MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL AVIATION ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICE,
AND
THE CITY OF CHICAGO

Regarding

The Proposed O'Hare Modernization Program (OMP)

In the Village of Bensenville and the City of Chicago
DuPage County, Illinois

WHEREAS, the Federal Aviation Administration (FAA), as the lead Federal agency, has been requested to approve the City of Chicago's proposed Airport Layout Plan (ALP) and associated development actions for Chicago O'Hare International Airport (O'Hare); and

WHEREAS, the undertaking consists of the FAA's approval of the City of Chicago's proposed ALP and associated development actions at O'Hare; and

WHEREAS, the FAA has defined the undertaking's Area of Potential Effect (APE) as that depicted on **Exhibit 1**; and

WHEREAS, the FAA is responsible for completing the requirements of Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (NHPA) for this undertaking; and

WHEREAS, the FAA has consulted with the Advisory Council on Historic Preservation (ACHP) and the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800 regulations implementing Section 106 of the National Historic Preservation Act; and

WHEREAS, the City of Chicago participated in the consultation on these properties, would be the entity implementing the proposed undertaking depicted on the ALP, and would assume responsibilities under this Memorandum of Agreement (MOA), the FAA has invited the City of Chicago to be a signatory to this MOA; and

WHEREAS, the FAA, in consultation with the SHPO, has established the Area of Potential Effect, as defined at 36 CFR § 800.16(d), to include the properties known as the **Green Street School, Gas Service Station, St. Johannes Cemetery, and Rest Haven Cemetery** which are considered to be eligible for the National Register of Historic Places; and

WHEREAS, the FAA, in consultation with the SHPO, has determined that implementation of the proposed undertaking depicted on the ALP would have effects upon the **Green Street School, Gas Service Station, St. Johannes Cemetery, and Rest Haven Cemetery**; and

WHEREAS, the FAA, in consultation with the SHPO, has determined that implementation of the proposed undertaking depicted on the ALP would have no adverse effect upon the **Green Street School** due to the fact that the only action to be taken at the former school is the decrease in height of one chimney; and

WHEREAS, the FAA intends to use the provisions of this MOA to address applicable requirements of Section 110(b) of NHPA, 16 U.S.C. 470h-2(b); and

WHEREAS, the Village of Bensenville as representative for the Gas Service Station, the St. John's Church of Christ as representative for St. Johannes Cemetery, and the Rest Haven Cemetery Association as representative for Rest Haven Cemetery also participated in the consultation on these properties and are invited to concur with this MOA; and

NOW, THEREFORE, the FAA, the Advisory Council on Historic Preservation, and the Illinois State Historic Preservation Office agree that, upon acceptance of this MOA, and upon the FAA's issuance of a Record of Decision approving the proposed O'Hare Modernization Program (OMP), and the City of Chicago's decision to proceed with the proposed OMP, the FAA shall ensure that the following stipulations are implemented in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FAA will ensure that the City of Chicago completes the following measures:

I. MITIGATION

A. Gas Service Station

FAA shall ensure that the following measures are carried out by City of Chicago:

1. In consultation with SHPO and FAA, the City of Chicago shall, upon the City's acquisition of the Gas Service Station, prepare a plan to market the gas service station to a party who would move it from its existing site. This plan shall include the following elements:

    a. Exterior and interior photographs of the gas service station.

    b. Location map.

    c. Information on the gas service station's architectural significance.

d. A statement that the gas service station will be donated by the City of Chicago to an appropriate party with a monetary contribution to the moving costs not to exceed demolition costs.

e. A statement that the recipient of the Gas Station will be required to move the gas service station from its existing site and rehabilitate the gas service station according to the recommended approaches of the Secretary of the Interior's "Standards for Rehabilitating Historic Buildings" pursuant to a deed restriction upon relocation.

f. A distribution list of potential purchasers or transferees.

g. An advertising plan and schedule.

h. A schedule for receiving and reviewing offers.

2. The City of Chicago shall review all reasonable offers in consultation with SHPO and FAA prior to acceptance of any specific offer. However, SHPO agrees that City of Chicago shall not be required to accept any offer or proposal that: (1) requires payment by the City of Chicago in an aggregate amount that exceeds the cost of demolition; (2) fails to provide that the gas service station will be completely removed from its existing site within ninety (90) days after acceptance of the proposal, or (3) does not provide reasonable assurances that the Village of Bensenville will allow the gas service station to be removed and relocated within such ninety (90) day period.

3. The specifications for moving shall be reviewed and commented on by SHPO and shall conform to the recommended approaches contained in the American Association for State and Local History publication Moving Historic Buildings by John Obed Curtis.

4. The City of Chicago shall make the property available via a marketing period of at least 120 days. If, after the expiration of that period, there are no transfer proposals submitted that in the judgment of the FAA, the City of Chicago and SHPO satisfy the requirements of paragraph 2, above, the City of Chicago shall notify SHPO and FAA with documentation of its marketing efforts and may demolish the gas service station immediately thereafter, conditioned upon the SHPO's acceptance of item 7 below.

5. Whether the property is transferred or demolished, the City of Chicago will ensure that the property is documented according to with Illinois Historic American Buildings Survey (IL HABS) Standards and Guidelines. The general scope of work for the required IL HABS documentation is as follows:

a. Level III documentation will be required.

b. Reproduction of available original drawings or sketch floor plans, on 24"x 36" IL HABS template mylars, forwarded by properly formatted IL HABS drawings Title Sheet.

c. Large format, 4"x 5" negative and 5" x 7" print, photography of exterior elevations, significant interior spaces and distinctive exterior and interior architectural features of the property. Approximately fifteen (15) Views.

d. Written architectural description of the gas service station using the IL Historic American Buildings Survey (HABS) / Historic American Engineering Record (HAER) designated outline format.

e. Written contextual histories associated with the property in the narrative form and inserted into the appropriate section of the IL HABS/HAER format.

6. The City of Chicago will award the IL HABS Documentation project to a consultant of its choice, provided the consultant is qualified to perform the work and agrees to meet IL HABS/HAER Standards.

7. SHPO will review the required IL HABS/HAER Documentation submittals, and accept or reject the 100% submittal in accordance with IL HABS/HAER Standards.

8. After SHPO acceptance, completed IL HABS/HAER Documentation will be deposited within the archives section of the Abraham Lincoln Presidential Library. SHPO requires that one standard and one microfiche copy of accepted documentation be provided for repository use.

9. No demolition or alteration of the property will be undertaken until all of the IL HABS/HAER documentation is accepted in writing by SHPO.

10. If during any phase of the subject undertaking unknown historic properties are discovered or unanticipated effects on historic properties found may occur, or human skeletal remains are discovered, the City of Chicago will halt ground disturbing activities in the immediate area of the discovery, initiate discovery notification procedures in a manner that is as similar as is reasonably possible to the procedures described in implementing the Illinois Skeletal Remains Protection Act (20 ILCS 3440) and consult with SHPO to establish and implement proper mitigative procedures concerning the discovered remains and/or properties before resuming ground disturbing activities in that work stoppage area.

11. Upon satisfactory compliance with the terms of this Memorandum of Agreement, SHPO shall, within thirty (30) days after the receipt of the last criterion for approval, issue written authorization to proceed with the demolition of the property. If, within thirty (30) days of the last submission of any criterion for approval required by this Memorandum of Agreement, SHPO has not issued

written authorization to demolish the Gas Service Station, and SHPO has not provided the City of Chicago with any written reason that falls within the specific scope, requirements and limits of this Memorandum of Agreement, SHPO agrees that the City of Chicago has fully complied with all state historic preservation laws pertaining to the demolition of the property.

B. St. Johannes Cemetery

1. Within 180 days of the FAA's issuance of a ROD, the City of Chicago (with oversight by FAA) will produce:

   a. A map of the cemetery - The City of Chicago would produce a professional level survey of all identified graves, and all historic features visible on the ground surface within St. Johannes Cemetery.

   b. Photographic Recordation - The headstones and all other above ground features will be recorded with archival photography prior to their removal. The City of Chicago will prepare six to nine, 5" x 7", 35 mm, archivally-processed, black-and-white photographs of each headstone.

   c. A copy of documentation related to the MOA will be provided to the St. John's United Church of Christ, the Village of Bensenville, the Bensenville Historical Commission, the FAA, and the SHPO.

2. The City of Chicago shall follow the protocol for the relocation of bodies from St. Johannes as provided in **Attachment A** to this MOA.

3. The graves located at St. Johannes Cemetery would be moved to other cemeteries as directed by surviving family members, or if there are no surviving family members, St. John's Church of Christ shall choose the cemetery for the grave to be relocated to. The FAA will also require that the City of Chicago provide an opportunity for a person, designated by St. John's Church of Christ or by the families of the deceased, to observe the relocation process.

4. If in the judgment of the City of Chicago, its ability to comply with the terms of this MOA regarding St. Johannes Cemetery is precluded by the failure of the surviving family members or St. John's Church of Christ to provide the requisite participation as called for in this MOA and the protocol provided in **Attachment A** to this MOA, the City of Chicago may seek from the FAA an advisory determination of the City's inability to comply. The FAA shall make its advisory determination within 30 days after receiving a written request for it from the City of Chicago. If the FAA's advisory determination concurs with the City's judgment, the City of Chicago shall use its best efforts to fully comply with the provisions of this agreement to the extent reasonably possible without the requisite participation of surviving family members or St. John's Church of

Christ. If the FAA does not concur in the City of Chicago's judgment, the FAA will use its best efforts to obtain such good faith participation.

C. Rest Haven Cemetery

1. Not later than 120 days prior to the initiation of construction activities within five hundred (500) feet of this Cemetery, the City of Chicago will:

   a. Install a security fence, meeting Transportation Security Administration (TSA) security requirements for airports, to surround the cemetery property.

      (1) Before installing the security fence, an archaeologist hired by the City, to work in consultation with a SHPO staff archaeologist, will determine if there are any graves located within a 50-foot perimeter of the current cemetery property. If there are graves located within a 50-foot perimeter, City of Chicago will coordinate with the SHPO and the FAA in a manner that is as similar as may be reasonably possible to the procedures described in implementing the Illinois Skeletal Remains Protection Act (20 ILCS 3440), and consult with SHPO and the FAA to establish and implement proper mitigative procedures concerning the discovered remains prior to installation of the security fence in that immediate area (which could include relocation of the graves to an alternate cemetery to be paid for by the City).

   b. Install a visual screen (to obscure the view of the security fence and/or potential blast fences) acceptable to the SHPO.

   c. Install benches within the cemetery property for reflection and contemplation.

2. Not later than 120 days prior to the activation of cargo activities at the proposed facilities to the east and west of the cemetery, the City of Chicago will:

   a. Install a blast fence along the west, north, and east sides of the cemetery (within the AOA) if determined to be necessary by the FAA at the time of FAA's review of the City's design of the cargo area, through application of FAA's current guidelines and standards.

   b. There shall be 5 feet of tall fescue or sacaton (ornamental tall grasses that grow up to 6' in height and are not wildlife attractants) between the cemetery property, and the security fence or the blast fences, which ever is closer to the cemetery property. (See **Exhibits 2 and 3** for conceptual plan drawings for Rest Haven Cemetery.)

3. The City will also provide unrestricted access to the cemetery 7:00 AM to 5:00 PM, seven days a week.

II. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FAA shall consult with such party to resolve the objection. If the FAA determines that such objection cannot be resolved, the FAA will:

A. Forward all documentation relevant to the dispute, including the FAA's proposed resolution, to the Advisory Council on Historic Preservation (ACHP). The ACHP shall provide the FAA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FAA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FAA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the FAA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FAA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. It is the FAA's responsibility to ensure the City of Chicago carries out all actions required by the terms of this MOA that are not the subject of the dispute and remain unchanged.

