

Lake County)
)
State of Illinois)

**GRANT OF CONSERVATION EASEMENT
BULL CREEK**

This Indenture made this ___ day of _____, _____, by and between

(Homeowners Name, Address, City, Lake County, Illinois 60099) hereinafter, together with their heirs and assigns, called the “Grantors”) and **BULL CREEK STAKEHOLDERS ASSOCIATION**, an Illinois Not For Profit Corporation, 9797 Paxton Drive, Beach Park, Lake County, Illinois, 60099 (hereinafter called the “Grantee”).

Whereas, Grantors are the owners in fee simple of certain real property described legally described in the attached as Exhibit A (hereinafter called the “Grantor’s Property”) and;

WHEREAS, the Grantors desire that the natural elements and the aesthetic values of the area of Bull Creek defined as area 50 feet perpendicular to the center of Bull Creek as set out and depicted on a survey dated _____ prepared by _____, of _____, Illinois, an Illinois licensed surveyor be restored, preserved and maintained. (Hereinafter called the “Protected Property.”)

WHEREAS, Grantors intend to achieve certain purposes (the “conservation purposes”), including the restoration of the Bull Creek under an approved restoration plan, the preservation of the conservation values of the Property by the continuation of land use patterns existing at the time of this grant, and, in general, the preservation of natural plant and animal communities and scenic areas in the area in which the Protected Property is located; and

WHEREAS, Grantors further intend, as owners of the Protected Property, to convey to Grantee the right to preserve and protect the conservation values of the Protected Property in perpetuity; and

WHEREAS, Grantee is a publicly supported, tax-exempt non-profit organization, qualified under Sections 501 (c) (3) and 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder (the “Code”) whose primary purpose

is the preservation, protection or enhancement of land in its natural, scenic, and open space condition; and

WHEREAS, the Grantors and Grantee, by the conveyance from the Grantors to the Grantee of Conservation Easement on, over and across the Protected Property, desire to conserve the natural values thereof and prevent the use or development of the Protected Property for any purposes or in any manner inconsistent with the terms of this Conservation Easement and;

WHEREAS, the Grantee is willing to accept this Conservation Easement subject to the reservations and to the covenants, terms, conditions and restrictions **set out herein** and imposed hereby;

NOW, THEREFORE, WITNESSETH: The grantors do hereby give, grant, as an absolute and unconditional gift, unto the Grantee, forever, a Conservation Easement in perpetuity on, over and across the Protected Property, as hereinafter provided.

1. **GRANTEE'S RIGHTS** hereunder shall consist solely of the following:
 - a. To view the Protected Property in it's natural, scenic, and open condition;
 - b. To enforce by proceeding at law or in equity the covenants hereinafter set Forth, it being agreed that there shall be no waiver or forfeiture of the Grantee's right to insure compliance with the covenants and conditions of this Grant by reason of any prior failure to act; and,
 - c. To cross the Grantor's Property, and use Grantor's roadways to enter the Protected Property at all reasonable times with 24 hour notice For the purpose of inspecting the Protected Property.
 - d. To manage the natural resources and perform the restoration work under the approved restoration plan in, along and upon Bull Creek and the Protected Property.
2. And in furtherance of the foregoing affirmative rights of the Grantee, the Grantors make the following covenants, which shall run with and bind the Protected Property in perpetuity, namely that on the Protected Property, the Grantors, without the prior consent of the Grantee, shall not;
 - a. Construct or place buildings, camping accommodations or mobile homes, Signs, billboards, or other advertising materials;
 - b. Excavate, dredge, mine or fill, or change the topography of the land or its Natural condition in any manner;
 - c. Dump ashes, trash, garbage, or other unsightly or offensive materials;

- d. Remove standing vegetation, geological or archaeological materials, or trap, hunt or otherwise cause harm to the wildlife;
- e. Operate any motorized vehicles, including, but not limited to snowmobiles, Dune buggies, motorcycles, all-terrain vehicles or any other type of motorized vehicle; and,
- f. Convey, lease, assign, or otherwise transfer the Protected Property except in its entirety; subdivide the Protected Property
- g. Alter the surface topography and hydrology of the Protected Property (including, without limitation, grading or the excavation, removal or moving of soil, sand, gravel, peat or vegetation, except as may be necessarily required in the course of any activity expressly permitted hereunder);
- h. Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant siltation or pollution of any surface or subsurface waters of the Protected Property (including, without limitation, any use or application of any pesticide or herbicide, except in accordance with a plan for such use or application approved in writing by Grantee);
- i. The draining, filling, diking, alteration, dredging or digging of Bull Creek and any wetlands, ponds, watercourse, floodplains, or other areas located on the Protected Property;
- j. The destruction or removal of the native flora located on the Protected Property, except as may be expressly approved by the Grantee.

