

CITY OF BATAVIA

Date: January 24, 2013
To: City Services Committee
From: Karen R. Young, P.E. – Assistant City Engineer
Engineering Department
Re: **Community Development/City Services Committee Meeting – January 29, 2013**
10-90 N. Island Avenue Easement
– **Resolution 13-18-R –Authorizing Execution of Easement Agreement and Grant of Easement for 10-90 N. Island Avenue**

Attached is Resolution 13-18-R authorizing the Mayor to execute the Easement Agreement and Grant of Easement for 10-90 N. Island Avenue, which is located at the northwest corner of Wilson Street and Island Avenue. This easement area will be utilized as part of the downtown streetscape improvements, which are scheduled to begin this summer. It was determined that this easement would be required at this location in order to increase the sidewalk width within this area and to construct enhancements at this corner. In exchange for this easement, the City will install the streetscape improvements as shown on the attached exhibits.

Please find attached:

- Resolution 13-18-R - Authorizing Execution of Easement Agreement and Grant of Easement for 10-90 N. Island Avenue

Recommended Action:

Staff recommends for the City Services Committee to approve the following:

- Staff recommends approving Authorizing execution of the Easement Agreement and Grant of Easement for 10-90 N. Island Avenue and resolution 13-18-R.

Cc: Noel Basquin, City Engineer

**CITY OF BATAVIA, ILLINOIS
RESOLUTION 13-18-R**

**AUTHORIZING EXECUTION OF EASEMENT AGREEMENT AND
GRANT OF EASEMENT FOR 10-90 N. ISLAND AVENUE**

WHEREAS, the City is planning to make improvements to interconnect the traffic signals and streetscape improvements on Wilson Street (“Project”) that will require use of a portion of property located at 10-90 N. Island Avenue Batavia, IL, (the “Owner’s Property”); and

WHEREAS, the City has negotiated permanent easements from the owners of the property which said project is to be constructed, pursuant to the terms of easement agreements, attached here to as Exhibits 1 and 2; and

WHEREAS, it is in the best interest of the City to enter into such easement agreements.

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

SECTION 1: That the Mayor and City Clerk are hereby authorized to execute the easement agreement for 10-90 N. Island Avenue attached hereto as Exhibits 1 and 2.

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this 4th day of February, 2013.

APPROVED by me as Mayor of said City of Batavia, Illinois, on this 4th day of February, 2013.

Jeffery D. Schielke, Mayor

CITY OF BATAVIA, ILLINOIS RESOLUTION 12-11-R

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Sparks				
2	Dietz					Wolff				
3	Jungels					Chanzit				
4	Volk					Stark				
5	Frydendall					Thelin Atac				
6	Liva					Clark				
7	Tenuta					Brown				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstentions					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Heidi Wetzel, City Clerk

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GRANT OF EASEMENT

This Grant of Easement ("Agreement") made this _____ day of _____, 2012, by and between DINO ALEX, STEVEN ALEX AND ANDY ALEX (hereinafter referred to as "Grantor") and the CITY OF BATAVIA, an Illinois Municipal Corporation (hereinafter referred to as "City").

WHEREAS, Grantor is the owner of a certain real property situated in the City of Batavia, Kane County, Illinois, described in Exhibit A and shown on Exhibit B attached hereto and forming a part hereof ("Easement Parcel"), and is desirous of granting to the City an easement for streetscape purposes, including streetscape enhancements, and the placement of City of Batavia and/or Illinois Department of Transportation equipment on the parcel, as shown on Exhibits C attached hereto and forming a part hereof ("Improvements").

NOW, THEREFORE, in consideration of the acceptance of this grant by the City and for other good and valuable consideration, the Grantor grants to the City a right in, over, along and under the Easement Parcel for the purposes of constructing, replacing, removing, maintaining and using such Parcel for construction and maintenance of the Improvements.

