

**INTERGOVERNMENTAL AGREEMENT BETWEEN ELMHURST PUBLIC LIBRARY AND ELMHURST
PARK DISTRICT REGARDING A TEMPORARY CONSTRUCTION EASEMENT AND GRADING
EASEMENT FOR WILDER PARK**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into as of this 12 day of MAY, 2025 ("Effective Date") by and between ELMHURST PUBLIC LIBRARY, an Illinois municipal library organized under the Local Library Act, 75 ILCS 5/1 et seq. ("Library"), and ELMHURST PARK DISTRICT, an Illinois park district and unit of local government ("Park District"). Library and Park District are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

WHEREAS, the Library owns, operates and maintains the Elmhurst Public Library, located at 125 S. Prospect Avenue, Elmhurst, Illinois ("Library Property"); and

WHEREAS, the Park District owns, operates, and maintains Wilder Park, located at 175 S. Prospect Avenue, Elmhurst, Illinois ("Park Property"); and

WHEREAS, the Park Property is located south of and adjacent to the Library Property; and

WHEREAS, the Library is undertaking a construction project involving improvements to its facility and adjacent grounds (the "Project"); and

WHEREAS, the Project requires temporary access to and use of a portion of the Park Property for certain construction activities; and

WHEREAS, the Project also includes regrading certain portions of the Park Property to ensure proper drainage and site integration (the "Planned Improvements"), and the Parties desire that the Planned Improvements remain undisturbed in the future; and

WHEREAS, the Park District has determined that it is in the public interest and in the interest of intergovernmental cooperation to grant such easements to the Library to facilitate the construction, maintenance, and repair of the Project and the Planned Improvements, subject to the terms and conditions of this Agreement; and

WHEREAS, the Park District has the authority to grant such an easement pursuant to Articles 8-1 and 8-11 of the Park District Code of the State of Illinois (70 ILCS 1205/8-1 and 8-11); and

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to Article VII, Section 10 of the Illinois Constitution and the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and made a part hereof as though fully set forth in this paragraph 1, the same constituting the factual basis for this Agreement.

2. Grant of Temporary Construction Easement. Subject to the terms and conditions of this Agreement, Park District hereby grants to Library, and any of Library's agents, representatives, employees, contractors, subcontractors, material suppliers, successors or assigns, a temporary construction easement under, over, on and across those portions of the Park Property legally described and depicted in Exhibit A, attached hereto and incorporated herein by reference ("Temporary Construction Easement Premises"), for the purpose of constructing the Project and the Planned Improvements ("Temporary Construction Easement").

3. Term of Temporary Construction Easement. The Temporary Construction Easement granted pursuant to paragraph 2 of this Agreement shall begin on the Effective Date of this Agreement and shall expire thirty (30) days after final completion of the Project and the Planned Improvements. Notwithstanding the foregoing, the Temporary Construction Easement granted pursuant to paragraph 2 of this Agreement shall expire on June 1, 2026 unless extended in writing by Park District in Park District's sole discretion. If the Temporary Construction Easement expires pursuant to this paragraph 3 prior to Library's completion of the Project and the Planned Improvements, Library shall have a period of thirty (30) days from and after the effective date of termination to restore the affected Park District Property to its original condition at Library's sole cost and expense.

4. Grant of Non-exclusive Perpetual Grading Easement. Subject to the terms and conditions of this Agreement, Park District hereby grants to Library, and any of Library's agents, representatives, employees, contractors, subcontractors, material suppliers, successors or assigns, a non-exclusive perpetual grading easement under, over, on and across those portions of the Park Property legally described in and depicted in Exhibit B, attached hereto and incorporated herein by reference ("Grading Easement Premises") and, together with the Temporary Construction Easement Premises collectively referred to as the "Easement Premises") solely for the purpose of preserving and maintaining the grading contours and drainage configuration installed as part of the Project and the Planned Improvements (the "Grading Easement"). Notwithstanding the foregoing, any significant maintenance or repair, including any construction or reconstructions, shall require, prior to such work, the prior express written consent of Park District.

