Subject to the terms and conditions contained in this Agreement, and in consideration for the payment by the Village of compensation based upon fair market value of the Library Parcels plus the payment of additional amounts which the Library District finds to be acceptable for sculpture relocation and reimbursement of the Library for reasonable costs incurred by the Library for engineering, architectural, landscape consulting and legal fees (the location of the new path along Lake Zurich Road will also be a cost borne by the Village), the Library agrees to and shall convey to the Village the Library Parcels required for the Roadway Project in fee simple ownership by one or more

Special Warranty Deed(s) in recordable form and such temporary grants of easements as necessary and appropriate, as the Library may determine in its reasonable discretion, subject to IDOT approval, for the purpose of the construction by IDOT of a roadway ultimately connecting Lake Zurich Road as relocated from within Citizens Park South to the intersection of U.S. Route 14 at Berry Road. The amount of compensation which shall be paid to the Library for the Library parcels shall be based upon the higher amount from the Library's appraisal of the Library parcels or from the Village's appraisal of the Library parcels, subject to approval by IDOT of the final amount of compensation, provided, however, that nothing contained in this Agreement shall obligate the Library to accept a final amount of compensation unless it is acceptable to and approved by the Library's Board of Trustees. However, the appraisal used by each party for these purposes shall not include or will appropriately be adjusted so as not to include items for which the Library will be otherwise compensated pursuant to the terms of this Agreement.

- (ii) The Library Parcels are legally described as stated on the document entitled Plat of Survey prepared by Gewalt-Hamilton Associates, Inc. and dated February 2, 2018, a copy of which is attached hereto as Exhibit A and thereby made a part hereof, and such Library Parcels shall be depicted as shown on said Plat of Survey.
- (iii) Following Library approval of the final Roadway Project design and engineering plans, including the parking lot and related landscaping, the Village shall, as the Phase III lead agency for the Roadway Project, bid out the Roadway Project pursuant to a Federal letting process, award one or more construction contract(s) for the Roadway Project, and then cause to be constructed pursuant to all Federal and State mandated timelines, rules and regulations, the entire Roadway Project, which shall include but will not be limited to the design and engineering for the entirety of Lake Zurich Road as relocated, any Berry Road/Northwest Highway intersection improvements, any related intersection signalization improvements, any wetland mitigation needed, new Parking Facilities (sometimes referred to herein as the "lower parking lot"), a new entrance drive providing access to the new Library Parking Facilities from

a roundabout which will be part of Lake Zurich Road, as relocated, a new multi-purpose bike and pedestrian path along Lake Zurich Road, and a relocated portion of the existing multi-purpose bike and pedestrian path on the Library Property, all as described below, and the shared storm water detention to accommodate storm water runoff generated by all of the Roadway Project improvements as described above, the existing Library Building, including any expansion thereof, the existing upper Library parking lot, and the new Library entrance improvements.

- (iv) The roundabout constructed in the planned Lake Zurich Road right-of-way, as relocated, as part of the Roadway Project will provide a means of controlled access between Lake Zurich Road from the new Library Parking Facilities and will be configured to allow safe, convenient, clear access to and from the Library via a new enhanced drive as the Library may determine in its reasonable discretion, subject to IDOT approval.
- B. IDOT Approval and Traffic Signal Maintenance. The Library shall cooperate with the Village in seeking IDOT and related federal approvals, if any, for the Roadway Project, and upon its completion, the Village shall thereafter assume title to and the responsibility for the maintenance of the entirety of Lake Zurich Road, as relocated, including the new roundabout, and the new traffic signal at the southern terminus of the Roadway Project at the Berry Road/ U.S. Route 14 intersection and all intersection improvements. In addition, the Village shall be responsible in perpetuity for maintenance of the storm water detention facilities described herein.
- C. Roadway Project Construction, Timing. During construction of the Roadway Project, the Village, as the Phase III lead agency for such Project, shall work with the Library District and with IDOT, to the extent of each party's respective authority, to stage and coordinate the Roadway Project construction so as to provide continuous access for Library patrons to the greatest extent possible. For example, but not by way of limitation, the Library's lower parking lot will be paved in two sections to accommodate Library patron parking, and the Village will provide all needed assistance to the Library in the coordination of the Library's paving of their upper lot.
- D. The Village will cause its Phase III contractor to or shall itself cause all Library improvements damaged or removed by the Roadway Project or thereafter during the

course of future access to Village utilities within easements on the Library Property to be repaired and/or replaced consistent with the Roadway Project plans.