This grant is made on the following terms:

1. The Improvements, or any portion thereof to be constructed, replaced, removed, maintained and used in, over, along and under the Easement Parcel shall be constructed and maintained in a workmanlike manner.
2. City shall, immediately following construction or maintenance of the Improvements and appurtenances, remove or cause to be removed from the Easement Parcel all debris, surplus material, and construction equipment, leaving such Parcel in a neat and presentable condition. The City shall further have a continuing obligation to promptly restore to a level surface any portion of the Easement Parcel that settles.
3. That upon reasonable notice to Grantor (except in case of emergency), the City shall have the right of ingress to and egress from the Easement Parcel for purposes of construction, repair and maintenance, and shall restore any property used for such ingress and egress to its prior condition.

4. The City shall have the right from time to time to trim and cut down and clear away any and all trees and brush now or hereafter on the Easement Parcel or overhanging the Easement Parcel that in the opinion of the City may interfere with the use of the Improvements.

5. The grant of this easement shall not be construed as an agreement by Grantor to alter the location of the building set back line along the westerly boundary of Grantor's Property on which the Easement Parcel is located as it existed immediately prior to the granting of this easement. Furthermore, the City agrees that the building set back line along the western and southern boundary of Grantor's Property shall always be determined as if the easement granted herein did not exist.

6. Grantor reserves the right to use the Easement Parcel for all purposes that will not interfere with the City's full enjoyment of the rights granted by this instrument including, but not limited to,; provided, however, that Grantor shall not erect or construct any building on the Easement Parcel without the prior written consent of the City.

7. The easement described in this instrument is to and shall run with the land and shall be for the benefit and use of and shall be binding upon the Grantor and the City and their respective heirs, administrators, assigns and successors.

8. City agrees to indemnify and save harmless Grantor, its employees, agents officers and beneficiaries from and against any and all claims and demands of third persons (including, but not limited to those for death, for personal injuries or for loss or damage to property) occurring in or arising, directly or indirectly out of or in connection with the use and occupancy of the premises, being a public plaza for the location of the Improvements, including but not limited to work or alterations performed by the City in or to the premises, the activities conducted on the Easement Parcel or temporary construction easement located adjacent thereto, premises or as a result of any acts, omissions, or negligence of the City or their respective contractors, licensees, invitees, agents, servants, employees or other persons on or about the premises and from and against all costs, expenses and liability occurring in or in connection with any such claim or proceeding brought

thereon, excepting those related or arising from acts of the Grantor.

CITY OF BATAVIA

By _____
Mayor


ATTEST:

City Clerk

DINO ALEX, STEVEN ALEX & ANDY ALEX

By 
Dino Alex

Date: _____

By 
Steven Alex

Date: 11-9-12

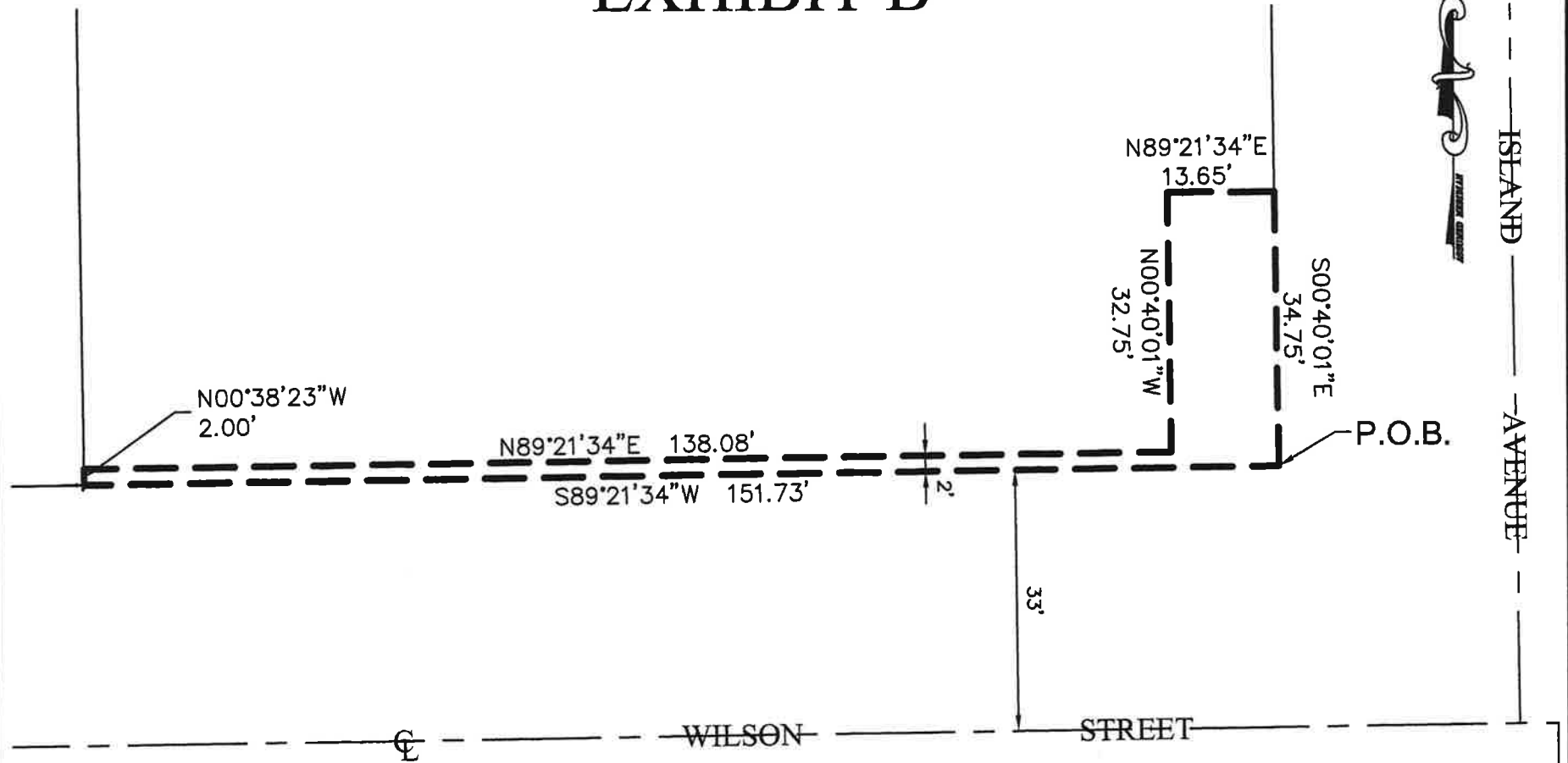
By 
Andy Alex

Date: 11/9/12

EXHIBIT A

THAT PART OF THE NORTH EAST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE NORTH LINE OF WILSON STREET WITH THE WEST LINE OF ISLAND AVENUE, AS DEDICATED BY DOCUMENT 421148; THENCE SOUTH 89 DEGREES 21 MINUTES 34 SECONDS WEST ALONG SAID NORTH LINE, 151.73 FEET TO THE SOUTHEAST CORNER OF THE LAND CONVEYED BY DOCUMENT 2011K008424; THENCE NORTH 00 DEGREES 38 MINUTES 23 SECONDS WEST ALONG THE EAST LINE OF SAID LAND CONVEYED BY DOCUMENT 2011K008424, A DISTANCE OF 2.00 FEET TO A LINE PARALLEL WITH AND 2.00 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID MAIN STREET; THENCE NORTH 89 DEGREES 21 MINUTES 34 SECONDS EAST ALONG SAID PARALLEL LINE, 138.08 FEET TO A LINE PARALLEL WITH AND 13.65 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO, THE WEST LINE OF SAID ISLAND AVENUE; THENCE NORTH 00 DEGREES 40 MINUTES 01 SECONDS WEST ALONG SAID PARALLEL LINE, 32.75 FEET; THENCE NORTH 89 DEGREES 21 MINUTES 34 SECONDS EAST PARALLEL WITH THE NORTH LINE OF SAID WILSON STREET, 13.65 FEET TO THE SAID WEST LINE; THENCE SOUTH 00 DEGREES 40 MINUTES 01 SECONDS EAST ALONG SAID WEST LINE, 34.75 FEET TO THE POINT OF BEGINNING; IN KANE COUNTY, ILLINOIS.