5. Term of the Grading Easement. The Grading Easement granted pursuant to paragraph 4 of this Agreement shall begin following final completion of the Planned Improvements and shall be perpetual in nature. Notwithstanding the above, the Parties hereto,

or their successors or assigns, may mutually agree in writing to terminate the Grading Easement at any time.

6. Scope of Work. The construction of the Planned Improvements shall be performed in accordance with the plans, specifications, drawings, and other related documents prepared by product ARCHITECTURE + DESIGN and attached hereto as Exhibit C and incorporated herein by reference, subject to any changes or modifications agreed to in writing by both Parties ("Final Plans").

7. Additional Easement Conditions. In addition to the other terms and conditions set forth in this Agreement, the Temporary Construction Easement and Grading Easement, together with any ancillary rights given to Library under this Agreement, shall be subject to the following conditions:

(a) Park District reserves the right of access to and use of the Easement Premises in any manner not inconsistent with the rights granted to Library under this Agreement, including but not limited to the right to install landscaping, gardens, shrubs, driveways, sidewalks, parking lots, and ingress and egress roadways on the Easement Premises that do not then or later conflict with the Planned Improvements or the easement rights granted hereunder.

(b) Library shall notify Park District at least seven (7) days prior to commencement of any excavation, construction, repair, maintenance, staging, site preparation, or other work or activity on the Easement Premises. The Parties shall reasonably cooperate with respect to the commencement, timing, and location of such work or activity so as to protect the public at large and to avoid any interference with Park District's use of the Park Property or the Easement Premises. Library shall also provide Park District with a copy of the construction schedule for the Planned Improvements as the same may be revised from time to time and otherwise give Park District reasonable advance notice of any planned activities on the Easement Premises that may affect Park District's conduct of its normal activities and use of the Park Property.

(c) All construction or other work or activity performed by any entity within the Easement Premises shall be performed in a safe and sound manner and in accordance with all applicable federal, state and local laws, including the ordinances and regulations of the Library of Elmhurst and Elmhurst Park District and conducted in a manner so as to avoid damage to the Park Property.

(d) The Temporary Construction Easement and Grading Easement shall be used and enjoyed solely by Library and its duly authorized agents, representatives, employees, contractors, subcontractors, material suppliers, successors or assigns, and Library shall not assign its easement rights in whole or in part to any other person or entity.

(f) The Park Property, including the Easement Premises, shall at all times be kept free of accumulations of debris, waste and garbage resulting from the Planned Improvements.

(e) No equipment, machinery or materials shall be brought or permitted to come onto or remain on any portion of the Park Property other than the Temporary Construction Easement Premises, and then subject to such reasonable restrictions, if any, as shall be specified by Park District.

(g) Park District shall have the right at any time to:

(i) impose weight and load restrictions on the Easement Premises which Park District reasonably determines are necessary or advisable under the circumstances; and

(ii) suspend the Temporary Construction Easement or the Grading Easement for safety or health reasons or for breach by Library of any of its obligations under this Agreement, until the reasons for the suspension have been rectified to Park District's reasonable satisfaction and without waiving Park District's right to terminate the Temporary Construction Easement or the Grading Easement as provided in paragraph 14, below.

(h) Park District shall have the right to enter upon the Easement Premises at any time(s) to inspect, maintain or repair the Park Property including the Easement Premises and improvements thereon, to determine Library's compliance with the terms and conditions of this Agreement, and for any other lawful purpose(s). Park District's reservation of such rights or its failure to exercise same shall not impose or create any responsibility or liability on Park District or affect, reduce or nullify in any way Library's obligations under this Agreement. Library shall cooperate with Park District's reasonable requests to inspect the Easement Premises. Notwithstanding anything to the contrary herein, both Parties understand and acknowledge that the Library shall be solely responsible for maintenance and repair of the Planned Improvements.

8. Hazardous Materials. No explosives or flammable or hazard materials of any kind shall be transported across, brought upon, or stored or deposited on, the Park Property (except as needed for vehicles or equipment for the Planned Improvements provided that Library and its contractors shall be liable for any damage to or contamination of Park Property resulting from such activity or use). As used in this Agreement, "Hazardous Materials" means any hazardous or toxic substances, materials or wastes, including, but not limited to solid, semi-solid, liquid or gaseous substances which are toxic, ignitable, corrosive, carcinogenic or otherwise dangerous to human, plant or animal health or well-being and those substances, materials, and wastes listed

in the United States Department of Transportation Table (49 CFR 972.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto or such substances, materials, and wastes regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as "hazardous substances" pursuant to Section 1251 et. seq. (33 U.S.C. Section 1321) or listed pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. seq. (42 U.S.C. Section 6903), or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq. (42 U.S.C. Section 9601) or any other applicable environmental law.

9. Restoration Obligations. Upon termination of the Temporary Construction Easement by expiration or otherwise, or upon completion of any work contemplated by this Agreement and performed pursuant to the Grading Easement granted pursuant to paragraph 4, Library at its sole cost and expense shall restore the Easement Premises, and any other affected portion(s) of Park Property, to the same or better condition as existed immediately prior to the commencement of any activity thereon by Library and replace all lost or destroyed items. All restoration, repair and replacement shall be completed to the reasonable satisfaction of Park District within thirty (30) days after the termination of the Temporary Construction Easement or upon completion of any work contemplated by this Agreement and performed pursuant to the Grading Easement granted pursuant to paragraph 4, or if due to weather conditions or other circumstances which in Park District's opinion would make any such restoration, repair and replacement inadvisable, then within such later time period as Park District reasonably shall request.

10. Library shall conduct its operations on the Park Property entirely at its own risk. To the fullest extent permitted by the laws of the State of Illinois, Library hereby forever waives, relinquishes and discharges and holds harmless Park District, its elected and appointed officials, officers, employees, agents, and volunteers from any and all claims of every nature whatsoever, which Library may have at any time against Park District, its elected and appointed officials, officers, employees, agents, and/or volunteers, including without limitation claims for personal injury or property damage sustained or incurred by Library or any person claiming by, through or under Library, relating directly or indirectly to the Planned Improvements, the construction of the Planned Improvements or the exercise of the rights and privileges granted hereunder.

11. Library shall defend, indemnify and hold harmless Park District, its elected and appointed officials, officers, employees, agents, and volunteers against and from any and all liabilities, claims, losses, costs, damages and expenses of every nature whatsoever, including without limitation reasonable attorneys' and paralegal fees, suffered, incurred or sustained by any such indemnified persons, including without limitation liabilities for the death of or injury to any person or the loss, destruction or theft of or damage to any property, relating directly or indirectly to, or arising directly or indirectly from, the exercise by Library, its employees, agents, or contractors, or any other person acting on its or their behalf, or with its or their authority or permission, of the rights and privileges granted Library under this Agreement. Library shall

defend, indemnify and hold harmless Park District against and from any and all claims, losses, costs, damages and expenses, including without limitation reasonable attorneys' and paralegal fees, suffered, sustained or incurred by Park District as a result of Library's breach of any provision of this Agreement or otherwise incurred by Park District in enforcing the terms of this Agreement.

