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 Recorded: 09/20/2024 at 08:54:49 AM  
 Receipt#: 2024-00041447  
 Page 1 of 14  
 Fees: \$50.00  
 Lake County IL  
 Anthony Vega Lake County Clerk  
 File **8057358**

2 LAGOON DRIVE • HAWTHORN WOODS, ILLINOIS 60047 • TEL. 847-438-5500 • FAX 847-438-1459  
 WWW.VHW.ORG

STATE OF ILLINOIS     )  
                                           )  
 COUNTY OF LAKE        )

I, Donna Lobaito, certify that I am duly appointed and Village Clerk of the Village of Hawthorn Woods, Lake County, Illinois, **DO HEREBY CERTIFY THAT AS SUCH** Village Clerk I am the keeper of the records, ordinances, resolutions, minutes, entries, orders, books, papers and seal of the said Village.

**I DO FURTHER CERTIFY** that pursuant to 735 ILCS 5/1-109, the following is a true and correct copy of:

**ORDINANCE NO. 2376-24**

**AN ORDINANCE AUTHORIZING THE MAYOR AND THE VILLAGE CLERK TO EXECUTE A GRANT OF PERPETUAL EASEMENT AGREEMENT WITH BRYAN SMITH OF 16 SENECA W FOR THE INDIAN CREEK ROAD CULVERT REPLACEMENT/STREAMBANK STABILIZATION PROJECT**

and that the original of said copies for the Village of Hawthorn Woods remains on file in my office and is in full force and effect.

**WITNESS** my hand and the corporate seal of said Village, this 9<sup>th</sup> day of September 2024.

*Donna Lobaito*  
 \_\_\_\_\_  
 Donna Lobaito, Village Clerk



Submitted for Recording by and Mail to:  
 Donna Lobaito, Village Clerk  
 Village of Hawthorn Woods  
 2 Lagoon Drive  
 Hawthorn Woods, IL 60047

14  
 357



ORDINANCE NO. 2376-24

AN ORDINANCE AUTHORIZING THE MAYOR AND THE VILLAGE CLERK TO EXECUTE A GRANT OF PERPETUAL EASEMENT AGREEMENT WITH BRYAN SMITH OF 16 SENECA W FOR THE INDIAN CREEK ROAD CULVERT REPLACEMENT/STREAMBANK STABILIZATION PROJECT

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods, Lake County, Illinois, as follows:

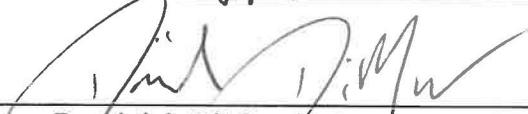
That the Grant of Perpetual Easement Agreement, attached hereto and incorporated herein as Exhibit "A", be and the same is hereby approved and that the Mayor, Village Clerk and all other necessary and appropriate officers of the Village are hereby authorized to execute said agreement.

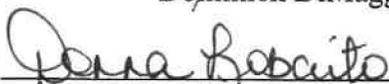
The foregoing Ordinance was adopted by the Board of Trustees of the Village of Hawthorn Woods, Illinois on July 22, 2024:

AYES: Kaiser, McCarty, Rycheik, Bauer, Hurst

NAYS: 0

ABSENT AND NOT VOTING: Rama

APPROVED:   
Dominick DiMaggio, Mayor

ATTEST:   
Donna Lobaito, Village Clerk

ADOPTED: July 22, 2024

APPROVED: July 22, 2024

**THIS INSTRUMENT PREPARED  
BY AND RETURN TO:  
Patrick T. Brankin  
Schain, Banks, Kenny & Schwartz,  
Ltd.  
Three First National Plaza  
70 West Madison Street  
Suite 5400  
Chicago, Illinois 60602**

**GRANT OF PERPETUAL EASEMENT AGREEMENT**

This **GRANT OF PERPETUAL EASEMENT** (the "Agreement") is made and entered into this day of July 22nd, 2024 ("Effective Date"), by and between Bryan Smith, ("Grantor") and the **VILLAGE OF HAWTHORN WOODS**, a municipal corporation organized under the laws of the State of Illinois (hereinafter sometimes referred to as "Grantee," or "Village"). (Grantor and Grantee shall each sometimes hereinafter be individually referred to as "Party" or, collectively, "Parties").