EXHIBIT B

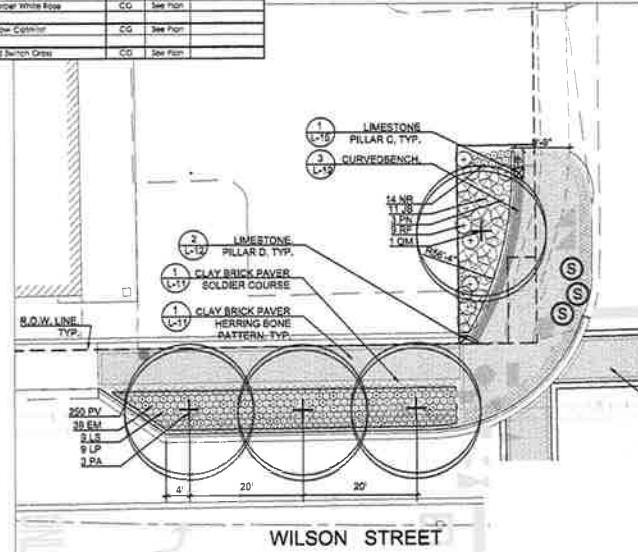


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SCALE: 1" = 20'	DATE: 7-7-12	DRAWN BY MRA	PC N/A		CLIENT	PROJECT	REVISIONS	DATE	BY
1 OF 1	CHECKED BY DW	BOOK N/A	PG N/A		CITY OF BATAVIA	SIGNAL EASEMENT	PER LEGAL	8-21-12	MRA
PROJ. NO: 12.0167	2631 GINGER WOODS PARKWAY, STE. 100 AURORA, IL 60502 PHONE: (630) 820-9100 FAX: (630) 820-7030				100 NORTH ISLAND AVENUE BATAVIA, ILLINOIS 60510	WILSON STREET BATAVIA, ILLINOIS			

EXHIBIT C

WILSON & ISLAND (NW CORNER) PLANT SCHEDULE							
Plant Code	Qty	Size	Botanical Name	Common Name	Form	Spacing	Comments
Trees							
GM	2	2"	Quercus macrocarpa	Red Oak	S&S	See Plan	
Shrubs							
JB	#3	#3	Lythrum virginicum 'Blue Mountain'	Blue Mountain Lythrum	CG	See Plan	
AF	#5	#5	Rosa 'New Dawn'	New Dawn Rose	CG	See Plan	
Perennials							
NR	#1	#1	Hesperis matronalis 'Walter's Low'	Walter's Low Catchfly	CG	See Plan	
Grasses							
FW	#1	#1	Panicum virgatum 'Northwind'	Northwind Switch Grass	CG	See Plan	

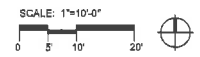


LEGEND

- PROPOSED SHADE TREE
- PROPOSED SHRUBS
- CONCRETE PAVEMENT (SEE ENG)
- CLAY BRICK PAVERS
- CLAY BRICK PAVEMENT SOLDIER COURSE (SEE PLAN)
- TRUNCATED DOME CLAY BRICK PAVEMENT
- BRICK PAVEMENT CROSSWALK (SEE ENG)
- BACKED BENCHES
-
-
- LITTER RECEPTACLE
- RECYCLING LITTER RECEPTACLE
- BIKE RACKS

WILSON STREET MASTER PLANT SCHEDULE							
Plant Code	Qty	Size	Botanical Name	Common Name	Form	Spacing	Comments
Trees							
CO	2	2"	Cornus alternifolia 'Kosmopolitan'	Kosmopolitan Dogwood	S&S	See Plan	
GM	2	2"	Quercus macrocarpa	Red Oak	S&S	See Plan	Note only
GIT	2	2"	Quercus macrocarpa	Red Oak	S&S	See Plan	
FA	2	2"	Asplenium platyneuron	Rock Spleenwort	S&S	See Plan	
GM	2	2"	Quercus macrocarpa	Red Oak	S&S	See Plan	
BF	2	2"	Beta vulgaris 'Redbeet'	Redbeet	S&S	See Plan	
FF	2	2"	Fragaria virginiana	Wild Strawberry	S&S	See Plan	Backup
BT	2	2"	Beta vulgaris 'Redbeet'	Redbeet	S&S	See Plan	propagation only
Shrubs							
EA	#3	#3	Elaeagnus 'Winter Gold'	Winter Gold	CG	See Plan	
BF	#5	#5	Beta vulgaris 'Redbeet'	Redbeet	CG	See Plan	
Perennials							
AL	#1	#1	Alumina 'Summer Beauty'	Summer Beauty Alumina	CG	15' O.C.	
CN	#1	#1	Cornus 'Nana'	Nana Cornus	CG	15' O.C.	
DI	#1	#1	Diandra virginiana	Wild Yam	CG	15' O.C.	
EM	#1	#1	Erigeron phillyriae 'New Day'	New Day Erigeron	CG	15' O.C.	
IF	#1	#1	Impatiens 'Fiesta'	Fiesta Impatiens	CG	15' O.C.	
HP	#1	#1	Hesperis matronalis	Walter's Low Catchfly	CG	15' O.C.	
LP	#1	#1	Lupinus 'Fiesta'	Fiesta Lupine	CG	15' O.C.	
NR	#1	#1	Nasturtium officinale	Watercress	CG	15' O.C.	
NE	#1	#1	Nepenthes 'Walter's Low'	Walter's Low Pitcher Plant	CG	15' O.C.	
IZ	#1	#1	Iris 'Nana'	Nana Iris	CG	15' O.C.	
Grasses							
FW	Over	Over	Panicum virgatum 'Northwind'	Northwind Switch Grass	CG	15' O.C.	
FA	Over	Over	Asplenium platyneuron	Rock Spleenwort	CG	15' O.C.	

1 ENLARGEMENT PLAN 1 (ISLAND AVE. INTERSECTION)
SCALE 1"=10'-0"



FILE NAME =	USER NAME	DESIGNED -- JB & JM	REVISED --
SPLCS		DRAWN -- JO & SM	REVISED --
		CHECKED -- JB	REVISED --
		DATE -- 06.24.2012	REVISED --

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

LANDSCAPE ENLARGEMENT PLAN
WILSON STREET STA. 60+40.00 TO 62+25.72

SCALE SHOWN	SHEET	OF	SHEETS	STA.	TO	SECTION	COUNTY	CONTRACT NO.
1"=10'-0"	1	1		60+40.00	62+25.72			

ILLINOIS FEDERAL PROJECT

THE CITY OF BATAVIA

EASEMENT AGREEMENT

This Agreement for the dedication of an easement from the DINO ALEX, STEVEN ALEX, ANDY ALEX (collectively the "Owner") to the City of Batavia ("City") is entered into this _____ day of _____, 2012.

WHEREAS, the City is planning to make improvements to the downtown streetscape on Wilson Street ("Project") and desires to use of a portion of the Owner's property located at 10-90 N. Island Avenue Batavia, IL, (the "Owner's Property") for the Project, including streetscape enhancements, and the placement of City of Batavia and/or Illinois Department of Transportation equipment on the Owner's Property; and

WHEREAS, the Owner desires to dedicate an easement on a portion of his Property to the City for streetscape enhancements, including the placement of City of Batavia and/or Illinois Department of Transportation equipment, subject to certain conditions; and

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

NOW, THEREFORE, be it resolved by the Mayor and the Council of the City of Batavia, Kane County and DuPage County, Illinois, as follows:

1. The recitals set forth above are incorporated as if fully stated herein as a material term of this Agreement.

2. The Property Owners hereby dedicates and the City hereby accepts the dedication to the City of an easement on that portion of the Owner's Property identified by PIN No. 12-22-252-013, which portion is legally described in the instrument attached hereto as Exhibit A and shown on Exhibit B for streetscape enhancements, including the placement of City of Batavia and/or Illinois Department of Transportation equipment ("Easement") subject to the following conditions:

A. In exchange for the Dedication, the City shall construct streetscape improvements on the Owner's Property in conformance with the plan attached hereto as Exhibit C at the time the City undertakes the Project.