E. Accommodation of Future Library Expansion. As the Roadway Project will result in a substantial reduction of Library land available for future Library expansion, Village requirements with respect to Floor Area Ratios or maximum impervious coverage shall be based on the Library land area as existing on the date of this Agreement and not on the reduced Library land area following the conveyances to the Village and/or IDOT as contemplated by this Agreement.

5. Bike and Pedestrian Connectivity.

The Village shall, as part of the Roadway Project, cause to be constructed, at the Village's expense: (i) a new bike and pedestrian path which shall be located along Lake Zurich Road to provide continued connectivity through the Library Property and provide the appropriate easements to the Village for such new path, which shall thereafter be maintained, repaired, and replaced by the Village; and (ii) a new section of the existing bike and pedestrian path, which shall be shifted to the East at a location just North of the Village's water tower site. This existing path, including the small portion to be relocated, shall continue to be maintained by the Library pursuant to the existing agreement between the parties.

6. Landscaping and Site Improvements for the Library Property to be Included in the Roadway Project.

A. A landscape architect retained by the Library will review the plans for the Roadway Project and will make substantive suggestions and request changes in the new landscaping and site improvements for the affected areas of the Library property, which suggestions and changes shall be incorporated in the Project so that final Library landscaping will be consistent with current existing landscaping.

B. The design of the Library's new Parking Facilities which will be constructed as part of the Roadway Project to provide for safe and convenient on-site movements of pedestrians, a drive-up book return access, bicycle access, and connections from and to the Library Building to the various unique areas that are a part of the Library Property. The new Library Parking Facilities, i.e., the new lower parking lot, as reconstructed, shall have at least four (4) parking spaces more than the existing lower parking lot on the Library property.

- C. The Library will provide its material and lighting requirements for the construction of the Library's new Parking Facilities so that these can be made part of the IDOT letting. Such requirements must be expressed in "categorical" terms to allow bidding, rather than the selection of proprietary items which IDOT will not bid out. Material and lighting selections must be based upon standards that can be bid competitively since sole source products are not reimbursable inasmuch as the Roadway Project is federally funded and will be built by the State and bid out by the Village through IDOT procedures. To accommodate the Library's requirements consistent with the Library's current lighting, the Village will provide the necessary funds to the extent federal funds will not be provided for such purposes.
 - D. To the extent that tree replacements cannot be accommodated on the existing site, the Village will provide and confirm in writing that the balance of the estimated value of additional replacement trees otherwise required by Village ordinances shall be available to the Library as a future credit for trees which might have to be removed from the Library site in the future for expansion of the Library building, parking, and/or related facilities.
7. New Library Sign(s):
- A. By Village of Barrington Ordinance No. 2013-3740, an Amended and Restated Special Use Permit for a Planned Development for the Library Property and Village of Barrington Ordinance No. 2012-3710 (which is an exhibit to Ordinance No. 2013-3740), the Corporate Authorities of the Village granted the Library District a zoning variation to permit installation by the Library District of an electronic changeable copy sign (which sign has not yet been constructed, and is hereinafter referred to as the "new Library sign") on the Library's public property at a location having a minimum setback of not less than 15 feet from the right-of-way line of U.S. Route 14, which location complies with the current provisions of the Village of Barrington Zoning Ordinance for this type of sign. In order to comply with the aforesaid Village Ordinances, such new Library sign may be installed by the Library's contractor at a setback of 20.5 feet from the now existing U.S. Route 14 (Northwest Highway) right-of-way line in order to avoid any need for a future relocation of said sign, since the taking by IDOT for U.S. Route 14 at this location will be 20 feet in width, and such a 20.5 foot setback will then allow the new Library sign to be located just outside of the