12. Insurance.

(a) Library shall keep in full force and effect at all times during this Agreement commercial general liability insurance, including contractual liability coverage, Workers' Compensation insurance, and such other types of insurance in such amounts and with such companies or self-insurance pools as are reasonably acceptable to Park District, but, in any event, not less than the coverages and amounts set forth in Exhibit D. The minimum insurance coverage specified in this Paragraph 12 may be provided by self-insurance, participation in a risk management pool, commercial policies of insurance, or a combination thereof. Library shall name the Park District, its elected and appointed officials, officers, employees, agents, and volunteers as an additional insured on any such insurance, and shall provide Park District with a copy of a Certificate of Insurance and Additional Insured Endorsement evidencing same prior to commencing any work or activity on the Park Property, and said insurance shall not be modified, terminated, canceled or not renewed without at least thirty (30) days advanced written notice to the Park District.

(b) In addition to, and in furtherance and not in limitation of, Library's insurance obligations set forth above, and at no cost to Park District, Library shall require any contractor(s) or subcontractor(s) performing any of the work contemplated by this Agreement to obtain and keep in full force and effect for so long as any claim relating to the Planned Improvements legally may be asserted, comprehensive general liability and property damage insurance written to include the coverages and for not less than the minimum limits, or greater if required by law, as provided in Exhibit D attached hereto and incorporated herein by reference, and to otherwise comply with all other requirements set forth therein. Library shall similarly require any contractor(s) or subcontractor(s) performing any of the work contemplated by this Agreement to defend, indemnify and hold harmless Park District in accordance with and as more fully set forth in Subsection D of Exhibit D attached hereto.

13. Library shall not cause or suffer or permit to be created any mechanics' or materialmen's liens or claims against the Park Property. Library shall defend, indemnify and hold harmless Park District from and against any such claims or liens.

14. The Temporary Construction Easement and the Grading Easement granted to Library hereunder may be suspended or terminated as follows:

- (a) immediately upon written notice to Library in the event Library or its contractor(s) shall fail to procure or maintain the insurance required, or shall fail to provide evidence of such insurance coverage as required, under paragraph 12, above.
- (b) immediately upon Library's failure to remedy or obtain remedy by its contractor(s) of any breach of any term or condition of this Agreement (other than paragraph 12 regarding insurance) within five (5) days after written notice of such breach is delivered to Library; or
- (c) immediately upon abandonment of the Planned Improvements by Library or its contractor(s). For the purposes of this subparagraph, abandonment shall be deemed to have occurred in the event no activity is conducted on the Planned Improvements for a period of sixty (60) consecutive days once the work has commenced, save for force majeure or casualty; provided, however, that the Library will not be deemed to have abandoned the Planned Improvements after they are complete.

15. No waiver of any rights which Park District has in the event of any default or breach by Library under this Agreement shall be implied from failure by Park District to take any action on account of such breach or default, and no express waiver shall affect any breach or default other than the breach or default specified in the express waiver and then only for the time and to the extent therein stated.

16. Nothing contained in this Agreement shall be construed or deemed to diminish or constitute a waiver or relinquishment of the rights, privileges, defenses and immunities available or afforded to either Party under the Illinois Local Governmental and Governmental Employee's Tort Immunity Act or under other State statutes affording similar protections.

17. There are no third party beneficiaries to this Agreement, intended or otherwise, and no claim as a third party beneficiary under this Agreement may or shall be made, or be valid against, either Party.

18. Notices shall be deemed properly given hereunder if in writing and either hand delivered or sent by registered or certified mail, return receipt requested, to the Parties at their respective addresses provided below, or as either Party may otherwise direct in writing to the other party from time to time. Notices sent by mail shall be deemed delivered the second day after deposit in the mail.

If to Park District:

Executive Director
Elmhurst Park District
375 West 1st Street
Elmhurst, IL 60126

If to Library:

Library Director
Elmhurst Public Library
125 S. Prospect Avenue
Elmhurst, IL 60126

19. This Agreement contains the entire agreement between the Parties with respect to the use of the Park Property by Library in connection with the Planned Improvements and cannot be modified except in a writing, dated subsequent to the date hereof and signed by both Parties.