3. GRANTEE'S REMEDIES. In the event of a violation or threatened violation of any representation warranty, covenant or other provision of the Easement, in addition to any remedies now or hereafter provided by law, Grantee may, following reasonable notice to Grantors, (i) institute a suit for injunctive relief, specific performance or damages, (ii) enter upon the Protected Property to correct any such violation, and hold Grantors and Grantors' successors, heirs and assigns in title responsible for the cost of remediation, or (iii) expend such sums as may be necessary to satisfy any lien prohibited hereunder or to pay and discharge any delinquent taxes or assessments, or to redeem from any tax sale, and all funds so paid or expended by Grantee shall, until repaid, constitute a lien on the Protected Property. Grantors waive any bond requirement, which may be applicable to injunctive relief. In the event Grantors are adjudicated to have violated any of Grantors' obligations herein, Grantors shall reimburse Grantee for any costs or expenses incurred in connection with the enforcement of its rights, including court costs and attorneys fees. Grantee's remedies hereunder shall be cumulative, and

the exercise by Grantee of one remedy shall not have the effect of waiving the use of such remedy at any other time. All damages, costs, and expenses awarded to Grantee hereunder shall constitute a lien against the Protected Property until repaid by Grantors. Grantee shall have the right, but not the obligation, to record a notice of any lien, which Grantee may claim to have against the Protected Property.

4. **GRANTEE'S DISCRETION.** Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantors shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any omission by Grantee in the exercise of any right or remedy upon any breach by Grantors shall impair such right or remedy or be construed as a waiver thereof.
5. **WAIVER OF CERTAIN DEFENSES.** Grantors hereby waive any defense of laches, estoppels, or prescription.
6. **ACCESS.** No right of access by the general public to any portion of the Protected Property or the Grantor's Property is conveyed by this Easement.
7. **CONTROL.** Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree. To any right or ability in Grantee to exercise physical or managerial control over day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an operator with respect to the Protected Property within the meaning of the federal Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended ("CERCLA"), and the Illinois Environmental Protection Act.(415 ILCS 5/1 et seq).
8. **INDEMNITY.**

(1) Grantors shall defend and indemnify Grantee and hold Grantee harmless for any liability, costs, attorneys' fees, judgments or expenses of the Grantee or any officer, director, employee, agent or independent contractor of the Grantee (collectively, the Indemnities) resulting from actions or claims of any nature by third parties arising from defaults under this Easement by the Grantor, excepting any such matters arising from the negligence of the Indemnities, including without limitation, (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property, unless due to the negligence of any of the Indemnities; (ii) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law regulation or requirement, including, without limitation, **CERCLA** and the Illinois Environmental Protection Act, involving or relating to the Protected Property, unless caused by the Indemnities; (iii) the presence or release in, on, from or about the Protected Property, at any

time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused by any of the Indemnities; and (iv) any breach or violation of any of the obligations, covenants representations, and warranties of the Grantors contained herein. In the event that Grantor is obligated to indemnify Grantee hereunder, the amount of such indemnity, until satisfied, shall constitute a lien on the Protected Property.

(2) Grantee shall defend and indemnify Grantors and hold Grantors harmless for any liability, costs, attorneys' fees, judgments or expenses of the Grantors resulting from actions or claims of any nature by third parties arising from defaults under this Easement by the Grantee, excepting any such matters arising from the negligence of the Grantors, including without limitation, (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property or the Grantor's Property, unless due to the negligence of the Grantors; (ii) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law regulation or requirement, including, without limitation, **CERCLA** and the Illinois Environmental Protection Act, involving or relating to the Protected Property or the Grantor's Property, unless caused by the Grantors; (iii) the presence or release in, on, from or about the Protected Property, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused by the Grantors; and (iv) any breach or violation of any of the obligations, covenants representations, and warranties of the Grantee contained herein.

9. MECHANICS LIENS. Grantors shall keep the Protected Property free from any mechanics liens. If any such liens are placed against the Protected Property, Grantors shall promptly cause them to be released or, in the alternative, shall provide Grantee with title insurance reasonably acceptable to Grantee insuring over said liens. Grantee shall have the right to pay any lien if Grantor fails to provide Grantee with title insurance over the lien. Grantee shall have a lien on the Protected Property in the amount of any funds paid by Grantee to discharge such mechanic's lien until such amount has been repaid by Grantor

10. COSTS AND LIABILITIES. Grantors retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property which are not the obligation of the Grantee.

11. REAL ESTATE TAXES. Grantors shall pay before delinquency all real estate taxes, assessments, fees, and charges of whatever description levied on or

assessed against the Protected Property by competent authority) collectively “taxes), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee shall have the right to pay such real estate taxes and special assessments at any time that such taxes and assessments may be delinquent. In the event Grantee makes such payment, there shall be a lien in Grantee’s favor on the Protected Property in the amount thereof until Grantors repay such amount.

12. EXTINGUISHMENT. If circumstances arise in the future which render the purpose of the Easement impossible to accomplish, this Easement can be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction or by the written agreement of the Grantee and the Grantors, their successors or assigns.