- new right-of-way for U.S. Route 14 (Northwest Highway). Upon the submission by the Library or by its agent(s) of a completed Village application for a sign permit, and necessary related plans and specifications, which shall comply only with IDOT regulations and a location plan for the new Library sign, which location plan shall be consistent with the foregoing, the Village will issue a sign permit for the new Library sign which will occur prior to the acquisition by the Village or by IDOT of that Library Parcel which will widen U.S. Route 14 as aforesaid. However, as authorized by the aforesaid Village Ordinances, the Village would be able to agree to approve a location for the new Library sign with a lesser setback on the condition that written IDOT approval for such location can be secured by the Library District.
- B. An additional Library sign at the Lake Zurich Road Library entrance may be required, as determined by the Library, due to the more convoluted Library entry sequence which shall comply with IDOT sign requirements. The Village agrees to and shall reimburse the Library up to a maximum amount of Ten Thousand Dollars (\$10,000.00) for the cost of such sign for the Library's Lake Zurich Road entrance, which sign may be either a monument sign or an electronic sign, as determined by the Library.
 - C. The Village shall waive any Village permit fees otherwise applicable to both signs, the sculpture relocation, and the new Library parking lot.
8. Utility Easements to be Relocated for the Roadway Project.
- A. Village Vacation of Existing Easements. Subject to the terms and conditions contained in this Agreement, upon the abandonment of any existing Village water and sewer lines in the existing water and sewer easements and the connection of new water and sewer lines in replacement easements approved by the Village as hereinafter described, and the establishment of a new access easement to the Village's water tower which is now surrounded by the Library property, the Village shall release the existing water and sewer easements and access easement heretofore conveyed by the Library to the Village to the extent that such easement(s) are no longer needed by the Village, and the existing access easement granted to the Village and its tenants for access to the Village Water Tower. (The existing Village easements shall be referred to herein as the "Original Village Easements", and the

Village Easements to be released and relocated shall be referred to as the “Village Vacated Easements.”)

- B. Library Grant of Replacement Easements to Village. The Library shall grant replacement easements to the Village at such locations as determined in a manner consistent with Paragraph 10(B) hereof for the purposes of the installation and maintenance of Village water and sewer lines and for access for ingress and egress and to provide utility and other services to the Village Water Tower, for the Village and its officers, employees, agents, contractors, subcontractors, and assigns, including but not limited to any and all present and future tenants of the Village Water Tower. Hereinafter, the easements to be granted by the Library to the Village shall be referred to as the “Village Replacement Easements”.
 - C. Compensation for Easement Parcels. No compensation shall be paid by either party for the release of the Original Village Easements or for the grant of new or Village Replacement Easements, as described in this Agreement.
 - D. Costs of Relocating Utility Lines in Easements. The Village or IDOT shall pay for all costs of relocating utility lines from the Original Village Easements to the Village Replacement Easements as required by the Roadway Project, including but not limited to engineering, design, and construction supervision costs and permits, as well as all restoration costs incurred during relocation work as well as resulting from future maintenance, which relocation and restoration work shall be done by a contractor for the Village.
9. Shared Storm Water Detention Facilities.
- A. The storm water detention area which will be constructed as part of the Roadway Project by the Village’s Phase III Contractor(s) will provide sufficient storm water storage capacity in compliance with the Lake County Watershed Development Ordinance and related Village’s Watershed Development Ordinance to accommodate the Roadway Project and the existing Library Building, the existing Library upper parking lot, and the new Library parking lot to be constructed as part of the Roadway Project.
 - B. The Village’s storm water detention area construction shall meet the requirements (i.e., the requirements of the current provisions of the Lake County Watershed Development Ordinance and/or the Barrington Watershed Development Ordinance)

for the Roadway Project. As part of the Roadway Project, the Village will cause to be constructed and will thereafter maintain a shared storm water detention facility on the new Village property in the area between Lake Zurich Road, as relocated, and U.S. Route 14 (Northwest Highway), and the Village shall grant a shared storm water detention easement to the Library, in a form approved by both parties and their respective attorneys, for such shared storm water detention facilities. The Village shall thereafter construct and maintain, at its sole expense, such shared storm water detention facilities. Such shared detention area and the easement granted to the Library for same shall be fully compliant with the current Lake County Watershed Development Ordinance as well as any additional Village requirements and shall be made available to and reserved for the existing Library Building, the upper Library parking lot, the new Library entrance drive, and the Library's new Parking Facilities to be constructed as part of the Roadway Project.

