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**THIS INSTRUMENT WAS PREPARED**

**BY:**

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Chicago, IL 60606  
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Doc#: 0826218085 Fee: \$54.00  
Eugene "Gene" Moore  
Cook County Recorder of Deeds  
Date: 09/18/2008 02:35 PM Pg: 1 of 10

**AFTER RECORDING RETURN TO:**

**RECORDER'S BOX 324**

[The above space for Recorder's Office]

(#24)

## LANDOWNER AGREEMENT AND TEMPORARY GRADING EASEMENT

THIS LANDOWNER AGREEMENT AND TEMPORARY GRADING EASEMENT is dated as of AUGUST 19, 2008 (the "Agreement") and is made by and between WHEELING PARK DISTRICT (the "Grantor") and the VILLAGE OF WHEELING, AN ILLINOIS MUNICIPAL CORPORATION (the "Grantee"). The Grantor and Grantee sometimes together referred to herein as "Parties".

### RECITALS:

The following recitals of fact are a material part of this instrument:

A. The Grantee is in the process of planning, constructing and installing a sediment control and stabilization project utilizing both structural and bio-technical techniques to stabilize and enhance, reduce loss of real estate, and improve water quality and aquatic habitat in Buffalo Creek (the "Buffalo Creek") which runs, in part, along certain lots within the Village of Wheeling, Illinois, and which suffers from slight to severe bank erosion and downcutting as a result of increased stormwater runoff frequency, volumes and velocities. The foregoing project is hereinafter referred to as the "Buffalo Creek Streambank Stabilization Project."

B. In connection with the Buffalo Creek Streambank Stabilization Project, the Grantee will be utilizing a 60 foot easement for drainage purposes as shown on the Resubdivision Plat of Hollywood Ridge Unit 3 Subdivision, which plat was recorded in the Recorder of Deeds of Cook County on March 10, 1961, as Document Number 18106287, Book 587 of Plats, Page 39 (hereinafter referred to as the "Recorded Drainage Easement"), a portion of which is located on Grantor's Property and shown in EXHIBIT B-2, attached hereto and made a part hereof.

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C. The Grantee requires a temporary grading easement from the Grantor as the fee simple owner of the real property located in the Village of Wheeling, Cook County, Illinois, and legally described in EXHIBIT A, attached hereto and made a part hereof, and that the Grantor execute and deliver this Agreement to Grantee in connection with the installation, construction and repair of Buffalo Creek by the Grantee.

NOW, THEREFORE, in consideration of ten dollars (\$10.00) and other good and valuable consideration set forth in this Agreement, including the benefits that the Parties will derive from the improvements to be made to Buffalo Creek so as to preserve the natural aesthetics and function as an erosion and sediment control structure in connection with the Buffalo Creek Streambank Stabilization Project, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Grantor is the fee simple owner of a tract of land located in the Village of Wheeling, Cook County, Illinois and legally described in EXHIBIT A, attached hereto and made a part hereof (hereinafter referred to as the "Grantor's Property").

2. In connection with the Recorded Drainage Easement, existing elevations on that portion of the remaining Grantor's Property which abuts the Recorded Drainage Easement will need to be graded to the Recorded Drainage Easement so as to avoid damage to the Recorded Drainage Easement and the remaining Grantor's Property. Therefore, the Grantor hereby grants, releases, conveys, assigns and quit claims unto the Grantee, and the Grantee accepts, a temporary non-exclusive easement for the right, privilege and authority to do grading on the remaining Grantor's Property (the "Temporary Grading Easement") in, on, upon, over, through, across and under a portion of Grantor's Property, which portion is legally described in EXHIBIT B-1 attached hereto and a part hereof and in the location shown in the Landowner Exhibit attached hereto and made a part hereof as EXHIBIT B-2 (the "Temporary Grading Easement Premises"), including the right to cut, trim, or remove any trees, shrubs, brushes, roots, saplings and other plants and to clear obstructions from the surface and subsurface of and within the Temporary Grading Easement Premises, which interfere with the proposed grading. The foregoing Temporary Grading Easement shall terminate on the later of the following events (i) the completion of the construction contemplated by this Agreement and (ii) three (3) years from the date of the recording of this Agreement.

