

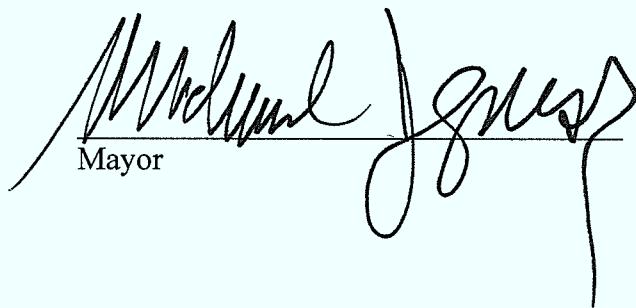
## RESOLUTION R-81-09

### A RESOLUTION AUTHORIZING THE EXECUTION OF A CERTAIN CONSTRUCTION, USE, AND INDEMNIFICATION AGREEMENT

#### SUBDIVISION IDENTIFICATION SIGNS STONEHEDGE SUBDIVISION

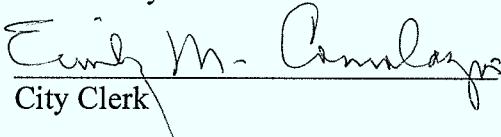
BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is authorized to sign a certain Construction, Use and Indemnification Agreement dated December 7, 2009, between the City of Wheaton and the Stonehedge Community Homeowners Association, Wheaton, Illinois, and the City Clerk is authorized to attest to the signature of the Mayor.

ADOPTED this 7th day of December, 2009.



\_\_\_\_\_  
Mayor

Attested by:



\_\_\_\_\_  
Emily M. Cannaday  
City Clerk

#### Roll Call Vote

Ayes:	Councilman Levine Councilman Mouhelis Mayor Gresk Councilman Prendiville Councilman Scalzo Councilman Suess Councilwoman Corry
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Nays:	None
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Absent:	None
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Motion Carried Unanimously

**CONSTRUCTION, LICENCE AND INDEMNIFICATION  
AGREEMENT**

**SUBDIVISION IDENTIFICATION SIGNS  
STONEHEDGE SUBDIVISION**

THIS CONSTRUCTION, LICENSE AND INDEMNIFICATION AGREEMENT, made and entered into this 7<sup>th</sup> day of December, 2009, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and the Stonehedge Community Homeowners Association ("SCHA").

**WITNESSETH**

WHEREAS, the City is in possesses, control and owns the public rights-of way at Cromwell Drive near its intersection with Butterfield Road, and at the intersection of Orchard and Brighton Drive, (jointly the "Subject Properties") which lie within the City limits of the City of Wheaton, Illinois, and legally described herein; and

WHEREAS, the SCHA is seeking to erect a subdivision identification sign within the Subject Properties; and

WHEREAS, the SCHA acknowledges that this Agreement is not an easement and does not vest them with any property rights or claims to any portion of the Subject Properties.

NOW, THEREFORE, BE IT AND HEREBY AGREED by the City Council of the City of Wheaton, an Illinois municipal corporation, and the Stonehedge Community Homeowners Association as follows:

1.) The foregoing recitals are incorporated herein as representing the intent of the undersigned and as substantive representations and covenants.

2.) The SCHA, for a consideration of Ten Dollars (\$10.00) and other good and valuable consideration as stated herein, is hereby granted license to erect and maintain subdivision identification signs on the Subject Properties in strict conformance with the plans entitled "Stonehedge Community Homeowners Association Proposed Entrance Signs – Wheaton, Illinois Sheet A-1 dated 9/25/09 and revised 10/27/09 and Sheets A-2 and A-3 dated 9/25/09, which are attached hereto and incorporated herein as if fully set forth.

3.) Upon completion, of the installation of the signs, SCHA shall maintain the signs in good condition and repair. If the SCHA fails to maintain the signs as required by this paragraph, the City shall have the right but not the obligation to repair or remove one or both of the signs and SCHA shall become liable to the City for all costs and expenses associated with their repair or demolition. If the City undertakes any legal activity to requesting or requiring SCHA to maintain or demolish the one or both of the signs based on lack of maintenance pursuant to this section SCHA shall be liable to the City for its attorney's fees and expenses. If SCHA elects to light or otherwise electrify the sign it shall be responsible to reimburse the City for the electrical costs and expenses.

4.) The City retains the right to enter the Subject Properties for any purpose. If the City performs work or activities on the Subject Properties, the SCHA shall restore one or both of them at their sole cost and expense. In the case of public emergency, if it is deemed necessary by the City shall have the right to damage or immediately demolish either sign without any liability.

5.) The City may terminate and cancel this Agreement together with all rights and privileges granted hereunder, by notifying the SCHA in writing at least ninety (90) days prior to termination.

6.) Upon termination of this Agreement, the City may destroy, demolish or remove either sign which has been placed within the Subject Properties by the SCHA without any liability.

7.) To the greatest extent permitted under Illinois law, SCHA shall defend, indemnify and hold the City harmless from any and all claims, actions, causes of action, costs, judgments, injuries, property damage, expenses (including reasonable attorney's and experts fees which arise of may be caused by the negligence of the SCHA, or SCHA agents, as a result of the design, construction, maintenance, use or abandonment of either sign or appurtenances described herein.

8.) This Agreement is a license and not an easement. It does not establish a leasehold or other interest in real estate. Should any court of competent jurisdiction rules that this agreement establishes an easement or leasehold it shall be temporary and terminate five business days after such ruling.

9.) The provisions set forth in this Agreement and exhibit represent the entire Agreement between the parties and shall proceed all prior agreements, contracts, understandings, promises and representations, oral or written, as it is the intent of the parties to provide for a complete integration within the terms of this Agreement. This Agreement may be modified only by a further written Agreement between the parties, and no modification shall be effective unless properly approved and signed by each party.

10.) This Agreement shall be binding upon the parties their respective heirs, successors and assigns.

11.) This Agreement shall be recorded in the Office of the Record of Deeds, DuPage County, Illinois, at the expense of the SCHA.

IN WITNESS WHEREOF, the Corporate authorities and the SCHA have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here all on the date and year first above written.

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Mayor, City of Wheaton

Attested by:

Emily M. Connolly  
City Clerk

\_\_\_\_\_  
Stonehedge Community Homeowners Association  
BRUCE MITROFF, PRESIDENT

Attested by:

Lena Wainwright