- C. The parties understand and agree that storm water detention capacity for the Roadway Project may be limited by the space which will be between U.S. Route 14 (Northwest Highway) and Lake Zurich Road as relocated. Unless additional stormwater storage can be provided by lowering the bottom of the basin and/or the basin outlet could be moved to the next manhole north, this shared storm water detention area cannot be expanded because such an expansion would bring the new Lake Zurich Road closer to the Library's existing Building, which the Library wishes to avoid. Areas for additional detention are available on the Library property, and the Village will assist the Library District and the Library District's present and/or future consultants to identify other areas which would be appropriate for detention on the Library property to accommodate future expansion(s) of both the Library Building and the Library's upper parking lot.
- D. The Village will defer all stormwater approvals on the Project and on future Library projects, including any requests for variations or exceptions from the Lake County Watershed Development Ordinance ("LCWDO") to the Lake County Stormwater Management Commission ("LCSWMC") rather than by the Village staff or by Village consultants, provided, however, the Village will also support in writing any Library District requests for LCSWMC approvals and/or requests for variations and/or exceptions from the LCWDO.

10. Future Village Easement and Utility Relocations:

- A. The Library and the Village will also cooperatively plan for future expansion(s) of the Library Building and/or future expansion(s) of the Library's upper parking lot to identify Village utilities and other utilities that might need to be moved for such purposes and the cost thereof.
- B. Although the Library does not have any specific or conceptual plans for any such building or parking additions at this time, the Village agrees that to the extent that any of the Original Village Easements which are not vacated pursuant to this Agreement to facilitate the Roadway Project must at a later date be vacated to facilitate one or more future addition(s) to the Library Building or one or more future additions to the Library's Parking Facilities, the Village shall cooperate, to the greatest extent practical and as dictated by sound engineering practice, as determined jointly by the Village Manager (or his designee) and the Library to provide for the release and relocation of those additional Original Village Easements, and the public and private facilities located therein, subject to the other terms and conditions as provided herein.
- C. The parties agree that their future cooperation and cost-sharing related to the relocation of the Original Village Easements and the utilities therein (the "relocation costs") for the future expansion(s) of the Library Building and/or of the upper Library parking lot shall be subject to the Library making other suitable areas of the Library property available to the Village for such replacement easement(s) and for the new utility improvements to be located therein without charge. The parties further agree that equitable apportioning by the parties of the cost of relocating such utilities which exist in the Original Village Easement for such future expansion(s) shall be based on the remaining useful life of such utilities as may need to be relocated in any given case, as determined by the Village Engineer or a consulting engineer for the Village. By way of example, but not by way of any limitation, if utilities in an Original Village Easement have reached the end of their useful life and must at that time, or soon thereafter, be replaced, then, in such case, the cost of the relocation of the affected utilities, including any related engineering costs, would be the responsibility of the Village. By way of a contrasting example, but not by way of limitation, if utilities which must be relocated from the Original Village Easements are new, almost new, and/or essentially have their entire useful life remaining, then in such

case, the cost of the relocation of such utilities, including any related engineering costs, would be entirely the responsibility of the Library District. Again, by way of a further example of such equitable apportionment of the costs of future utility relocations, but not by way of limitation, if the particular utilities to be relocated still have half of their useful life remaining, the parties would share on a 50%/50% basis the costs of the relocation of the affected utilities, including the related engineering costs.

- D. The Village agrees that it will, upon the submission by the Library or its consultants of specific plans for any expansion(s), extension(s), and/or relocation(s) of any Library facilities, Library parking, and/or other site amenities or improvements, the Village will in a timely manner grant any and all variation(s) or zoning exception(s) from the then existing provisions of the Village of Barrington Zoning Ordinance as requested by the Library for such Library expansion, including but not limited to exception(s) as any such Library expansion may require relative to the then applicable zoning setbacks, any then applicable floor area ratio limitations, open space requirements, landscaping, and/or parking requirements, other than and excluding any variations or exceptions for building height.
- E. In addition to the other easements provided for in this Agreement, the Village agrees that it will provide to the Library District a blanket easement for snow storage on those portions of the unfenced areas adjacent to the Village Water Tower site which are not now or are not in the future occupied by the Water Tower or by present or future building(s), equipment, or driveway(s) and are not enclosed by any security fence.

11. Titles and Surveys:

- A. Not later than sixty (60) days after the execution by both parties of this Agreement, the Village's consulting engineers shall provide both parties a revised Plat of Highways accurately depicting, among other things, the Library Parcels, which Plat shall be prepared in accordance with IDOT standards.
- B. The Village shall also provide to the parties a current ALTA title commitment for each Library Parcel to be acquired by the Village or IDOT issued by a title company selected by the Village (the "Title Company") in the amount of the Purchase Price. Good and merchantable title to each Library Parcel, either in fee simple or as an

- easement appropriate to each case, shall be respectively conveyed to the Village or to IDOT by one or more grants of easement or executed special warranty deed(s), all in recordable form, with a PTAX transfer declaration for each such deed done on the MyDec system, and an affidavit of title for each Library Parcel to be conveyed, in customary form for title insurance purposes, covering the date of closing and showing title in the Library District subject only to the Permitted Exceptions. The Library District will cooperate with the Village in obtaining extended coverage over general exceptions, if any, raised on the title commitment, and that each party will sign ALTA statements as required by the Title Company as to each of the Library Parcels.
- C. If the aforesaid title commitment discloses unpermitted exceptions that interfere with the intended uses of the Library Parcels to be conveyed to the Village and/or which otherwise render the title unmarketable (the “Unpermitted Exceptions”), the Library District shall have twenty (20) days to have the Unpermitted Exceptions removed, and in such event, the time of closing shall be delayed, if required, by twenty (20) days, or scheduled for such other reasonable time and place agreed to by the Parties. If the Library District fails to have the Unpermitted Exceptions removed from any Library Parcel or, in the alternative, to obtain the title insurance specified above over such Permitted Exceptions within the specified time, the Village may terminate this Agreement or may elect, upon notice to the Library District on or before the date of closing, to take title as it then exists with the right of the grantee to receive from the Library District a credit at closing for liens or encumbrances of a definite or ascertainable amount. If the grantee does not so elect, this Agreement shall become null and void with respect to any such respective Library Parcel without further action of the Parties or remedy to the Parties.

12. Closing(s):

- A. Closing shall occur, at locations and times mutually agreeable to the Parties or their respective attorneys (the “Closing Date”), provided, however, the respective closings on the respective Library Parcels and easements may occur at different times and as soon as reasonably necessary to accommodate the respective needs of the parties and the construction sequencing of the Roadway Project. Possession of each respective Library Parcel shall be delivered to the respective party not later than at the closing for same, and full, unencumbered, complete and unrestricted possession, use, control,

and quiet enjoyment of the respective Library Parcels shall be delivered at such closing, and each Library Parcel shall be vacant, and not subject to any written or oral lease as of closing.

- B. The Village acquisition of the Library Parcels shall be closed through a “New York” style closing at a title company selected by the Village. The closing expenses, including escrow fees and all of the cost of the title insurance, shall be at the Village’s expense, but the Library District shall cooperate in such closing and provide executed ALTA Statements as described above, Affidavit(s) of Title, and such other closing documents as required by said title company in order to complete the contemplated transactions and convey unencumbered title for the Library Parcels to the Village and/or to IDOT.
 - C. Additional Documents: In addition to all other documents herein required, the Library District shall furnish and deposit into escrow a certified copy of the Library District’s Resolution(s) and/or Ordinance(s) approving this Agreement and the transfers of each of the respective Library Parcels.
13. Covenants and Representations: The parties hereby covenant, represent and warrant to each other, as of the date hereof and as of the date of Closing, that to the best of the knowledge of the signatories to this Agreement without investigation:
- A. Neither of the parties has received any notice relating to any violations of applicable laws, ordinances, statutes, rules, regulations and restrictions pertaining to or affecting the Library Parcels to be acquired by the Village and/or by IDOT, other than the wetland designations shown on the wetlands survey.
 - B. Neither of the parties has received any notice relating to any legal actions, suits, or other legal or administrative proceedings, including pending assessments, condemnation, eminent domain, or quiet title cases, pending or threatened, against their respective properties.
 - C. There are no contracts, covenants, agreements which affect the Library Parcels which will survive the Closing. Each party shall be fully responsible for payment and satisfaction of any and all obligations, liabilities, expenses and accruals relating to or affecting their respective properties which were incurred or accrued or where the underlying act or omission giving rise to any claim or cause of action occurred prior to the date of Closing, except as otherwise expressly provided for by this Agreement.

- D. The Library Parcels are exempt from real estate taxes and, therefore, there are no outstanding unpaid real estate taxes on the respective Library Parcels.
- E. There are no conditions existing with respect to the respective Library Parcels which violate any law, rule, ordinance, regulation, agreement, covenant or private restriction applicable to the properties, including, but not limited to, regulations relating to building, zoning, safety, or health codes or regulations, except as expressly provided for by this Agreement.

14. Disclaimers; Indemnification:

- A. Except for the representations and obligations expressly set forth in this Agreement, the Library District will convey each Library Parcel on an “AS IS” basis without any representations or warranties of any kind, express or implied, either oral or written, made by either party or any agent or representative thereof with respect to the physical, environmental or structural condition of each such Library Parcel conveyed or with respect to the existence or absence of toxic hazardous materials, substances or wastes in, on, under or affecting each Library Parcel to be conveyed to the Village and subject to existing zoning, flood plain and other restrictions on the use or development of the each Library Parcel so conveyed. All such warranties, except for the representations and obligations expressly set forth in this Agreement, with respect to each Library Parcel conveyed are hereby expressly disclaimed.
- B. Any risk and all responsibility relating to any condition of each Library Parcel to be conveyed to the Village, including but not limited to any of the above-described conditions, are assumed by the Village and disclaimed by the Library. The Village will examine each Library Parcel to be conveyed and conduct its own inspection and investigation of each Library Parcel to be conveyed including, without limitation, environmental inspections and investigations and inspection of the survey and the title commitment for title insurance covering each Library Parcel to be conveyed. The Village shall take all necessary action and bear all expenses and liability associated with making the Library Parcel conveyed environmentally suitable for its intended use and complying with all applicable law. Further, upon closing, the Village agrees to assume all responsibility, liability and obligation for the physical, environmental and structural condition of each Library Parcel conveyed and the improvements and/or operations to be located on each Library Parcel conveyed and

agrees at its sole cost and expense to unconditionally indemnify, defend and hold the Board of Trustees of the Library District and all of the elected officials, officers, members, employees, agents, and volunteers in their official and individual capacities of the Library District (the "Indemnitees") harmless, from and against any loss, liability, damage (whether direct or consequential), claims (whether or not ultimately successful), penalties, fines, injunctions, suits, proceedings, disbursements or expenses (including without limitation, attorney's and expert's fees and disbursements and court costs) arising under any present or future local, state or federal law (and the amendments, regulations, orders or decrees promulgated thereunder) which may be incurred by or against the Indemnitees directly or indirectly resulting from the condition of each Library Parcel dedicated, conveyed or vacated. The obligations, indemnification and risk of the Village with respect to the condition of each Library Parcel conveyed under this paragraph shall survive the closing of the exchange of each Library Parcel conveyed, but shall extend only for the benefit of the respective Indemnitees and no other person or entity. However, the parties' respective obligations under this Section shall not extend to any legal claim or challenge brought by any person or entity contesting the validity of this Agreement or the validity of the transactions provided for in this Agreement, and the parties agree to fully cooperate in and share the costs of defending any such legal claim or challenge.

15. Miscellaneous.

- A. Time shall be of the essence in this Agreement.
- B. This Agreement and the exhibits attached hereto and thereby made a part hereof constitute the entire agreement of the parties in these matters and shall supersede and nullify all prior drafts and agreements concerning such matters.
- C. Paragraph titles are descriptive only and do not define or in any other way limit the contents of each paragraph. Words of the masculine gender shall be read to include the feminine and neuter genders, and the singular shall include the plural.
- D. If any provision of this Agreement shall be declared invalid for any reason, such invalidation shall not affect any other provision of this Agreement which can be given effect without the invalid provision and to that extent, the provisions of this Agreement are severable.