3. The Grantee will have the following rights in connection with the Recorded Drainage Easement: the right, privilege and authority to do the following things: clear, trench, construct, install, reconstruct, replace, remove, repair, alter, inspect, maintain, operate, including the moving of equipment and vehicles, including but not limited to planting of native grasses and wildflowers, all in accordance with Buffalo Creek Streambank Stabilization Project, in, on, upon, over, through, across and under the Recorded Drainage Easement, including the right to cut, trim, or remove any trees, shrubs, brushes, roots, saplings and other plants and to clear obstructions from the surface and subsurface of and within the Recorded Drainage Easement, which interfere with the construction, installation, reconstruction, repair, removal, replacement,

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maintenance and operation of the Buffalo Creek and facilities appurtenant and the right to replace the foregoing with native grasses and wildflowers.

4. The grant of all easement rights described in Paragraphs 2 and 3 above (hereinafter referred collectively as the "Easements") to Grantee shall be subject to the following conditions:

- a. The Grantor reserves the right of access across the Easements;
- b. All construction by any entity within the Easements shall be performed in accordance with the various requirements of the ordinances and regulations of the Village of Wheeling;
- c. Grantor reserves the right to make or permit any use of the Easements whether on, above or below its surface for any lawful purpose except that any structure or use shall not interfere with the rights herein granted; and
- d. Grantor shall have the right to install landscaping, gardens, shrubs, driveways, sidewalks parking lots, ingress and egress roadways on the Easements that do not then or later conflict with the aforesaid uses or rights.

5. The Grantor will do nothing that would disturb, molest, injure, damage or in any manner interfere with the operation, repair and maintenance of the Recorded Drainage Easement and will not change, interfere with, alter, build, plant vegetation including, but not limited to gardens, flowers, shrubs, bushes, trees and that no temporary or permanent buildings, structures or obstructions shall be constructed in, upon, or over the Recorded Drainage Easement and will not change, by any means, the topography or grade management within the Recorded Drainage Easement.

6. Grantee shall be solely responsible for and shall perform or cause to be performed, at its sole cost and expense, any and all repairs, maintenance, replacements, upgrades to the labor or materials used, provided, installed or improvements made as part of the Buffalo Creek Streambank Stabilization Project. Grantor shall not be required to notify Grantee of any needed repair work, however, in the event Grantor should discover any damage to the Recorded Drainage Easement, Grantor shall endeavor to notify the Grantee to allow the Grantee to cause the immediate repair or maintenance of the Recorded Drainage Easement so as to preserve the standards of the Buffalo Creek Streambank Stabilization Project.

7. The Grantor agrees to and with the Grantee that the officers, agents or employees of the Grantee, whenever elected, appointed or hired, may at any and all times designated herein, when necessary and convenient to do so, go in, on, upon, over and across the Recorded Drainage Easement and the Temporary Grading Easement, and do and perform any and all acts necessary or convenient to the carrying into effect

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the purposes for which the Recorded Drainage Easement and Temporary Grading Easement were created and granted.

8. The Grantee, its agents and employees, successors, grantees, lessees and assigns shall at its sole cost and expense, as soon as practicable after construction of the Buffalo Creek Streambank Stabilization Project and activities incidental thereto, and again after each subsequent maintenance, alteration and/or repair activities thereunto, restore to its former condition any portion of the Grantor's Property (exclusive of the Recorded Drainage Easement) which may have been disturbed or altered in any manner by the rights herein granted to Grantee.

9. Grantee shall defend and hold Grantor harmless from any and all claims, causes of actions, damages, lawsuits and/or administrative proceedings now or hereafter existing and resulting from Grantee's use of the Easements in connection with the rights exercised by the Grantee under this Agreement except for any claims, causes of actions, damages lawsuits and/or administrative proceedings to the extent caused by or resulting from the negligent or wrongful conduct of the Grantor, its officers, employees and agents. In addition, Grantee shall name, or cause any contractor hired to perform any work on the Easements, the Grantor as an additional insured by any contractor retained to perform any work on the easements rights granted herein related to the Buffalo Creek Streambank Stabilization Project.

10. All work, labor, services, equipment, tools and materials to be performed, furnished or used directly or indirectly in, or in connection with, the clearing, trenching, constructing, installing, reconstructing, replacing, removing, maintaining, altering, inspecting, repairing and/or operating the easements created hereby and activities incidental thereto, and all other matters and things to be performed, furnished or used, or expenses to be paid under this Agreement are to be at the sole cost and expense of the Grantee.

11. The terms "Grantor" and "Grantee" as used herein shall be deemed to include any and all successors, assigns or legal representatives. Grantee shall not assign this Agreement without the prior express written consent of the Board of Park Commissioners of the Grantor, which consent shall not be unreasonably withheld.

12. This Agreement shall run with the land, both as respects to benefits and burdens created herein, and shall be binding upon and inure to the benefit of the Grantor and Grantee and their respective successors, assigns or legal representatives.

13. This Agreement shall be governed, interpreted, construed, and enforced in accordance with the laws of the State of Illinois.

14. This Agreement may only be modified, amended or abrogated by a written agreement between the Parties that is properly executed, notarized and recorded in the Office of the Recorder of Deeds of Cook County, Illinois and the fee for such recording shall be paid by the Grantee.

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15. This Agreement shall be recorded in the Office of the Recorder of Deeds of Cook County, Illinois by the Grantee. The fee for recording this Agreement shall be paid by the Grantee.

16. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the Grantor and Grantee relating to the subject matter hereof, except as provided in this Agreement.

**[THE REMAINDER OF THE PAGE REMAINS BLANK]**



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The undersigned have executed this Agreement as of the day, month and year first above written.

**GRANTOR:**

**WHEELING PARK DISTRICT**

By: *Thomas R. Webber*  
Name: THOMAS R. WEBBER  
Title: PRESIDENT

**GRANTEE:**

**VILLAGE WHEELING,  
AN ILLINOIS MUNICIPAL CORPORATION**

By: *Patrick A. Horcher*  
Name: Patrick A. Horcher  
Title: Acting Village President

**ATTEST:**

By: *Jan Buchs*  
Name: JAN BUCHS  
Title: BOARD SECRETARY

**ATTEST:**

By: *Elaine E. Simpson*  
Name: Elaine E. Simpson  
Title: Village Clerk



[INSERT VILLAGE SEAL ABOVE]

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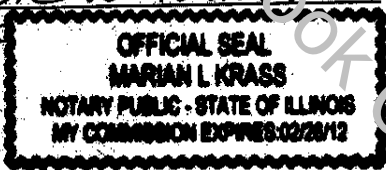
STATE OF ILLINOIS )  
 )  
 ) ss.  
COUNTIES OF ~~COOK~~ LAKE )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that THOMAS R. WEBBER and JAN BUCHS, as PRESIDENT and BOARD SECRETARY respectively of the **WHEELING PARK DISTRICT** (the "DISTRICT") personally known to be the same persons whose names are subscribed to the foregoing instrument, and that they appeared before me this day in person and severally acknowledged that as such PRESIDENT and BOARD SECRETARY, they signed and delivered the said instrument as the PRESIDENT and BOARD SECRETARY pursuant to authority given by the **District Board of Trustees**, and as their free and voluntary act, and as the free and voluntary act and deed of the **District**, for the uses and purposes therein set forth, and that BOARD SECRETARY, as custodian of the corporate seal of the **District**, has caused the seal to be affixed thereto.

GIVEN under my hand and official seal, this 19<sup>th</sup> day of August, 2008.

Marian L. Krass  
Notary Public

02/26/12  
Commission Expiration



STATE OF ILLINOIS )  
 )  
 ) ss.  
COUNTIES OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Patrick A. Horcher and Elaine E. Simpson, as **Acting Village President** and **Village Clerk** respectively of the **VILLAGE OF WHEELING, AN ILLINOIS MUNICIPAL CORPORATION**, (the "Village") personally known to be the same persons whose names are subscribed to the foregoing instrument, and that they appeared before me this day in person and severally acknowledged that as such **Acting Village President** and **Village Clerk**, they signed and delivered the said instrument as the **Acting Village President** and **Village Clerk** pursuant to authority given by the **Village Board of Trustees**, and as their free and voluntary act, and as the free and voluntary act and deed of the **Village**, for the uses and purposes therein set forth, and that **Village Clerk**, as custodian of the corporate seal of the **Village**, has caused the seal to be affixed thereto.

GIVEN under my hand and official seal, this 19<sup>th</sup> day of August, 2008.

Christine Brady  
Notary Public

10-4-09  
Commission Expiration



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## EXHIBIT A

(Legal Description of Grantor's Property)

LOT 330 IN HOLLYWOOD RIDGE UNIT NUMBER 3, BEING A RESUBDIVISION IN SECTION 3 AND 4, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

ADDRESS: 1024 VALLEY STREAM DRIVE, WHEELING, IL

PIN: 03-03-301-033-0000

Property of Cook County Clerk's Office



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## EXHIBIT B-1

(Legal description of Temporary Grading Easement Premises)

THAT PART OF LOT 330 IN HOLLYWOOD RIDGE UNIT 3, BEING A RESUBDIVISION IN SECTIONS 3 AND 4, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, AS RECORDED ON MARCH 10, 1961 PER DOCUMENT NUMBER 18106287, BEING A 10 FOOT STRIP OF LAND LYING SOUTHWESTERLY OF AND ADJOINING THE SOUTHWESTERLY LINE OF THE EXISTING DRAINAGE EASEMENT AS SHOWN AND GRANTED BY SAID PLAT OF RESUBDIVISION