**RECITALS:**

**WHEREAS**, Grantor is the owner of the real property located in the Village of Hawthorn Woods, Illinois ("Village"), legally described on Exhibit A attached hereto and made a part hereof (the "Property");

**WHEREAS**, Grantor desires to dedicate the Improvements within the Permanent Drainage Easement shown on Exhibit B (the "Easement Parcel") to the Village and grant an easement to the Village over, across and under the Easement Parcel for the maintenance, repair and replacement of the Improvements (the "Easement") and the Village desires to accept the grant of the Easement; and

**WHEREAS**, the Village has entered into a contract with Contractor, to perform streambank stabilization; and

**WHEREAS**, the Village intends to perform streambank stabilization to ensure that water from the creek doesn't erode and/or compromise the integrity of Indian Creek Road("Improvements"), all relating to the Work, as described on Exhibit "C" attached hereto and incorporated herein (hereinafter the "Work").

**NOW, THEREFORE**, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants and restrictions are made:

1. **Recitals.** The Recitals set forth hereinabove are fully incorporated into this Agreement by this reference.

2. **Dedication; Grant of Non-Exclusive Perpetual Easement.** Grantor hereby dedicates, transfers and conveys to the Village all of its rights in and to the located within the Easement Parcel and the Village hereby accepts such grant. Grantor hereby grants, transfers and conveys to the Village, its successors and assigns, and Village hereby accepts from Grantor, a non-exclusive, perpetual easement on, over, across, above, through, in and under the Easement Parcel, including the right of reasonable access thereto, for the purposes as set forth in Section 3 below.

3. **Purpose of Easement.** The Easement granted hereunder is to be used by Grantee for the maintenance, repair and replacement or extension of the Improvements and to ensure that the Easement Parcel shall, at all times, remain as a public Easement. Grantor shall not permanently hinder, disturb, block or interfere with Grantee's and the general public's rights hereunder.

4. **Non-Exclusive Perpetual Utility Easement.** The Parties agree the term of the Easement shall commence on the Effective Date and shall be perpetual.

5. **Remedies.** (a) In the event of a breach, or attempted breach or threatened breach of any of the rights or obligations of any Party hereunder, in addition to any and all remedies available under applicable law, either Party shall be entitled forthwith to obtain an injunction to specifically enforce the rights or performance of such obligation, the Parties hereby acknowledging the inadequacy of legal remedies and the irreparable harm which would be caused by any such breach.

(b) The provisions of the Easement shall be binding upon and effective against any owner of the Easement Parcel, or any portion thereof, including but not limited to any whose title is acquired by foreclosure or trustee sale or any grantee by deed in lieu of foreclosure or trustee sale.

6. **Maintenance and Taxes.** Grantor, its successors and assigns, shall be fully responsible for and shall pay for any and all real estate taxes and special assessments assessed against the Easement Parcel. Grantee shall maintain, at its sole cost and expense, the Easement Parcel pursuant to the terms and conditions of this Agreement and applicable law.

7. **Construction.** This instrument shall be construed in conformity with the laws of the State of Illinois and in accordance with the usage in said State of Illinois regarding easements. The rule of strict construction does not apply to this grant. This grant shall be given a reasonable construction so that the intention of the Parties is carried out.

8. **Grantor and Grantee Representations.** Grantor represents and warrants that it is the sole fee title owner of the Property and that it has full power and authority to execute this Agreement and grant the Easement, without the consent or authorization of any other person. Grantee represents and warrants that it is duly authorized to enter into this Agreement, to accept the dedication of the Improvements and the grant of the Easement and to perform the covenants as set forth herein.

9. **Notices.** Any notices, requests, or other communications required or permitted to be given by this Agreement shall be in writing and shall be either (i) delivered by hand, (ii) mailed by United States registered mail, return receipt requested, postage prepaid, or (iii) sent by a reputable, national overnight delivery service (e.g., Federal Express, UPS, etc.) and addressed to each Party at the applicable address set forth below. Any such notice, request, or other communication shall be considered given or delivered, as the case may be, on the date of hand delivery (if delivered by hand), on the third (3rd) day following deposit in the United States mail (if sent by United States registered mail), on the next business day following deposit with an overnight delivery service with instructions to deliver on the next day or on the next business day (if sent by overnight delivery service). By giving at least ten (10) days prior written notice thereof, any Party may, from time to time and at any time, change its notice address hereunder.

If to Grantor:

Email: BTSM174@GMAIL.COM

with a copy to:

Email: \_\_\_\_\_

If to Grantee:

The Village of Hawthorn Woods

Attn: Village Engineer  
2 Lagoon Drive  
Hawthorn Woods, IL 60047

with a copy to:

Schain, Banks, Kenny & Schwartz, Ltd.  
70 West Madison Street  
Suite 5400  
Chicago, Illinois 60602  
Attention: Patrick T. Brankin  
Email: pbrankin@schainbanks.com

10. **Compliance with Laws.** Grantee shall, at its sole cost and expense, comply with any and all applicable laws, statutes, ordinances and regulations with respect to the ownership, operation, maintenance, repair, preservation and replacement the Improvements, and Easement Parcel.

11. **No Liens.** Grantee shall not record nor permit to be recorded any mechanic's or other lien against the Easement Parcel, and/or the Property for any labor or materials in connection with work of any character performed on the Easement Parcel. In the event of the recordation of any such lien, Grantee shall have such lien immediately discharged. In addition, Grantor shall have the right, but not the obligation, to cause such lien to be released and Grantee shall pay, on demand, all of Grantor's costs and reasonable attorney's fees in connection therewith.

12. **Condition of Property.** Grantee acknowledges that it has inspected the Easement Parcel and accepts the Easement with full knowledge of the physical condition of the Improvements.

13. **Binding Effect.** All provisions of this Agreement, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the heirs, assigns, licensees, invitees, successors, tenants, employees and personal representatives of the Parties.

14. **Survival Clause.** If any term, provision, covenant or condition in this Agreement shall be or be held to be invalid, whether in general or as to any particular situation or circumstance, the remainder of this instrument and the applicability to any other situation or circumstance, as the case may be, shall not be invalidated or terminated thereby, but shall remain in full force and effect for all intents and purposes as though such invalid term, provision, covenant or condition had never been and it shall not be deemed that any such invalid provision affects the consideration for the Easement; and each provision of the Easement shall be valid and enforceable to the fullest extent permitted by law. If any of the covenants or rights created by this instrument would otherwise violate (a) the rule against perpetuities or some analogous statutory provision, or (b) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the incumbent President of the United States of America as of the Effective Date.

15. **No Waiver; Counterpart Execution.** No waiver of any default of any obligation by any Party hereto shall be implied from any omission by the other Party to take any action with respect to such default. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

16. **Attorney's Fees.** In the event of any action or proceeding brought by either Party against the other for any matter arising out of or in any way relating to this Agreement or the Easements contained herein, the non-prevailing party in such action or proceeding shall pay all costs, expenses and reasonable attorneys' fees incurred by the prevailing party in connection with such action or proceeding.

17. **Easement Shall Continue Notwithstanding Breach.** It is expressly agreed that no breach of this Agreement shall entitle any Party to cancel, rescind, or otherwise terminate the Easement contained herein. However, such limitation shall not affect in any manner any other rights or remedies which any Party may otherwise have hereunder by reason of any such.

18. **Entire Agreement.** This Agreement contains the complete understanding and agreement of the Parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

19. **Miscellaneous.**

(a) The Article headings in this document are for convenience only, shall in no way define or limit the scope or content of the Agreement, and shall not be considered in any construction or interpretation for any part hereof.

(b) Nothing in this Agreement shall be construed to make Grantor and Grantee partners or joint venturers or render either of said parties liable for the debts or obligations of the other.

(c) This Agreement may be amended, modified or terminated at any time by declaration in writing, executed and acknowledged by Grantor and Grantee, or their respective successors or assigns.

(d) Time is of the essence of this Agreement.

