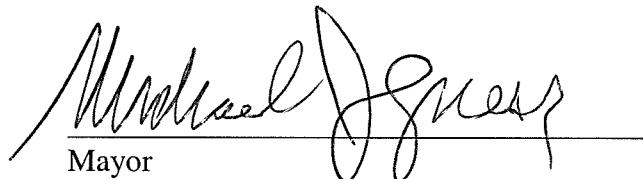


RESOLUTION R-71-12

A RESOLUTION AUTHORIZING THE EXECUTION OF A CERTAIN CONSTRUCTION, USE, AND INDEMNIFICATION AGREEMENT (2051 Hallmark Court)

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 August 16, 2012, between the City of Wheaton and David and Nancy Brown of 2051 Hallmark Court, Wheaton, Illinois; and the City Clerk is authorized to attest to the signature of the Mayor.

ADOPTED this 17th day of September, 2012.



Michael J. Gresk
Mayor

ATTEST:



Sharon Bennett Hagan
City Clerk

Ayes:	<u>Roll Call Vote:</u> Councilman Suess Councilwoman Ives Councilman Mouhelis Councilman Rutledge Mayor Gresk Councilwoman Pacino Sanguinetti Councilman Scalzo
Nays:	None
Absent:	None

Motion Carried Unanimously

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CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT

RIGHT-OF-WAY (2051 Hallmark Court)

Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 16th day of August, 2012, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and David and Nancy Brown ("Owner").

WITNESSETH

WHEREAS, the City is in possession of a right-of-way within the City limits of the City of Wheaton, Illinois, and legally described herein; and

WHEREAS, David & Nancy Brown (hereinafter "Owner"), the owner of the premises located at 2051 Hallmark Court, Wheaton, Illinois, which property is legally described herein and is contiguous to a portion of the right-of-way; and

WHEREAS, the Owners would like to use a portion of the City's right-of-way for the purpose of constructing and maintaining a lawn irrigation system; and

WHEREAS, the Owners acknowledges that this Agreement is not an easement and does not vest them with any property rights or claims to any portion of said right-of-way.

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

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

2.) David & Nancy Brown are the owners of property located at 2051 Hallmark Court, Wheaton, Illinois, legally described on Exhibit A attached hereto and made a part hereof.

3.) The Owners, for a consideration of Ten Dollars (\$10.00) and other good and valuable consideration as stated herein, are hereby authorized to use a portion of the right-of-way more specifically identified as that portion of the right-of-way parkway

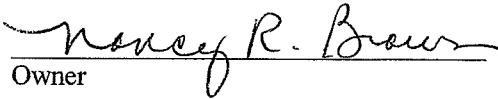
for construction of and use of a lawn irrigation system as depicted on Exhibit B attached hereto and made a part hereof. The installation and use of the lawn irrigation system shall conform to all applicable ordinances of the City. Those ordinances are material terms and conditions of this Agreement.

4.) The City retains the right to enter said right-of-way for any purpose to perform any work including but not limited to constructing and maintaining the City utility systems (watermain, storm and sanitary sewers) and other infrastructure. If the City performs any work within said right-of-way which causes damage to the lawn irrigation system, the Owners shall be responsible to repair the lawn irrigation system at their sole cost and expense. The Owner hereby acknowledges and agrees that City its, employees and agents shall have no liability to the Owner for any damage, removal or other casualty to the lawn irrigation system caused by the City, its employees or agent regardless of the cause.

IN WITNESS WHEREOF, the Corporate authorities and the Owners 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.

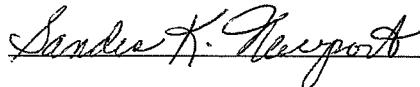


Owner



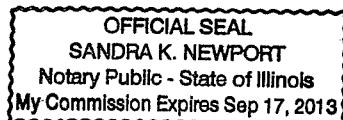
Owner

Subscribed and sworn to before me this 16th day of August, 2012.

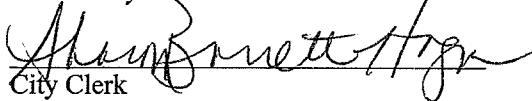


Notary Public

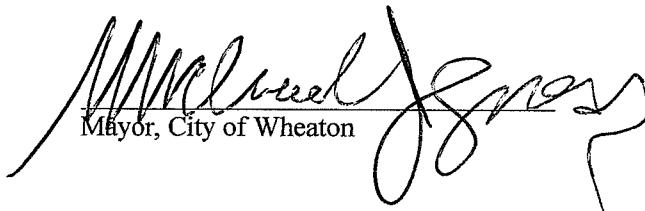
(Notary Seal)



Attested by:



City Clerk



Mayor, City of Wheaton

EXHIBIT A

Legal Description:

OF Lot 19 In Hallmark Of Wheaton, Being A Resubdivision In The East Half
Of The Northwest Quarter Of Section 9, Township 39 North, Range 10 East Of The
Third Principal Meridian, According To The Plat Thereof Recorded June 12, 1969
As Document Number RG9-069404, In Du Page County, Illinois.