B. The Owners shall sign and the City shall record the Grant of Easement in the form attached hereto as Exhibit D, and from and after the recording of the Grant of Easement, the City shall have the exclusive use of the Easement for the purposes stated herein; and

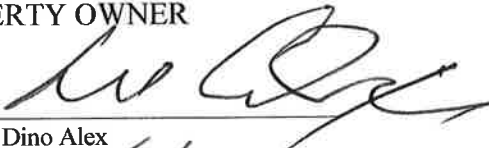
C. The Owner hereby authorizes the City to use a portion of the Owner's Property adjacent to the as a temporary construction easement, and when the Project is completed, the City shall restore that portion the Owner's Property used as a temporary construction easement to its original condition.

D. From and after the completion of the Project, the City shall be exclusively responsible for the maintenance of the Easement.

IN WITNESS WHEREOF, this Agreement is approved by

PROPERTY OWNER

THE CITY OF BATAVIA

By 
Dino Alex

Date: 11/9/12

By its _____

By 
Steven Alex

Date: 11-9-12

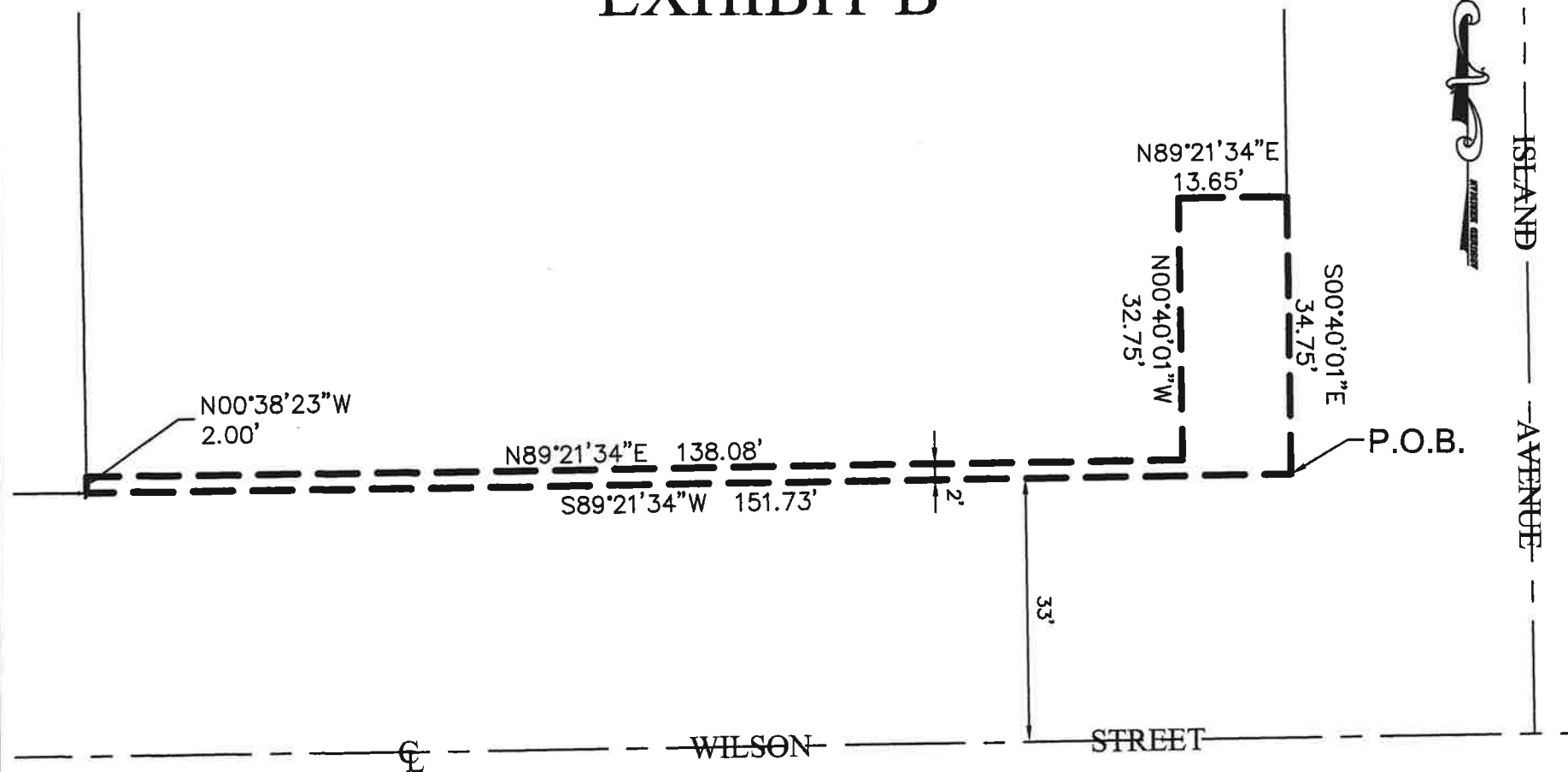
By 
Andy Alex

Date: 11/9/12

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EXHIBIT B
