ADDRESS: PART OF 1024 VALLEY STREAM DRIVE, WHEELING, IL


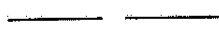
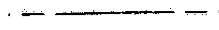

PIN: PART OF 03-03-001-033-0000

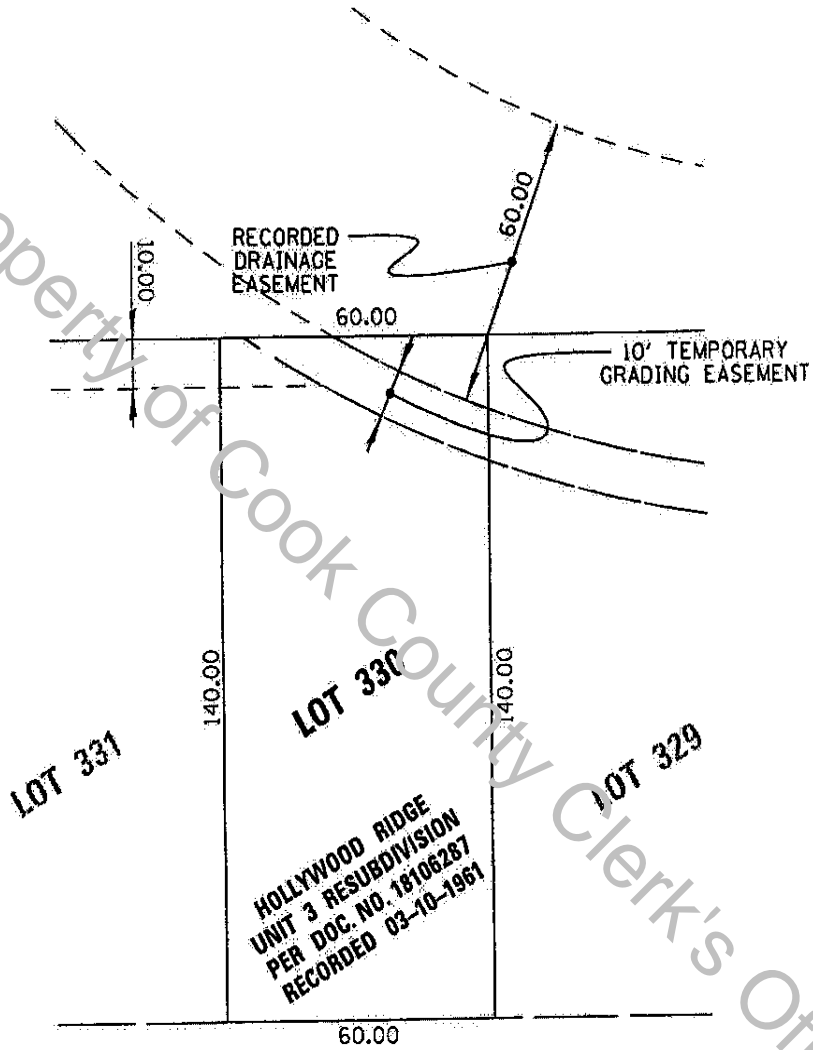
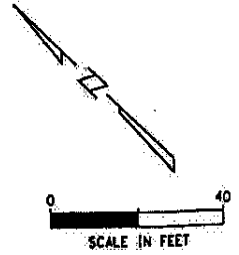
# UNOFFICIAL COPY EXHIBIT 8-2

#24

## LANDOWNER EXHIBIT

### LEGEND

-  PROPERTY LINE
-  R.O.W. LINE
-  BUILDING SETBACK LINE
-  EASEMENT LINE



### VALLEY STREAM DRIVE

ADDRESS: 1024 VALLEY STREAM DRIVE, WHEELING, ILLINOIS

PIN: 03-03-301-033-0000

 <b>CHRISTOPHER B. BURKE</b> ENGINEERING, LTD. 9575 West Higgins Road Suite 600, Rosemont, Illinois 60018 (847) 823-0500	<b>LANDOWNER EXHIBIT</b>		CALC.    JRM DWN.    AJK	PROJECT NO. 040728BG003
	IN VILLAGE OF WHEELING, ILLINOIS		CHKD.    KJR	SHEET 1 OF 1
	PREPARED FOR VILLAGE OF WHEELING		SCALE:    1" = 40'	DRAWING NO. TEMP LOT 330
			DATE:    10-15-07	