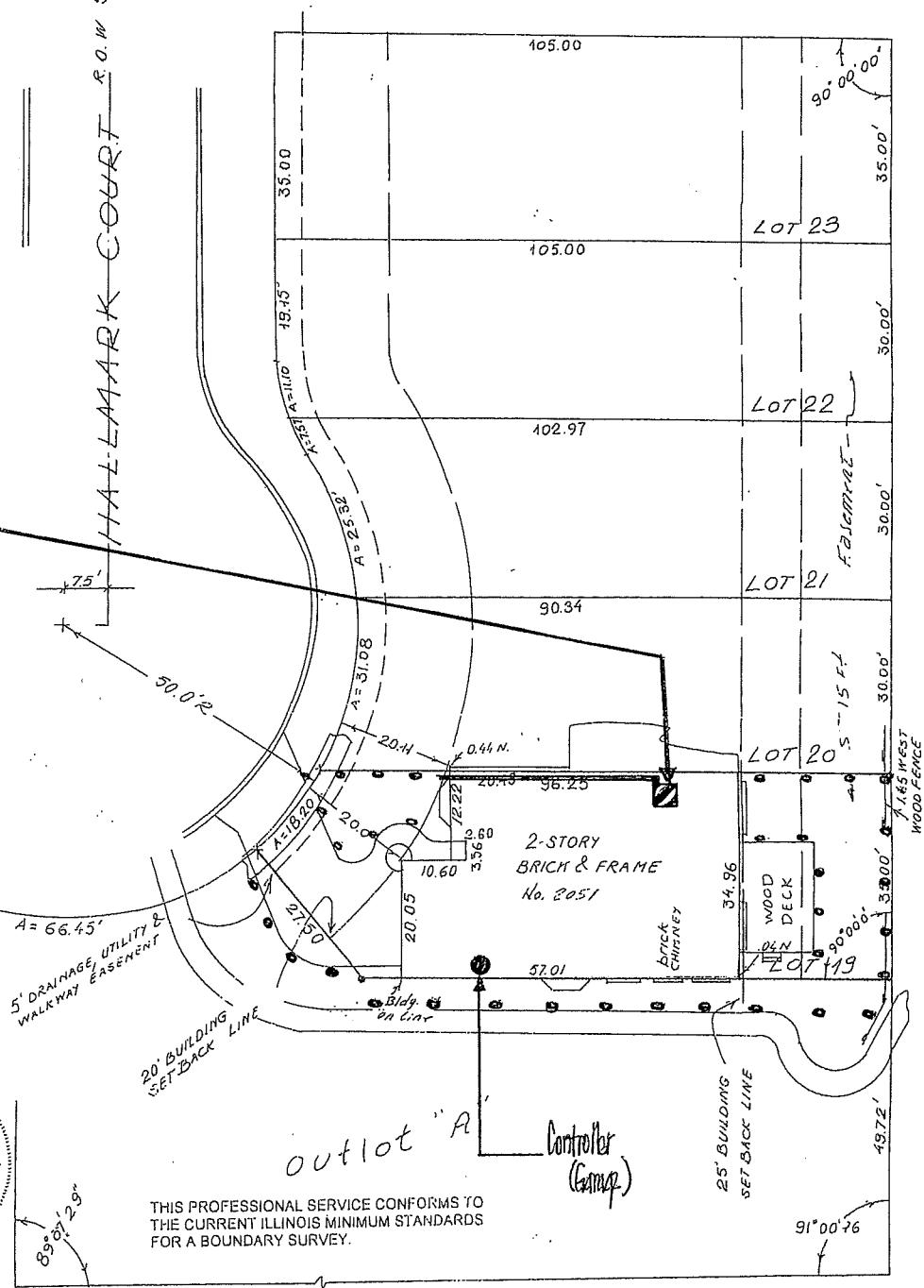
2051 Hallmark Court Wheaton, IL 60187
address

P.I.N. 05-09-102-064

PLAT OF SURVEY

OF LOT 19 IN HALLMARK OF WHEATON, BEING A RESUBDIVISION IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 12, 1989 AS DOCUMENT NUMBER R89-069404, IN DU PAGE COUNTY, ILLINOIS.

- EXHIBIT "B" -



ORDERED BY: SHERMAN SHECHTMAN

ORDER NO. 384-199-

FILE NO. 98-1035

STATE OF ILLINOIS }
COUNTY OF DU PAGE } S.S.

RESURVEYED, AND ADDITIONAL
IMPROVEMENTS LOCATED :

STATE OF ILLINOIS }
COUNTY OF DU PAGE } S.S.

THIS IS TO CERTIFY THAT I, AN ILLINOIS LAND SURVEYOR,
HAVE SURVEYED THE PROPERTY DESCRIBED ABOVE AND THAT
THE ANNEXED PLAT IS A CORRECT REPRESENTATION OF SAID
SURVEY.

SURVEYED,
GIVEN UNDER MY HAND AND SEAL AT WHEATON, ILLINOIS,
THIS 16th DAY OF December A.D. 1999.

ILLINOIS LAND SURVEYOR NO. 1863
REFER TO DEED OR GUARANTEE POLICY FOR RESTRICTIONS NOT SHOWN
ON SURVEY.
ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
COMPARE ALL POINTS BEFORE BUILDING AND REPORT ANY APPARENT
DISCREPANCIES TO THE SURVEYOR.

9-27-06: // / .

• = found iron stake
○ = set iron stake

BUILDINGS LOCATED AS SHOWN ON THIS 26th DAY
OF December, A.D., 1928.

ILLINOIS LAND SURVEYOR NO. 1863

LAMBERT & ASSOCIATES
LAND SURVEYORS
320 SOUTH REBER ST. WHEATON, ILL. 60187
PHONE: (630) 653-6331 FAX: (630) 653-6396