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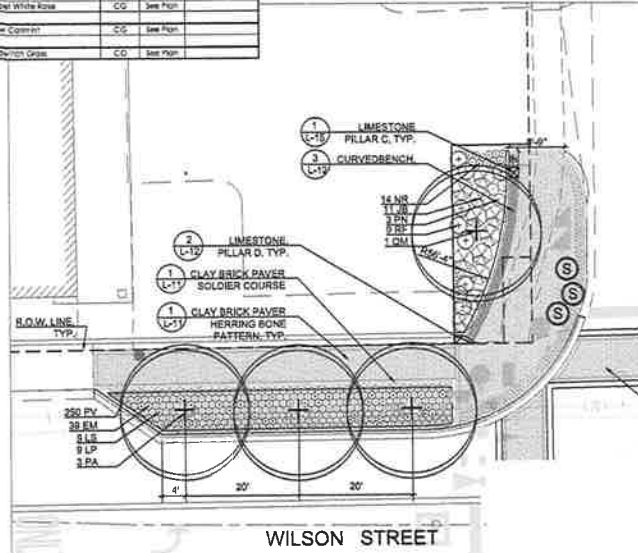
SCALE: 1" = 20'	DATE: 7-7-12	DRAWN BY MRA	PC N/A		CLIENT	PROJECT	REVISIONS	DATE	BY
1 OF 1	CHECKED BY DW	BOOK N/A	PG N/A		CITY OF BATAVIA	SIGNAL EASEMENT	PER LEGAL	8-21-12	MRA
PROJ NO: 12.0167	2631 GINGER WOODS PARKWAY, STE. 100 AURORA, IL 60502				100 NORTH ISLAND AVENUE BATAVIA, ILLINOIS 60510				
	PHONE: (630) 820-9100 FAX: (630) 820-7030				WILSON STREET BATAVIA, ILLINOIS				

EXHIBIT C

WILSON & ISLAND (NW CORNER) PLANT SCHEDULE							
Plant Code	Qty	Size	Botanical Name	Common Name	Form	Spacing	Comments
Trees							
GM	7	2"	Quercus macrocarpa	Bur Oak	SA3	See Plan	
Shrubs							
JB	#2		Juniperus virginiana 'Blue Mountain'	Blue Mountain Juniper	CG	See Plan	
RF	#3		Rosa 'Flower Carpet White'	Flower Carpet White Rose	CG	See Plan	
Perennials							
NS	#1		Hebe x exoniifolia 'Walker's Low'	Walker's Low Hebe	CG	See Plan	
Grasses							
PV	#1		Panicum virgatum 'Nashwood'	Nashwood Switch Grass	CG	See Plan	