13. PROCEEDS. This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph 10, the parties stipulate to have a fair market value determined by multiplying the fair market value of the Grantor’s Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements permitted under this Easement, if any), by a fraction of which the numerator shall be the value of the Easement at the time of this grant and the denominator shall be the value of the Grantor’s Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code of 1954, as amended. for the purposes of this paragraph, the ratio of the value of the Easement to the value of the Grantor’s Property unencumbered by the Easement shall remain constant, and the value of the Easement shall be equal to the difference in value between the Grantor’s Property, without diminution attributable to this Easement, and the value of the Grantor’s Property as encumbered by this Easement. If Grantors do not claim a charitable gift deduction for purposes of calculating federal income taxes and submit a Qualified Appraisal, value of the Easement shall be deemed to be 25% of the value of the Grantor’s Property unencumbered by this Easement

14. ASSIGNMENT This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation rights under the Statute (or any successor provision then applicable). As a condition of such transfer, Grantee shall require the transferee to agree that the conservation purposes that this grant is intended to advance shall continue to be carried out in perpetuity

15. SUBSEQUENT TRANSFERS Grantors agree to incorporate this Easement by reference in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest. Grantors further agree to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantors to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability or in any way result in any liability on the part of the Grantors.

16. NOTICES unless otherwise expressly provided herein, any notice, demand, request, consent approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

To Grantors: _____

To Grantee: Bull Creek Stakeholders Association
9797 Paxton Drive
Beach Park, IL 60099

or such other address as either party from time to time shall designate by written notice to the other.

17. RECORDATION. Grantee shall record this instrument in the official records of Lake County, Illinois, and may re-record it at any time or times as Grantee may, in its sole discretion, deem it advisable to preserve its rights in this Easement. Grantee may prior to the fortieth anniversary of the date of this Easement and at such other times as Grantee deems necessary, record a claim pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/13-118, for the purpose of preserving the lien of this Easement in perpetuity. Nothing contained in this paragraph shall be deemed to constitute an acknowledgement that any such recording is necessary, however, and Grantors and Grantee expressly acknowledge that no such recording is necessary in order to perpetuate the validity of enforceability of this Easement

18. SUBORDINATION OF MORTGAGES. Grantors and Grantee agree that all mortgages and rights in the Protected Property of all mortgages and holders of other liens and encumbrances (collectively "lien holders") are subject and subordinate at all times to the rights of the Grantee to enforce the purposes of this Easement. Grantors represent and warrant that they have provided a copy of this instrument to all lien holders as of the date hereof, and the agreement of each lienholder to subordinate its mortgage to this Easement is attached hereto. The

following provisions apply to all Mortgagees (as hereinafter defined) now existing or hereafter holding any mortgage on the Protected Property.

19. NOTICE FROM GOVERNMENT AUTHORITIES. Grantors shall deliver to Grantee copies of any notice, demand, letter, or bill relating to the Protected Property received by Grantors from any government authority within five days of receipt by Grantors. Upon request by Grantee, Grantors shall promptly furnish Grantee with evidence of Grantors' compliance with such notice, demand, letter, or bill, where compliance is required by law.

20. GENERAL PROVISIONS

- a. Controlling Law The interpretation and performance of this Easement shall be governed by the laws of the State of Illinois.
- b. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purpose of the Statute. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretations that would render it invalid
- c. Severability If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d. Entire agreement This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment first executed by Grantors and Grantee, or their successors, and recorded in the official records of Lake County, Illinois.
- e. No forfeiture Nothing contained herein will result in a forfeiture or reversion of Grantor's title to the Protected Property in any respect.
- f. Joint Obligation The obligations imposed by this Easement upon Grantors shall be joint and several
- g. Successors The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and

assigns and shall continue as a servitude running in perpetuity with the Protected Property, unless otherwise terminated as herein provided.

- h. Termination of Rights and Obligations A party's rights and obligations under this Easement shall terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- i. Captions The captions in this instrument have been inserted solely for convenience or reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- j. Authority Grantors (and any persons executing this instrument on behalf of Grantors) represent and warrant that Grantors are the owners in fee simple of the Protected Property, Grantors are fully authorized and empowered to execute and deliver this instrument, and there is no lien, encumbrance, contract, or governmental prohibition against the execution and delivery of this instrument and the performance by Grantors of all of Grantors' obligations hereunder
- k. Counterparts The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any part who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

IN WITNESS WHEREOF Grantors and Grantee have set their hands on the day and year first above written.

GRANTORS:

GRANTEE:

By: _____

Its: _____

Attest _____

Its: _____

This instrument after recording
Should be returned to:
Joseph Hughes-President
Bull Creek Stakeholders Association
9797 Paxton Drive
Beach Park, IL 60099
Ph: 847.872.4943

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, undersigned, a Notary Public in and for said County, in the State aforesaid, DO
HEREBY CERTIFY THAT _____ and
_____, personally known to me to be the same persons whose
names are subscribed to the foregoing instrument, appeared before me this day in person
and acknowledged that they signed, sealed and delivered the said instrument as their free
and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this _____ day of
_____, 2002.

Notary Public

My commission expires:
