

TO: Committee of the Whole (CS)
FROM: Chris Bong, P.E., Civil Engineer
DATE: May 18, 2023
RE: Resolution 23-078-R: Approving a Plat of Easement - 830 Blaine Street

The city requires an easement from the property owner at 830 Blaine Street to facilitate future sidewalk installation. This easement will serve the purpose of enhancing pedestrian safety and accessibility in the area.

Staff has drafted a resolution and will present it to the Council, seeking authorization for the City Engineer and the Mayor to sign the easement document. Once signed, the document will be recorded with the County.

Recommended Action:

Staff recommends that the City Council approves the attached resolution 23-078-R

**CITY OF BATAVIA, ILLINOIS
RESOLUTION 23-078-R**

APPROVING A PLAT OF EASEMENT - 830 BLAINE STREET

WHEREAS, the City of Batavia requires an easement for future public sidewalk improvements at 830 Blaine Street; and

WHEREAS, the Property owner desires to dedicate part of the Owner's Property for an easement, subject to certain conditions; and

WHEREAS, the City desires to accept the easement subject to the conditions that have been agreed;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: That the City Engineer, the Mayor and City Clerk are hereby authorized to sign the plat of easement, to record the plat of easement and to comply with the terms of the easement agreement.

CITY OF BATAVIA, ILLINOIS RESOLUTION 23-078-R

PRESENTED to the City Council of the City of Batavia, Illinois, this 5th day of June 2023.

PASSED by the City Council of the City of Batavia, Illinois, this 5th day of June 2023.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 5th day of June 2023.

Jeffery D. Schielke, Mayor

Ward	Alderman	Aye	Nay	Abstain	Absent
1	Baerren				
1	Solfa				
2	Lehman				
2	Wolff				
3	Ajazi				
3	Chanzit				
4	Malay				
4	Connelly				
5	Uher				
5	Beck				
6	Cerone				
6	Lanci				
7	Vogelsinger				
7	Miller				
Mayor	Schielke				
		AYES	NAYS	ABSTAIN	ABSENT
	TOTALS				

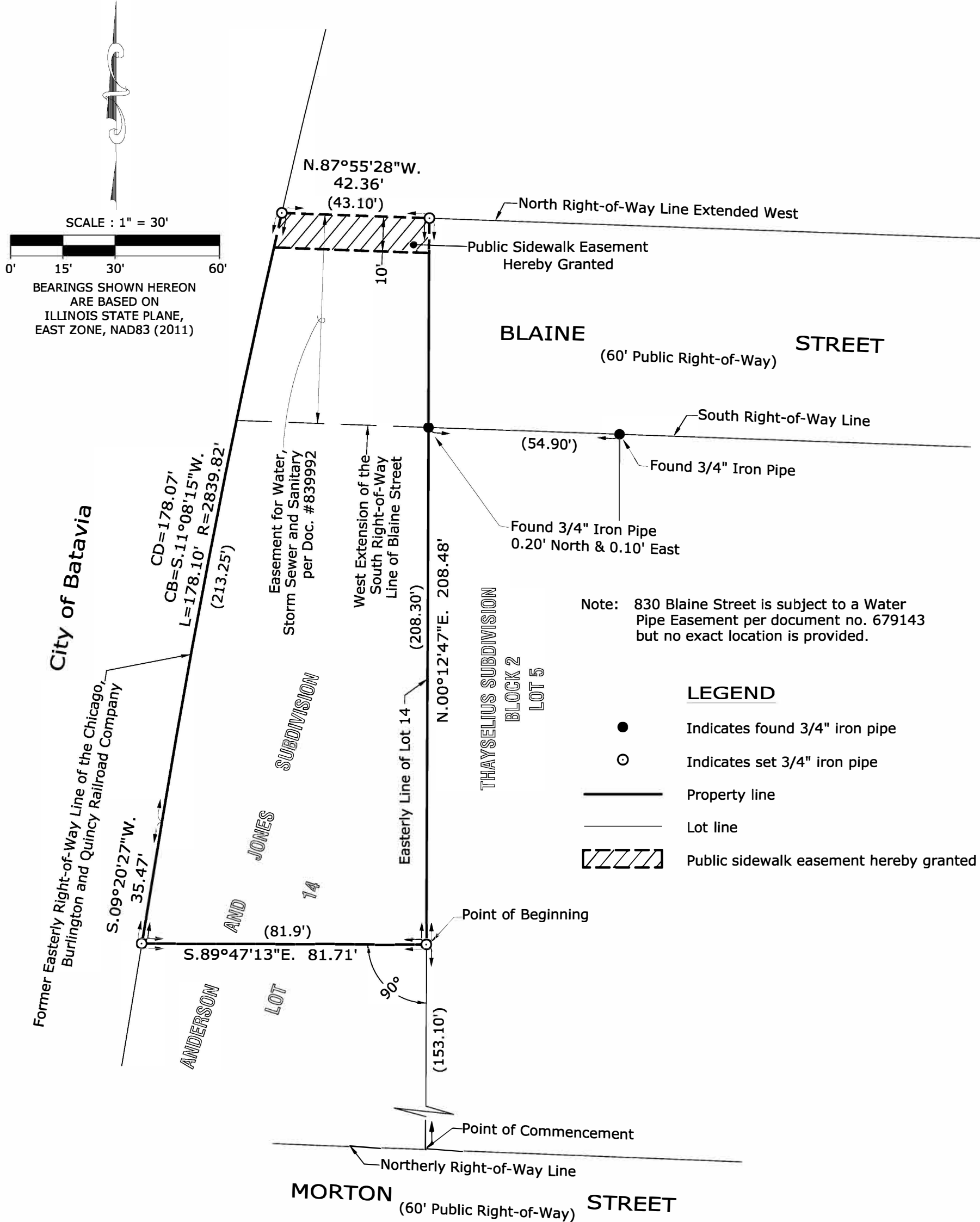
total holding office: Mayor and 14 Aldermen

ATTEST:

Kate Garrett, City Clerk

Exhibit 1

PLAT OF EASEMENT GRANT



LEGAL DESCRIPTION OF SIDEWALK EASEMENT HEREBY GRANTED:

THE NORTHERLY 10.00 FEET OF THAT PART OF LOT 14 OF ANDERSON AND JONES SUBDIVISION OF PART OF SECTIONS 21, 22, AND 27 IN TOWNSHIP 39 NORTH RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF MORTON STREET WITH THE EASTERLY LINE OF SAID LOT, THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID LOT, 153.10 FEET FOR THE POINT OF BEGINNING; THENCE WESTERLY AT RIGHT ANGLES TO SAID EASTERLY LINE 81.9 FEET TO THE EASTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO, BURLINGTON, AND QUINCY RAILROAD COMPANY; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT OF WAY LINE 213.25 FEET TO THE NORTHERLY LINE EXTENDED WEST OF BLAINE STREET; THENCE EAST ALONG SAID EXTENDED NORTHERLY LINE 43.10 FEET TO THE EASTERLY LINE OF LOT 14; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT, 208.30 FEET TO THE POINT OF BEGINNING, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS.

RECREATIONAL PATH EASEMENT (R.P.E.) AND SIDEWALK EASEMENT (S.E.) PROVISIONS:

A PERPETUAL EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF BATAVIA, AN ILLINOIS MUNICIPAL CORPORATION (AND ITS SUCCESSORS AND ASSIGNS) (GRANTEE) AND LLEWELLYN E. GIRMSCHIED AND AMY L. V. GIRMSCHIED, ("GRANTOR") WITH A LEGAL ADDRESS OF 830 BLAINE STREET, BATAVIA, ILLINOIS 60510 DESCRIBED HEREIN AND HEREON IDENTIFIED AS "SIDEWALK EASEMENT" OR "S.E.". THE GRANTOR IS THE OWNER OF THE GRANTED PROPERTY WHICH IS DESCRIBED IN EXHIBIT A (LEGAL DESCRIPTION) ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE (THE "PROPERTY"). THE PROPERTY CONTAINS OR WILL CONTAIN A SIDEWALK FOR PEDESTRIAN USAGE AS DEPICTED ON EXHIBIT B (GRAPHICAL DRAWING/SURVEY), ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE (THE "SIDEWALK"). GRANTEE IS RESPONSIBLE FOR MAINTAINING THE SIDEWALK IN WORKING CONDITION AND IN GOOD REPAIR IN ACCORDANCE WITH APPLICABLE CITY STANDARDS.

COMMON LANGUAGE: THE GRANTOR HEREBY GRANTS TO THE GRANTEE A PERPETUAL EASEMENT TO ENTER, RE-ENTER, AND USE THE PROPERTY TO USE, OCCUPY AND ACCESS THE PROPERTY FOR PUBLIC USAGE; AND TO PERFORM ANY OTHER ACTS NECESSARY TO PROTECT THE PROPERTY FROM DAMAGE.

THE GRANTEE SHALL HAVE AND EXERCISE THE RIGHT TO INGRESS AND EGRESS IN, TO, OVER AND ACROSS THE PROPERTY FOR ANY LAWFUL PURPOSE NEEDED FOR THE FULL ENJOYMENT OF THE RIGHTS GRANTED BY GRANTOR TO THE GRANTEE HEREUNDER. THE GRANTOR RETAINS THE RIGHT TO THE UNDISTURBED USE AND OCCUPANCY OF THE PROPERTY INsofar AS SUCH USE AND OCCUPANCY IS CONSISTENT WITH AND DOES NOT IMPAIR ANY GRANT HEREIN CONTAINED.

IN THE EVENT THE GRANTEE DEEMS IT NECESSARY TO ENTER THE PROPERTY FOR INSPECTION OR TO PERFORM MAINTENANCE OR REPAIR ACTIVITIES, THE GRANTEE SHALL USE ITS BEST EFFORTS TO NOTIFY GRANTOR AND COORDINATE ITS ACTIVITIES WITH GRANTOR. HOWEVER, THE GRANTEE RESERVES THE RIGHT TO ENTER THE PROPERTY WITHOUT NOTICE TO GRANTOR IN THE EVENT OF EMERGENCY. THE GRANTOR SHALL NOT INSTALL OR PERMIT THE INSTALLATION OF ANY FENCE, WALL STRUCTURE (ABOVE OR BELOW GROUND) OR LANDSCAPING THAT WOULD HINDER THE OPERATION OF THE EASEMENT OR IN ANY WAY IMPAIR THE GRANTEE'S RIGHT OF ACCESS PURSUANT TO THIS EASEMENT.

GRANTOR WARRANTS THAT IT HAS THE FULL RIGHT AND LEGAL AUTHORITY TO MAKE THE GRANT OF THIS EASEMENT. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, ALL PROVISIONS IN THIS EASEMENT, INCLUDING THE BENEFITS, BURDENS AND COVENANTS, ARE INTENDED TO RUN WITH THE LAND AND SHALL BE BINDING UPON AND INSURE TO THE BENEFIT OF THE RESPECTIVE SUCCESSORS AND ASSIGNS OF THE PARTIES HERETO. THE GRANTEE SHALL RECORD THIS EASEMENT IN TIMELY FASHION IN THE OFFICIAL RECORDS OF KANE COUNTY, AND MAY RE-RECORD IT AT ANY TIME AS MAY BE REQUIRED TO PRESERVE ITS RIGHTS IN THIS EASEMENT.

THIS EASEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS, AND ANY LEGAL ACTION CONCERNING THE PROVISIONS HEREOF SHALL BE BROUGHT IN THE COUNTY OF KANE, STATE OF ILLINOIS. THIS EASEMENT MAY ONLY BE MODIFIED UPON WRITTEN AGREEMENT BY THE PARTIES. EXCEPT AS MAY BE EXPRESSLY PROVIDED HEREIN, THERE ARE NO INTENDED THIRD-PARTY BENEFICIARIES TO THIS SIDEWALK EASEMENT.

OWNER'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS

THIS IS TO CERTIFY THAT LLEWELLYN E. GIRMSCHIED AND AMY L. GIRMSCHIED ARE THE OWNER'S OF THE PROPERTY DESCRIBED HEREON AND HAVE CAUSED THE SAME TO BE GRANTED AS SHOWN HEREON FOR THE USES AND PURPOSES THEREIN SET FORTH AND DOES HEREBY APPROVE AND GRANT SAID UTILITY EASEMENT.

DATED AT BATAVIA, ILLINOIS THIS ___ DAY OF _____, A.D., 2023.

BY: _____, BY: _____
LLEWELLYN E. GIRMSCHIED AMY L. GIRMSCHIED

NOTARY PUBLIC

STATE OF ILLINOIS }
COUNTY OF KANE } SS

I, A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT LLEWELLYN E. GIRMSCHIED AND AMY L. GIRMSCHIED, ARE PERSONALLY KNOWN TO ME TO BE THE SAME PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING CERTIFICATE, APPEARED BEFORE ME THIS DAY, IN PERSON, AND ACKNOWLEDGED THAT THEY SIGNED AND DELIVERED THE ANNEXED PLAT FOR THE USES AND PURPOSES THEREIN SET FORTH AS THE FREE AND VOLUNTARY ACT.

GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS ___ DAY OF _____, A.D., 2023.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS THIS IS TO CERTIFY THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF A SIDEWALK EASEMENT PREPARED IN THAT PART OF LOT 14 OF ANDERSON AND JONES SUBDIVISION OF PART OF SECTIONS 21, 22, AND 27 IN TOWNSHIP 39 NORTH RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 12, 1895 AS DOCUMENT NUMBER 19620, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS. ALL DISTANCES ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF.

DATED AT BATAVIA, ILLINOIS THIS ___ DAY OF APRIL, A.D. 2023.

CAROL A. SWEET-JOHNSON
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3342
LICENSE EXPIRATION DATE: NOVEMBER 30, 2024



CITY ENGINEER'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS

I, RAHAT BARI, AS CITY ENGINEER OF THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS, DO HEREBY CERTIFY THAT THIS DOCUMENT IS APPROVED UNDER MY OFFICE ON THIS ___ DAY OF _____, A.D. 2023.

CITY ENGINEER

CITY COUNCIL CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS

APPROVED AND ACCEPTED THIS ___ DAY OF _____, A.D., 2023.

BY: _____
MAYOR

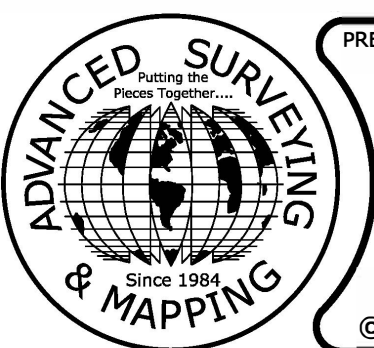
ATTEST: _____
CITY CLERK

RECORDER'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF KANE } SS

THIS INSTRUMENT NO. _____ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF KANE COUNTY, ILLINOIS ON THE ___ DAY OF _____, A.D. 2023, AT ___ O'CLOCK __.M.

BY: _____
COUNTY RECORDER



PREPARED BY:

ASM
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Professional Design Firm#184-006014
Expires 4/30/2023
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PREPARED FOR:

CITY OF BATAVIA
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Batavia, IL 60510