(e) Upon full execution and delivery of this Agreement, Grantee, at Grantee's sole cost and expense, shall have this Agreement recorded in the Office of Recorder of Deeds of Lake County and, thereafter, deliver a recorded copy of this Agreement to Grantor.

(f) The provisions of this Agreement shall run with the land and be binding upon Grantor and Village and their respective successors and assigns.

20. **No Waiver of Immunity.** Nothing contained in this Agreement shall constitute a waiver by the Village of any right, privilege or defense available to the Village under statutory or common law, including, but not limited to, the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 et seq., as amended.

**(SIGNATURES APPEAR ON THE FOLLOWING PAGE)**

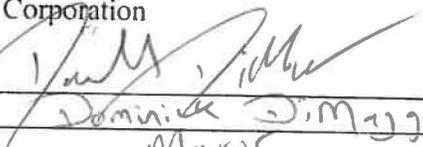
IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement on the day and year first above written.

**GRANTOR:**

By:   
Name: BRYAN SMITH  
Title: RESIDENT

**GRANTEE:**

**VILLAGE OF HAWTHORN WOODS**, an Illinois  
Municipal Corporation

By:   
Name: Dominic DiMaggio  
Title: Mayor

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF LAKE )

I, Amy K. Belmonte, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Rayan Smith of the State of Illinois, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person acknowledged that s/he signed, sealed and delivered the said instrument as his/her free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 1st day of July, 2024.

Amy K. Belmonte  
Notary Public

My Commission Expires: May 14, 2027



STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF LAKE )

I, \_\_\_\_\_, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT, PAMELA NEWTON CHIEF OPERATING OFFICER of **THE VILLAGE OF HAWTHORN WOODS, ILLINOIS**, an Illinois municipal corporation, who is personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act as said CHIEF OPERATING OFFICER and as the free and voluntary act of said VILLAGE for the uses and purposes set forth.

GIVEN under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF LAKE )

I, \_\_\_\_\_, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ of \_\_\_\_\_, Illinois \_\_\_\_\_, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person acknowledged that s/he signed, sealed and delivered the said instrument as his/her free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

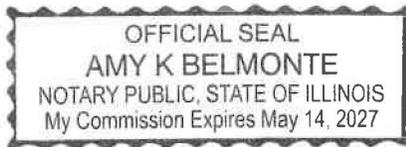
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF LAKE )

I, Amy K. Belmonte, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT, DOMINICK DIMAGGIO, MAYOR of **THE VILLAGE OF HAWTHORN WOODS, ILLINOIS**, an Illinois municipal corporation, who is personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act as said MAYOR and as the free and voluntary act of said VILLAGE for the uses and purposes set forth.

GIVEN under my hand and seal, this 14<sup>th</sup> day of August, 2024.

Amy K. Belmonte  
Notary Public

My Commission Expires: May 14, 2027



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

PIN: 1402404011

ADDRESS: 16 Seneca Avenue W  
Hawthorn Woods, Illinois 60047

**LEGAL DESCRIPTION (PERMANENT DRAINAGE EASEMENT):**

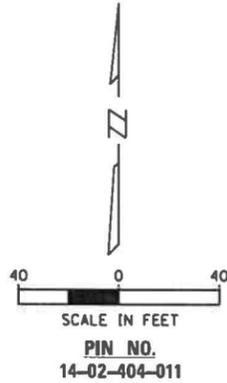
THAT PART OF LOT 1 IN THE CONSERVATORY OF INDIAN CREEK UNIT 1, BEING A SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 2 IN TOWNSHIP 43 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 1, 1981 AS DOCUMENT NO. 2119926 IN LAKE COUNTY, ILLINOIS, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOT 1 HAVING AN ILLINOIS COORDINATE SYSTEM (EAST ZONE) GRID BEARING OF SOUTH 89 DEGREES 54 MINUTES 29 SECONDS WEST A DISTANCE OF 121.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 05 MINUTES 31 SECONDS EAST, 38.00 FEET TO A POINT ON A LINE 38.00 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF LOT 1; THENCE SOUTH 89 DEGREES 54 MINUTES 29 SECONDS WEST, 26.00 FEET ALONG SAID PARALLEL LINE; THENCE NORTH 08 DEGREES 38 MINUTES 22 SECONDS EAST, 17.00 FEET; THENCE NORTH 18 DEGREES 25 MINUTES 46 SECONDS WEST, 6.00 FEET; THENCE NORTH 37 DEGREES 41 MINUTES 42 SECONDS WEST, 7.00 FEET; THENCE NORTH 77 DEGREES 32 MINUTES 50 SECONDS WEST, 9.00 FEET; THENCE SOUTH 61 DEGREES 29 MINUTES 03 SECONDS WEST, 20.00 FEET; THENCE SOUTH 49 DEGREES 21 MINUTES 51 SECONDS WEST, 31.50 FEET TO A POINT ON SAID LINE BEING 38.00 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF LOT 1; THENCE SOUTH 89 DEGREES 54 MINUTES 29 SECONDS WEST, 5.11 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 31 SECONDS WEST, 38.00 FEET TO A POINT ON SAID NORTH LINE OF LOT 1; THENCE NORTH 89 DEGREES 54 MINUTES 29 SECONDS EAST, 85.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