III. PROFESSIONAL QUALIFICATIONS

FAA shall ensure that all historic preservation work carried out pursuant to this agreement is carried out by or under the supervision of a person or persons meeting, at a minimum, the *Secretary of the Interior's Professional Qualifications Standards* in the field of architectural history, as published in 36 CFR Part 61. All archaeological work will be performed by an archaeologist working on consultation with a SHPO staff archaeologist.

IV. DURATION

This life of this MOA is 5 (five) years from the date of its execution, except for the provision dealing with Rest Haven Cemetery (I.C.3) which shall remain in place for as long as that cemetery is located at its present site. All other work must be completed within that time, unless the signatories agree in writing to extend for the time to carry out its terms, except for as provided in the provision of I.C.1 and 2.

V. POST-REVIEW DISCOVERIES

If potential unknown historic properties are discovered or unanticipated effects on historic properties occur, or human skeletal remains are discovered outside of St. Johannes Cemetery, City of Chicago will halt ground disturbing activities in the immediate area of the discovery, initiate discovery notification procedures in a manner that is as similar as may be reasonably possible to the procedures described in implementing the Illinois Skeletal Remains Protection Act (20 ILCS 3440) and consult with SHPO to establish and implement proper mitigative procedures concerning the discovered remains and/or properties prior to resuming ground disturbing activities in that work stoppage area.

VI. MONITORING AND REPORTING

Every 3 months after the signatories sign this MOA and until it expires or it is terminated, the FAA shall provide the signatories to this MOA and the ACHP a summary report. The report will summarize work undertaken pursuant to its terms. The report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the FAA's efforts to carry out the terms of this MOA.

VII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date the FAA files a copy signed by all of the signatories with the ACHP.

VIII. TERMINATION

If the FAA, ACHP, SHPO, or the City determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by the signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the FAA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FAA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FAA, the ACHP, the Illinois SHPO, and the City of Chicago, and implementation of its terms, constitutes evidence that FAA and the City of Chicago have complied with Section 106 of the NHPA on the proposed OMP and its effects on the **Green Street School, Gas Service Station, St. Johannes Cemetery, and Rest Haven Cemetery** and that FAA and the City of Chicago have taken into account the effects of the project on these historic properties.

Execution of this Memorandum of Agreement by the FAA, the ACHP, the Illinois SHPO, and the City of Chicago, and its implementation of its terms by the City of Chicago, constitutes evidence that the FAA has afforded the ACHP an opportunity to comment on the OMP and its effects on historic properties and that the FAA has taken into account the effects of that undertaking on historic properties.

FEDERAL AVIATION ADMINISTRATION

BY: Date: SEP 23 2005

Jeri Alles, Manager, Airports Division, Great Lakes Region, Federal Aviation Administration

Memorandum of Agreement *NRHP Eligible Properties*

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY: John M. Fowler Date: 9/28/05

John M. Fowler, Executive Director, Advisory Council on Historic Preservation

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

BY: William L. Wheeler Date: 9-26-05

William L. Wheeler, State Historic Preservation Officer

CITY OF CHICAGO

BY: Date: 9/26/05

Rosemarie Andolino, Executive Director, O'Hare Modernization Program, City of Chicago

VILLAGE OF BENSENVILLE -- CONSULTING PARTY FOR THE GAS SERVICE STATION

BY: Date:

For the Village of Bensenville

ST. JOHN'S CHURCH OF CHRIST -- CONSULTING PARTY FOR ST. JOHANNES CEMETERY

BY: Date:

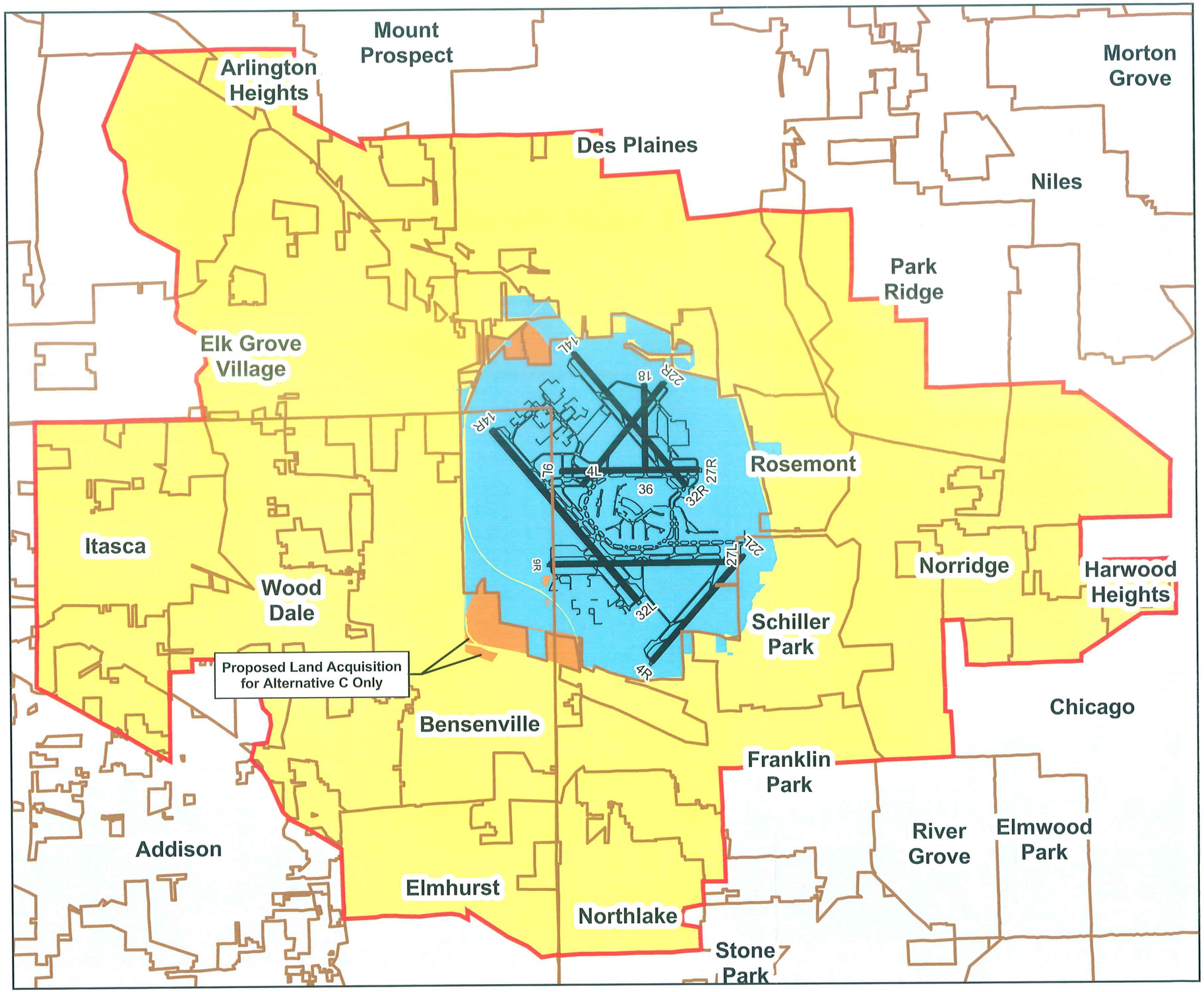
For St. John's Church of Christ

REST HAVEN CEMETERY ASSOCIATION -- CONSULTING PARTY FOR REST HAVEN CEMETERY

BY: Date:

For the Rest Haven Cemetery Association

Exhibits



Chicago O'Hare International Airport

O'Hare Modernization Environmental Impact Statement

- Project Area
- Community Boundaries
- Off-Airport Indirect Impact Area
- Off-Airport Direct Impact Areas
- On-Airport Direct & Indirect Impact Area

0 1 2 Miles

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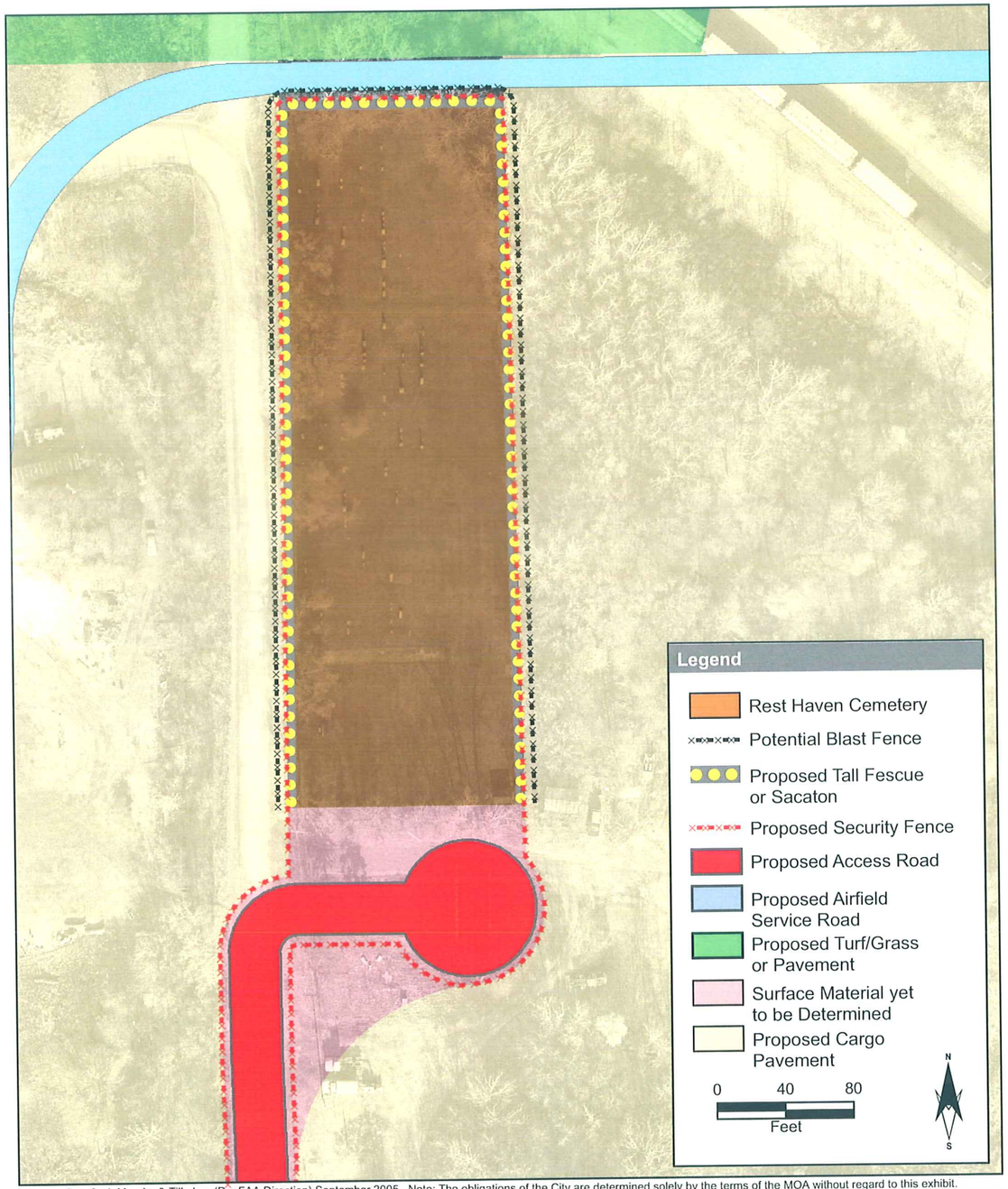
Areas of Potential Impact