LEGEND

-  PROPOSED SHADE TREE
-  PROPOSED SHRUBS
-  CONCRETE PAVEMENT (SEE ENG)
-  CLAY BRICK PAVERS
-  CLAY BRICK PAVER SOLDIER COURSE (SEE PLAN)
-  TRUNCATED DOME CLAY BRICK PAVER
-  BRICK PAVER CROSSWALK (SEE ENG)
-  BACKED BENCHES
-  30" HEIGHT PRECAST PLANTERS
-  18" HEIGHT PRECAST PLANTERS
-  LITTER RECEPTACLE
-  RECYCLING LITTER RECEPTACLE
-  BIKE RACKS



WILSON STREET

1 ENLARGEMENT PLAN 1 (ISLAND AVE. INTERSECTION)
SCALE: 1"=10'-0"

WILSON STREET MASTER PLANT SCHEDULE							
Plant Code	Qty	Size	Botanical Name	Common Name	Form	Spacing	Comments
Trees							
GD	7	2"	Quercus macrocarpa	Bur Oak	SA3	See Plan	
GM	7	2"	Quercus macrocarpa	Bur Oak	SA3	See Plan	
GT	7	2"	Quercus macrocarpa var. prinus	Prinus Oak	SA3	See Plan	
PA	7	2"	Quercus macrocarpa	Bur Oak	SA3	See Plan	
GM	7	2"	Quercus macrocarpa	Bur Oak	SA3	See Plan	
RF	7	2"	Rosa 'Flower Carpet White'	Flower Carpet White Rose	CG	See Plan	
NS	7	2"	Hebe x exoniifolia 'Walker's Low'	Walker's Low Hebe	CG	See Plan	
JB	7	2"	Juniperus virginiana 'Blue Mountain'	Blue Mountain Juniper	CG	See Plan	
Shrubs							
BA	#3		Buxus sempervirens 'Green Leaf'	Green Leaf Boxwood	CG	See Plan	
RF	#3		Rosa 'Flower Carpet White'	Flower Carpet White Rose	CG	See Plan	
Perennials							
AS	#1		Asplenium nidus	Nerve Plant	CG	12' O.C.	
CM	#1		Chamaecrista nictitans	Black-eyed Susan	CG	12' O.C.	
CP	#1		Coreopsis grandiflora	Large-flowered Coreopsis	CG	12' O.C.	
EM	#1		Erigeron philadelphicus	Philadelphia Fleabane	CG	12' O.C.	
EP	#1		Erigeron philadelphicus	Philadelphia Fleabane	CG	12' O.C.	
HO	#1		Hebe x exoniifolia 'Walker's Low'	Walker's Low Hebe	CG	12' O.C.	
LP	#1		Lupinus albus	White Lupine	CG	12' O.C.	
LS	#1		Lupinus albus	White Lupine	CG	12' O.C.	
NS	#1		Hebe x exoniifolia 'Walker's Low'	Walker's Low Hebe	CG	12' O.C.	
SI	#1		Salix alba 'Aurea'	Golden Willow	CG	12' O.C.	
Grasses							
PV	1		Panicum virgatum 'Nashwood'	Nashwood Switch Grass	CG	12' O.C.	
SA	1		Stipa capensis	Stipa Grass	CG	12' O.C.	

FILE NAME =	WILC13	USER NAME =	DESIGNED -- JB & JM	REVISED --
			DRAWN -- JC & SM	REVISED --
			CHECKED -- JB	REVISED --
			DATE -- 08.24.2012	REVISED --

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

LANDSCAPE ENLARGEMENT PLAN
WILSON STREET STA. 60+40.00 TO 62+23.72

SCALE: SHOWN SHEET 08 SHEETS: STA. TO STA.



SECTION	COUNTY	DATE	SHEET NO.
			08
CONTRACT NO.		PROJECT	