**EXHIBIT B**

**EASEMENT EXHIBIT**



# EASEMENT EXHIBIT



**OWNER**  
BRYAN SMITH & JENNIFER SMITH  
HUSBAND & WIFE, AS JOINT TENANTS  
DEED DOC. NO. 7210711, RECORDED  
7-9-2015

**LEGEND**

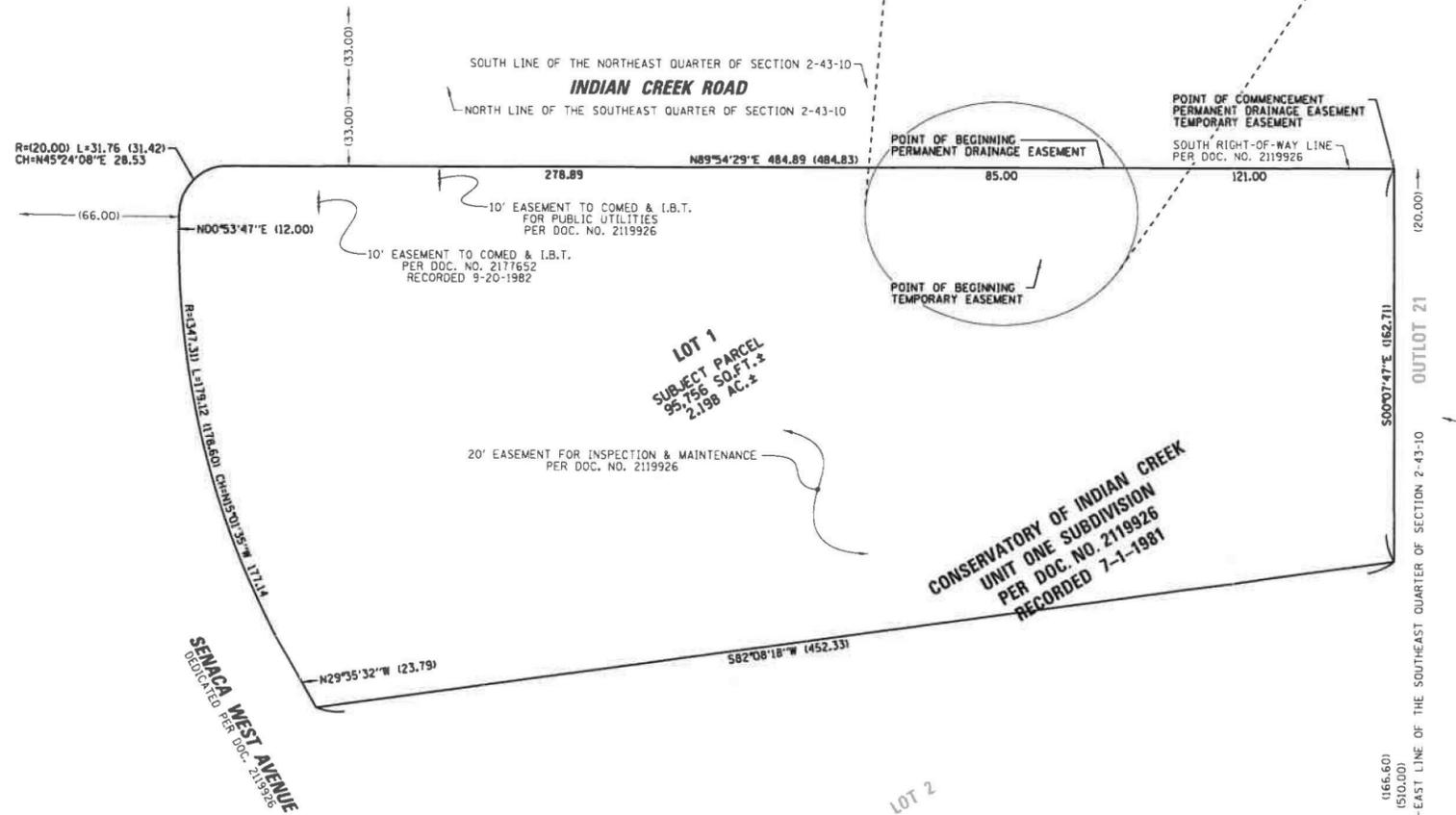
00.00	MEASURED
(00.00)	RECORD
---	R.O.W. LINE
---	PROPERTY LINE
---	1/4 SECTION LINE
---	EASEMENT LINE
---	PROPOSED EASEMENT LINE

