

**AUTHORIZING THE ACQUISITION OF A
TEMPORARY EASEMENT FROM THE
FAIRVIEW PARK CEMETERY ASSOCIATION ON
CERTAIN REAL PROPERTY ALONG FAIRVIEW
DRIVE AND ADJACENT TO FAIRVIEW PARK
CEMETERY.**

WHEREAS, the City of DeKalb wishes to construct a bike path along Fairview Drive and adjacent to Fairview Park Cemetery; and,

WHEREAS, the City Council of the City of DeKalb hereby finds and determines that the purchase of a temporary easement on real property located along Fairview Drive and adjacent to Fairview Park Cemetery is necessary for construction purposes; now,

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL of the City of DeKalb, Illinois as follows:

Section 1. That the above recitals are hereby incorporated into this Ordinance as though fully set forth in this Section 1.

Section 2. That the City of DeKalb does hereby approve the purchase and acquisition of a temporary easement on a portion of certain real property commonly known as along Fairview Drive, adjacent to Fairview Park Cemetery, and legally described as:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW1/4) OF SAID SECTION TWENTY-SEVEN (27); THENCE NORTH 00 DEGREES 20 MINUTES 11 SECONDS EAST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 31 MINUTES 38 SECONDS WEST, A DISTANCE OF 121.37 FEET; THENCE SOUTH 00 DEGREES 20 MINUTES 11 SECONDS WEST, A DISTANCE OF 7.00 FEET; THENCE NORTH 89 DEGREES 31 MINUTES 38 SECONDS WEST, A DISTANCE OF 73.79 FEET; THENCE NORTH 00 DEGREES 20 MINUTES 11 SECONDS EAST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 38 SECONDS EAST, A DISTANCE OF 195.17 FEET; THENCE SOUTH 89 DEGREES 39 MINUTES 53 SECONDS EAST, A DISTANCE OF 776.80 FEET TO A POINT ON THE WEST LINE OF THE DEKALB COMMUNITY UNIT SCHOOL DISTRICT NO. 428 PROPERTY; THENCE SOUTH 00 DEGREES 30 MINUTES 46 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 5.00 FEET; THENCE NORTH 89 DEGREES 39 MINUTES 53 SECONDS WEST, A DISTANCE OF 776.88 FEET TO THE POINT OF BEGINNING.

The above described area contains a net area of 0.123 acre, more or less.

from the Fairview Park Cemetery Association, for the sum of one thousand five hundred and no/100 dollars (\$1,500.00), in accordance with the terms and conditions set forth in the Easement Agreement, a copy of which is attached hereto and made a part hereof as Exhibit "A."

SOUTH 00 DEGREES 20 MINUTES 07 SECONDS WEST, A DISTANCE OF 26.00 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE1/4) OF SAID SECTION TWENTY-SEVEN (27); THENCE NORTH 89 DEGREES 39 MINUTES 53 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 10.00 FEET; THENCE NORTH 00 DEGREES 20 MINUTES 07 SECONDS EAST, A DISTANCE OF 26.00 FEET; THENCE NORTH 89 DEGREES 39 MINUTES 53 SECONDS WEST, A DISTANCE OF 603.95 FEET TO THE POINT OF BEGINNING.

The above described area contains a net area of 0.303 acre, more or less.

from the Fairview Park Cemetery Association for the sum of twenty-eight thousand five hundred and no/100 dollars (\$28,500.00), in accordance with the terms and conditions set forth in the Easement Agreement, a copy of which is attached hereto and made a part hereof as Exhibit "A."

Section 3. That the City Manager, Mark Biernacki, is authorized and directed to execute any and all documents necessary to acquire the easement for the approved property at the approved price, and to accept the conveyance of the easement to the City.

Section 4. Upon its passage and approval according to law this Ordinance shall be in full force and effect.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting, held on the 9th day of January, 2012, and approved by me as Mayor on the same day. Received and filed by voice vote. Passed on second reading by roll call vote: 4-0-3. Aye: Teresinski, Lash, Gallagher, O' Leary. Nay: None. Absent: Jacobson, Naylor, Baker.

ATTEST:



STEVE KAPITAN, City Clerk





KRIS POVLSEN, Mayor

*original document
cannot be located*

Owner: Fairview Park Cemetery
Association, an Illinois not for
profit organization
Route: Fairview Bike Path
Section: 10-00177-00-BT
County: DeKalb
Project No.: TCSP-IL 10(104)
Job No.: C-93-117-11
Parcel No.: 0002 PE & TE
P.I.N. No.: 08-27-376-003 and -001; 08-
27-451-001

TEMPORARY CONSTRUCTION EASEMENT
(Non-Profit Corporation)

Fairview Park Cemetery Association, an Illinois not for profit organization, organized and existing under and by virtue of the laws of the State of Illinois and duly authorized to do business under the Statutes of the State of Illinois, (Grantor), for and in consideration of One Thousand Five Hundred Dollars (\$1,500.00), receipt of which is hereby acknowledged, and pursuant to the authority given by the Board of Directors of said Non-Profit Corporation, hereby represents that Grantor owns the fee simple title to and grants and conveys to City of DeKalb, (Grantee), a temporary construction easement for the purpose of roadway construction and other highway purposes, on, over, and through the following described real estate:

See attached legal description.

Address: Fairview Park Cemetery. 1600 South 1st Street. DeKalb, IL 60115

situated in the County of DeKalb, State of Illinois. The above-described real estate and improvements located thereon are herein referred to as the "premises."

The right, easement and privilege granted herein shall terminate Three years from the execution of this document, or on the completion of the proposed project, whichever is the sooner.

Grantor shall have and retain all rights to use and occupy the premises and access to Grantor's remaining property, except as herein expressly granted; provided, however, that Grantor's use and occupation of the premise may not interfere with Grantee's use of the premises for the purposes herein described.

Grantor, without limiting the interest above granted and conveyed, acknowledges that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including without limitation, any diminution in value to any remaining property of the Grantor caused by the opening, improving and using the premises for highway purposes. This acknowledgment does not waive any claim for trespass or negligence against the Grantee or Grantee's agents which may cause damage to the Grantor's remaining property.

This grant shall constitute a covenant, which runs with the land, and shall be binding upon the legal representatives, successors and assigns of Grantor.

Dated this _____ day of _____, 20__.

Fairview Park Cemetery Association, an Illinois not for profit organization

By: _____
Signature

Print Name and Title

ATTEST:

By: _____
Signature

Print Name and Title

State of _____)
County of _____) ss

This instrument was acknowledged before me on _____, 20__, by _____, as _____ and _____, as _____ of Fairview Park Cemetery Association, an Illinois not for profit organization.

(SEAL)

Notary Public

My Commission Expires: _____

Exempt under 35 ILCS 200/31-45(b), Real Estate Transfer Tax Law.

Date

Buyer, Seller or Representative

This instrument was prepared by and after recording, mail this instrument to:

Santacruz Associates
2650 Valor Drive
Glenview, IL 60026

Grantor: Fairview Cemetery
Association
Grantee: City of DeKalb

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement lying in the Southwest Quarter (SW1/4) and in the Southeast Quarter (SE1/4) of Section Twenty-seven (27), Township Forty (40) North, Range Four (4) East of the Third (3rd) Principal Meridian, City of DeKalb, DeKalb County, Illinois, described as follows, to wit:

Commencing at the Southeast corner of the Southwest Quarter (SW1/4) of said Section Twenty-seven (27); thence North 00 degrees 20 minutes 11 seconds East, a distance of 40.00 feet to the Point of Beginning; thence South 89 degrees 31 minutes 38 seconds West, a distance of 121.37 feet; thence South 00 degrees 20 minutes 11 seconds West, a distance of 7.00 feet; thence North 89 degrees 31 minutes 38 seconds West, a distance of 73.79 feet; thence North 00 degrees 20 minutes 11 seconds East, a distance of 12.00 feet; thence South 89 degrees 31 minutes 38 seconds East, a distance of 195.17 feet; thence South 89 degrees 39 minutes 53 seconds East, a distance of 776.80 feet to a point on the West line of the DeKalb Community Unit School District No. 428 property; thence South 00 degrees 30 minutes 46 seconds West, along said West line, a distance of 5.00 feet; thence North 89 degrees 39 minutes 53 seconds West, a distance of 776.88 feet to the Point of Beginning.

The above described area contains a net area of 0.123 acre, more or less.

The above described easement is shown on the plat attached hereto which is made a part hereof.