▶ Exhibit 1

Source: Crawford, Murphy and Tilly, Inc. 2004



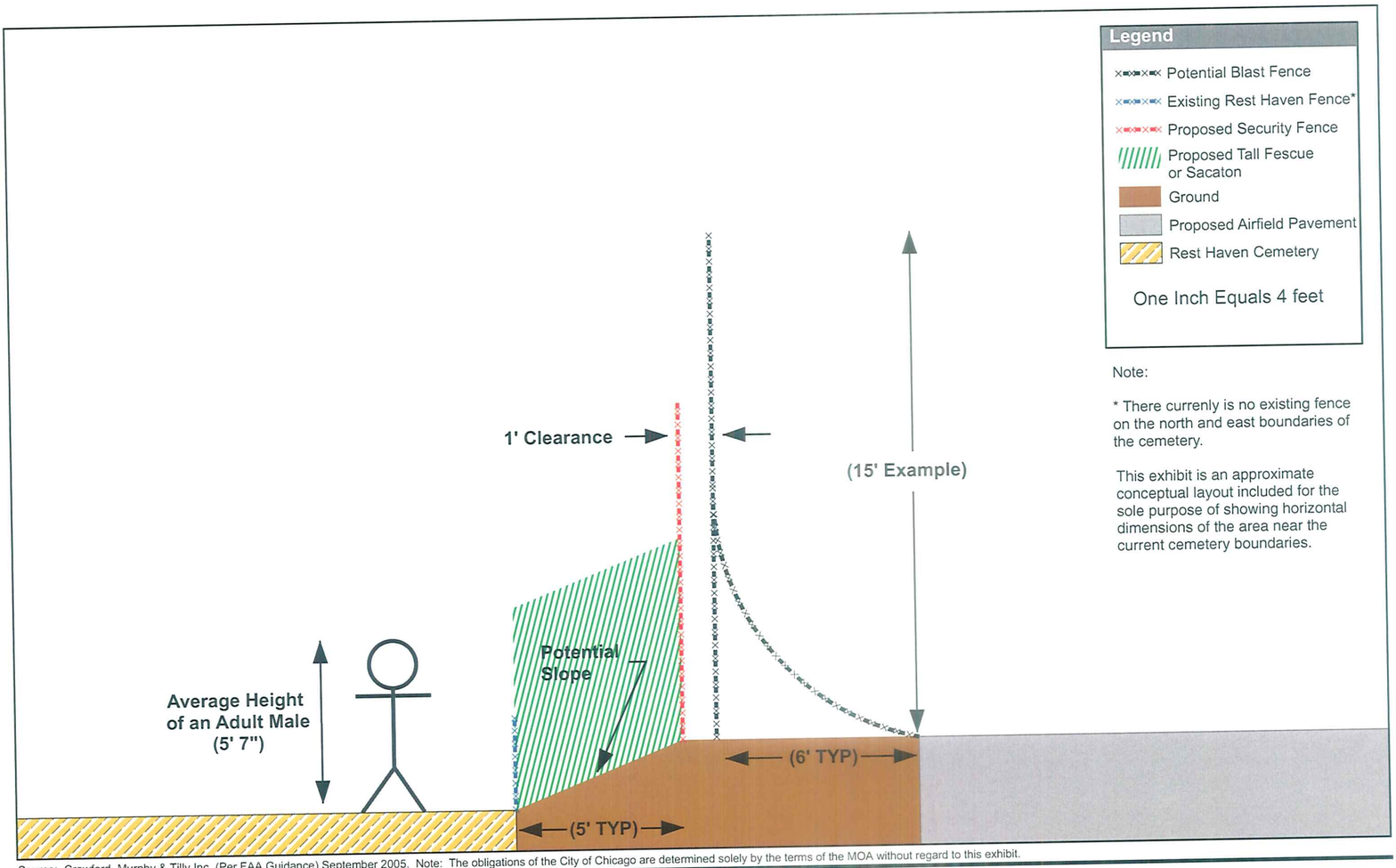
Source: Crawford, Murphy & Tilly Inc. (Per FAA Direction) September 2005. Note: The obligations of the City are determined solely by the terms of the MOA without regard to this exhibit.