- E. This Agreement shall be governed, interpreted, and construed in accordance with the applicable laws of the State of Illinois. Both the Library and the Village and their respective counsel have fully participated in the drafting of this entire Agreement and all of the provisions hereof, and neither party shall be considered the drafter of this Agreement or any particular provision thereof for the purposes of the interpretation hereof. Any reference to laws, ordinances, rules, or regulations of any kind shall include such laws, ordinances, rules, or regulations of any kind as they may be amended or modified from time to time hereafter.
- F. Each party represents to the other that such party has full authority to execute this Agreement and fulfill the terms, conditions, provisions, and obligations herein provided.
- G. This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the Parties. In the event either party should breach this Agreement, either prior to or subsequent to closing, the other party may pursue any and all remedies provided at law or in equity. Only the respective parties to this Agreement, the Village and the Library District, and no third party, shall have the right to enforce this Agreement.
- H. Nothing contained in this Agreement shall be construed to make the Library and the Village partners or joint venturers or to render either of said parties liable for the debts or obligations of the other, except as expressly provided in this Agreement. The Village and the Library shall each be responsible for their own legal and engineering expenses incurred with respect to the preparation and review of this Agreement.
- I. Whenever in this Agreement the Village or the Library District are required to perform any act or obligation, and either party, as the case may be, is unable to perform or complete such act or obligation because of a Force Majeure (i.e., an event that is the result of the force(s) of nature), or because of another occurrence beyond that party's control, then upon the occurrence of any such Force Majeure or of such other occurrence as described above, the time period for the performance and completion of such act or obligations shall be extended for a reasonable time to accommodate the delay caused by the Force Majeure or by such other occurrence as described above.

- J. No delay or omission by any of the parties in exercising any right or power accruing upon the non-compliance or failure of performance under this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by any of the parties of any of the covenants, conditions or agreements contained in this Agreement or to be performed under the terms of this Agreement shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement contained in this Agreement.
- K. Any alteration, change or modification of this Agreement, in order to become effective, shall be made by written instrument or endorsed on this Agreement and, in each such instance, executed on behalf of each party to this Agreement as aforesaid.
- L. This Agreement may be executed in one or more identical counterparts, which when affixed together, will constitute the entire Agreement.
- M. Every notice, demand or consent or other document or instrument required or desired to be given to the parties to this Agreement shall be in writing and shall be deemed to have been given if delivered by overnight courier (with evidence of receipt) or mailed by certified United States mail, postage prepaid, return receipt requested, or by facsimile transmission with proof of transmission sent by U.S. mail within twenty-four (24) hours of such transmission addressed as to the respective parties at the addresses stated below:

If to the Library District:

Barrington Area Public Library District
505 North Northwest Highway
Barrington, Illinois 60010
Attention: Executive Director

with a copy to the attorney
for the Library District:

Klein, Thorpe and Jenkins, Ltd.,
Attorneys at Law
20 North Wacker Drive, Suite 1660
Chicago, IL 60606
Attn: Attorney E. Kenneth Friker

If to the Village of Barrington: Village of Barrington
200 S. Hough St.
Barrington, IL 60010
Attention: Village Manager

with a copy to the attorney
for the Village: James P. Bateman, Attorney at Law
Bateman Law Offices, Ltd.
800 Hart Road, Suite 311
Barrington, IL 60010

Any party may change the place or person for the giving of notices upon it by giving not less than ten (10) days prior written notice informing the other party of the change in the address or persons to which notices shall be sent. A notice given by mail shall be deemed given three (3) business days following the day on which such notice is deposited in the United States mail as aforesaid.

IN WITNESS WHEREOF, the parties hereto, pursuant to the authority of the Corporate Authorities, have caused this Agreement to be executed, attested, and delivered by its duly authorized officers as of the day and date mentioned above.

BOARD OF LIBRARY TRUSTEES OF
BARRINGTON AREA PUBLIC LIBRARY
DISTRICT

VILLAGE OF BARRINGTON
Cook and Lake Counties, Illinois

By: _____
Board President

By: _____
Village President

Attest:

Secretary

Attest:

Village Clerk

Dated: _____

Dated: _____

EXHIBIT A

PLAT OF SURVEY

Prepared by Gewalt-Hamilton Associates, Inc. and dated February 2, 2018