20. This Agreement may be executed in counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same instrument. In the event any signature is delivered by facsimile or by email delivery of a scanned PDF file, such signature shall create a valid and binding obligation of the Party with the same force and effect as if the facsimile or scanned PDF page were an original thereof.

21. Nothing in this Agreement shall be deemed to create any joint venture or partnership between the Parties. Neither Park District nor Library shall have the power to bind or obligate the other except as to the extent expressly set forth in this Agreement.

22. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois.

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

ELMHURST PARK DISTRICT



President, Board of Park Commissioners

ATTEST:



Secretary, Board of Park Commissioners

ELMHURST PUBLIC LIBRARY

By: _____

Its: _____

ATTEST _____

Its: _____

GRANTOR'S ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO
HEREBY CERTIFY THAT Kevin G. Graf and James W. Rogers, 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 official seal, this 12th day of May, 2025.



Nimfa S. Melesio
Notary Public

My Commission expires: 09/01/2027

GRANTEE'S ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the 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 official seal, this ___ day of _____, 2025.

Notary Public

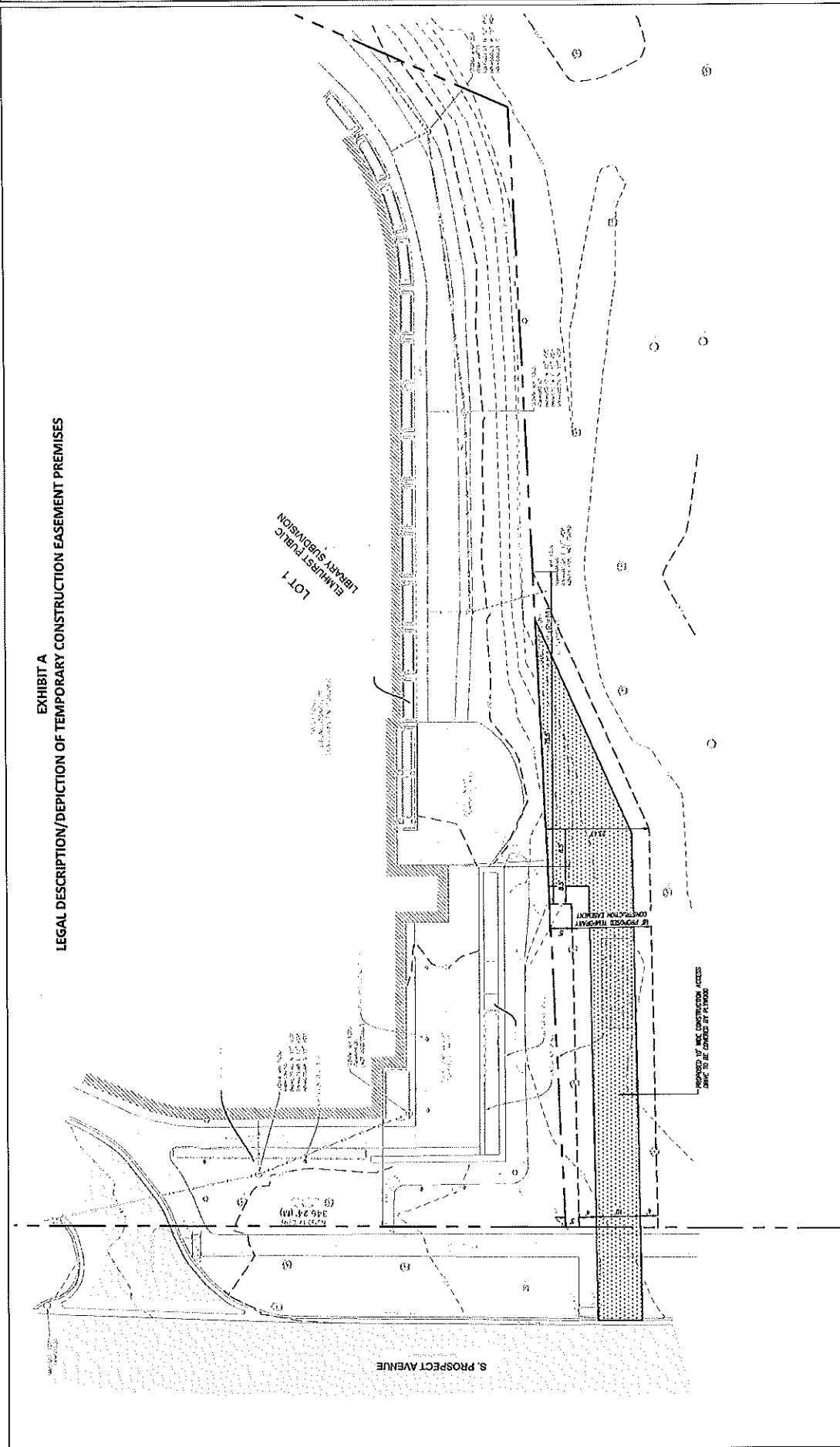
My Commission expires: _____

Project
elevator
125 S
Elmhurst

library

NOT FOR
CONSTRUCTION

EXHIBIT A
LEGAL DESCRIPTION/DEPICTION OF TEMPORARY CONSTRUCTION EASEMENT PREMISES



B

sheet number

Project	elmhurst public library
Location	125 S Prospect Ave
City	Elmhurst, IL 60126
Client	exterior patio renovation
Architect	product architecture + design
Engineer	
Surveyor	
Contractor	
Inspector	
Permitting	
Other	

Project
elmhurst public library
exterior patio renovation
125 S Prospect Ave
Elmhurst, IL 60126

drawing
EXHIBIT B
GRADING EASEMENT EXHIBIT

NOT FOR
CONSTRUCTION

product
architecture + design
811 W. Roosevelt Ave
Suite 405
Chicago, IL 60642
0121 202-0701
www.product-architect.com