Chicago O'Hare International Airport

O'Hare Modernization Environmental Impact Statement

Rest Haven Cemetery Conceptual Plan Aerial View

▶ **Exhibit 2**



Source: Crawford, Murphy & Tilly Inc. (Per FAA Guidance) September 2005. Note: The obligations of the City of Chicago are determined solely by the terms of the MOA without regard to this exhibit.

Chicago O'Hare International Airport

O'Hare Modernization Environmental Impact Statement

Rest Haven Cemetery Conceptual Plan
Cross Section for North, East, & West Boundaries

▶ Exhibit 3

Attachment A

St. Johannes Cemetery Relocation Protocol

The City of Chicago (City) plans to acquire St. Johannes Cemetery situated at the southwest corner of Chicago O'Hare Airport property along Division Street within the City of Chicago, DuPage County, Illinois.

St. Johannes Cemetery is owned and maintained by St. John's United Church of Christ, 601 N. Route 83 Bensenville, IL. 60106.

The cemetery encompasses approximately 5.34 acres and is situated in the SE ½ of the East Half of Section 12 Township 40 of DuPage County.

Disinterment/Reinterment Stipulations

The City will hire an archaeologist, working in consultation with an Illinois Historic Preservation Agency (IHPA) staff archaeologist, to perform any archaeological work deemed necessary by the IHPA.

The City will hire a licensed funeral director(s) for the program to carry out disinterments in a manner that is as similar as may be reasonably possible to the procedures described in implementing the Illinois Skeletal Remains Protection Act (20 ILCS 3440). Close coordination and communication with the IHPA will be vital to insure that the program is carried out in this manner.

In order to obtain information for the next of kin, the City shall place advertisements in appropriate local papers within the Chicagoland area for 30 days, shall have radio advertisements on local radio stations for 30 days, and perform research for addresses and phone numbers for next of kin for a minimum of 180 days.

The graves located at St. Johannes Cemetery would be moved to other cemeteries as directed by surviving family members, or if there are no surviving family members, St. John's Church of Christ shall choose the cemetery for the grave to be relocated to.

The City will pay for the costs of all disinterments, moving, and reinterments. A list of the cemeteries in the area with space available is included below:

Forest Home Cemetery: located at 863 South Des Plaines Ave., Forest Park, IL.

Mount Emblem Cemetery: located at Grand Ave. & County Line Rd., Elmhurst, IL.

Ridgewood Cemetery & Mausoleum: located at 9900 North Milwaukee Ave., Des Plaines, IL.

Woodlawn Cemetery, Elmwood, Mt. Auburn, Irving Park and Beverly Cemeteries: located at 7600 W. Cermak Rd., Forest Park, IL.

Heritage Memorial Cemetery: located at N. Pulaski Road, Chicago, IL.

Concordia Cemetery: located at 7900 Madison, St. Forest Park, IL.

Mount Hope Cemetery: located at 21500 South Fairfield, Chicago, IL.

St. Luke Cemetery: located at 5300 N. Pulaski Rd., Chicago, IL.

Bethania Cemetery: located at 7701 South Archer, Justice, IL.

Lakewood Memorial Park: located on U.S. Hwy. 20, Elgin, IL.

First Evangelical Lutheran Cemetery: located at 4135 West St., Alsip, IL.

Mount Olive Cemetery: located at 3800 North Narragansett Ave., Chicago, IL.

The City will transport all reusable existing grave markers/monuments to the re-interment cemetery site, as directed by the surviving family members or St. John's Church of Christ. The City will also replace any unidentified or unusable grave markers/monuments at each new gravesite, as directed by the surviving family members or St. John's Church of Christ.