**GENERAL NOTES:**

- ALL DIMENSIONS ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF.
- ONLY THOSE BUILDING LINE SETBACKS AND EASEMENTS WHICH ARE SHOWN ON THE RECORDED PLAT OF SUBDIVISIONS ARE SHOWN HEREON. REFER TO THE DEED, TITLE INSURANCE POLICY AND LOCAL ORDINANCES FOR OTHER RESTRICTIONS.
- COMPARE DEED DESCRIPTION AND SITE CONDITIONS WITH THE DATA GIVEN ON THIS PLAT AND REPORT ANY DISCREPANCIES TO THE SURVEYOR AT ONCE.
- NO DIMENSIONS SHALL BE DERIVED FROM SCALE MEASUREMENT.
- CONTRACTOR/DEVELOPER SHALL NOTIFY J.U.L.I.E. AT 1-800-892-0123 AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ANY WORK.

**SURVEYOR NOTES:**

- BEARINGS AND DISTANCES SHOWN HEREON ARE ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983 (2011 ADJUSTMENT) "GRID".
- THIS SURVEY IS SUBJECT TO MATTERS OF TITLE WHICH MAY BE REVEALED BY A CURRENT TITLE REPORT.
- PROPERTY IS SUBJECT TO: RIGHTS OF THE PUBLIC, THE STATE OF ILLINOIS, AND THE MUNICIPALITY IN AND TO THAT PART OF THE LAND, IF ANY, TAKEN OR USED FOR ROAD PURPOSES.
- THIS SURVEY IS BASED ON FIELD WORK PERFORMED ON 12-8-2023, 12-11-2023 THRU 12-14-2023.



**CHRISTOPHER B. BURKE**  
ENGINEERING, LTD.  
9575 West Higgins Road, Suite 600  
Rosemont, Illinois 60018  
(847) 823-0500

**EASEMENT EXHIBIT**  
IN  
VILLAGE OF HAWTHORN WOODS, ILLINOIS  
PREPARED FOR  
VILLAGE OF HAWTHORN WOODS

CALC.	KJR	PROJECT NO.
DWN.	AJK	* Job .number
CHKD.	JRM	SHEET 1 OF 1
SCALE:	1"=40'	DRAWING NO.
DATE:	06-21-2024	EASE2305368

N:\HAWTHORNWOODS\230536\ASURVEY\EASE2305368.E\X

## EXHIBIT C

### DESCRIPTION OF WORK

**Scope of work includes the following:**

**Streambank Stabilization (West End):** The location for the Alternate Bid 1 is the west end of the project. The scope for the soil, erosion, and sediment control of this location of the project includes tree removal and installation of silt fences. The proposed stabilization technique is installation of gabions, native prairie vegetation along with topsoil, seeding, erosion control blanket, and installation of riprap.