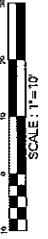


EXHIBIT B
LEGAL DESCRIPTION/DEPICTION OF GRADING EASEMENT PREMISES

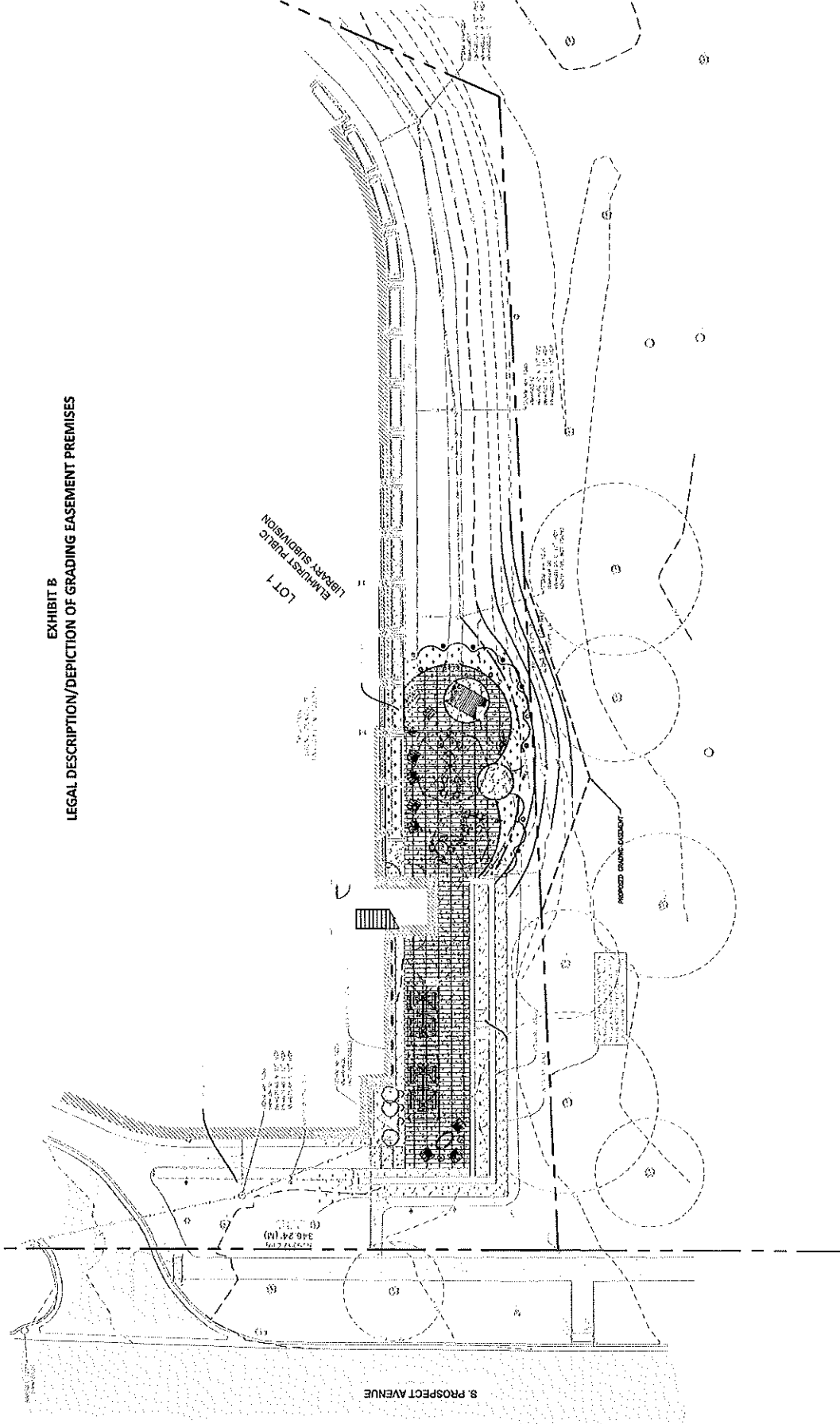


EXHIBIT C FINAL PLANS

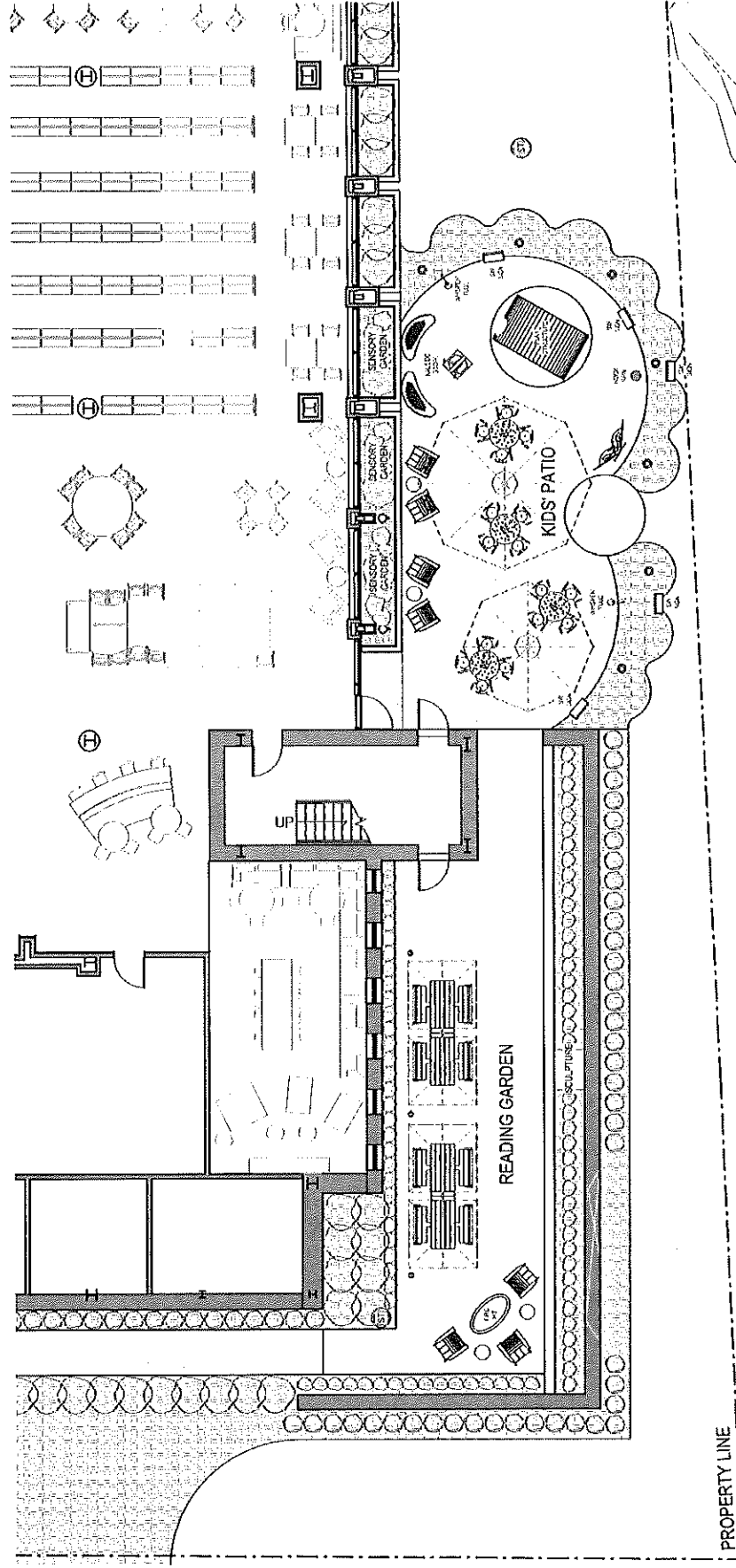


EXHIBIT D
INSURANCE REQUIREMENTS

A. Commercial General and Umbrella Liability Insurance

Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$3,000,000 each occurrence. The coverage amounts set forth may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Park District, and its elected and appointed officials, officers, employees, agents, and volunteers shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Park District. Any insurance or self-insurance maintained by Park District shall be excess of the Contractor's insurance and shall not contribute with it.

There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

B. Workers Compensation Insurance

Contractor shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

C. General Insurance Provisions

1. Evidence of Insurance

Prior to beginning work, Contractor shall furnish Park District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

Failure of Park District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Park District to identify a deficiency

from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Park District shall have the right, but not the obligation, of prohibiting Contractor or any of Contractor's employees, agents, contractors, or subcontractors from entering the Park Property or the Easement Premises until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Park District.

2. Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A- VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A- VII or a Best's rating is not obtained, the Park District has the right to reject insurance written by an insurer it deems unacceptable.

3. Cross-Liability Coverage

If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

Contractor hereby represents to and covenants with the Park District that Contractor has and shall maintain (and encumber as necessary) adequate financial resources to cover and protect the Park District and its elected or appointed officials, officers, employees, agents, and volunteers with respect to any claim arising out of the activities to be conducted by or on behalf of Contractor on the Park Property that falls within a deductible or self-insured risk and is thereby not covered by insurance required to be provided under this Agreement.

4. Subcontractors

Contractor shall cause each contractor or subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the Park District, Contractor shall furnish copies of certificates of insurance and applicable policy endorsement evidencing coverage for each subcontractor.

D. Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Park District and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Contractor's work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly

employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Contractor shall similarly protect, indemnify and hold and save harmless the Park District and its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Contractor's breach of any of its obligations under, or Contractor's default of, any provision of this Agreement or its contract with the Library.