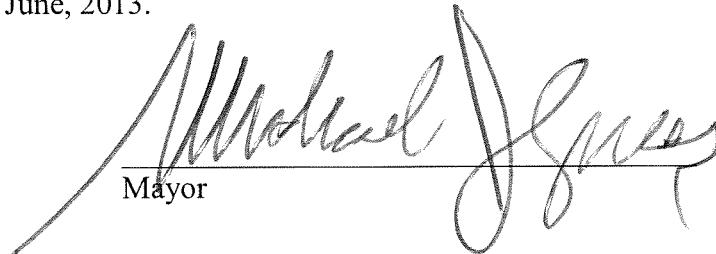


RESOLUTION R-41-13

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(605 Bluegrass Circle)**

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 June 5, 2013 between the City of Wheaton and Mark S. and Lisa M. Larson of 605 Bluegrass Circle, Wheaton, Illinois; and the City Clerk is authorized to attest to the signature of the Mayor.

ADOPTED this 17th day of June, 2013.



Michael J. Gresk
Mayor

ATTEST:



Anna Brust
City Clerk

Roll Call Vote

Ayes:	Councilman Suess Councilman Prendiville Councilman Rutledge Councilman Saline Mayor Gresk Councilwoman Pacino Sanguinetti Councilman Scalzo
Nays:	None
Absent:	None

Motion carried Unanimously

CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT

RIGHT-OF-WAY (605 Bluegrass Drive)

Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 5th day of June, 2013, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Mark & Lisa Larson ("Owner").

S. m.

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, Mark & Lisa Larson (hereinafter "Owner"), the owner of the premises located at 605 Bluegrass Circle, 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.) Mark & Lisa Larson are the owners of property located at 605 Bluegrass Circle, 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 between the sidewalk and curb

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.

5.) The City may terminate and cancel this Agreement together with all rights and privileges granted hereunder, by notifying the Owners in writing at least fourteen (14) days prior to termination.

6.) Upon termination of this Agreement, the City may destroy, demolish, or remove any improvements placed upon the right-of-way by the Owners without liability.

7.) To the greatest extent permitted under Illinois law, Owners 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 expert's fees) which arise or may be caused by the negligence of the Owners, or Owners' agents, as a result of the design, construction, maintenance, use or abandonment of the lawn irrigation system described herein.

8.) This Agreement is not an easement. Should a court of competent jurisdiction construe it as an easement it shall be a temporary easement which shall expire 14 days after such construction.

9.) The provisions set forth in this Agreement and exhibit represent the entire Agreement between the parties and shall precede 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 recorded in the Office of the Record of Deeds, DuPage County, Illinois, at the expense of the Owners.

11.) The Owners obligations under this Agreement shall be joint and several.

12.) This Agreement shall be binding on the Owners, their successors, heirs and assigns.

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.

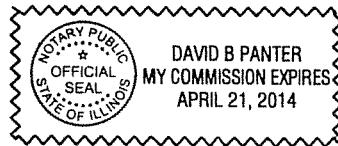
Mike Yarcho
Owner

Ysa Yarcho
Owner

Subscribed and sworn to before me this 5th day of June, 20 13.

David B. Panter Notary Public

(Notary Seal)



Michael J. Sypal
Mayor, City of Wheaton

Attested by:

Sharon Bennett-Hagan
City Clerk

EXHIBIT A

Legal Description:

Lot 230 In Danada Farms North Unit 3, Being a Subdivision In
Part Of The Northeast Quarter Of Section 28, Township 39 North, Range 10 East
Of The Third Principal Meridian, According To The Plat Thereof Recorded October
12th, 1987 As Document R87-14892B, In DuPage County, Illinois

605 Bluegrass Circle Wheaton, IL 60187
address

P.I.N. 05-28-207-024

2013c FUS1092

AMERICAN SURVEY COMPANY

303 SOMERSET DRIVE
STREAMWOOD, ILL. 60107

PROFESSIONAL DESIGN FIRM 184-002946

SURVEY PLAT

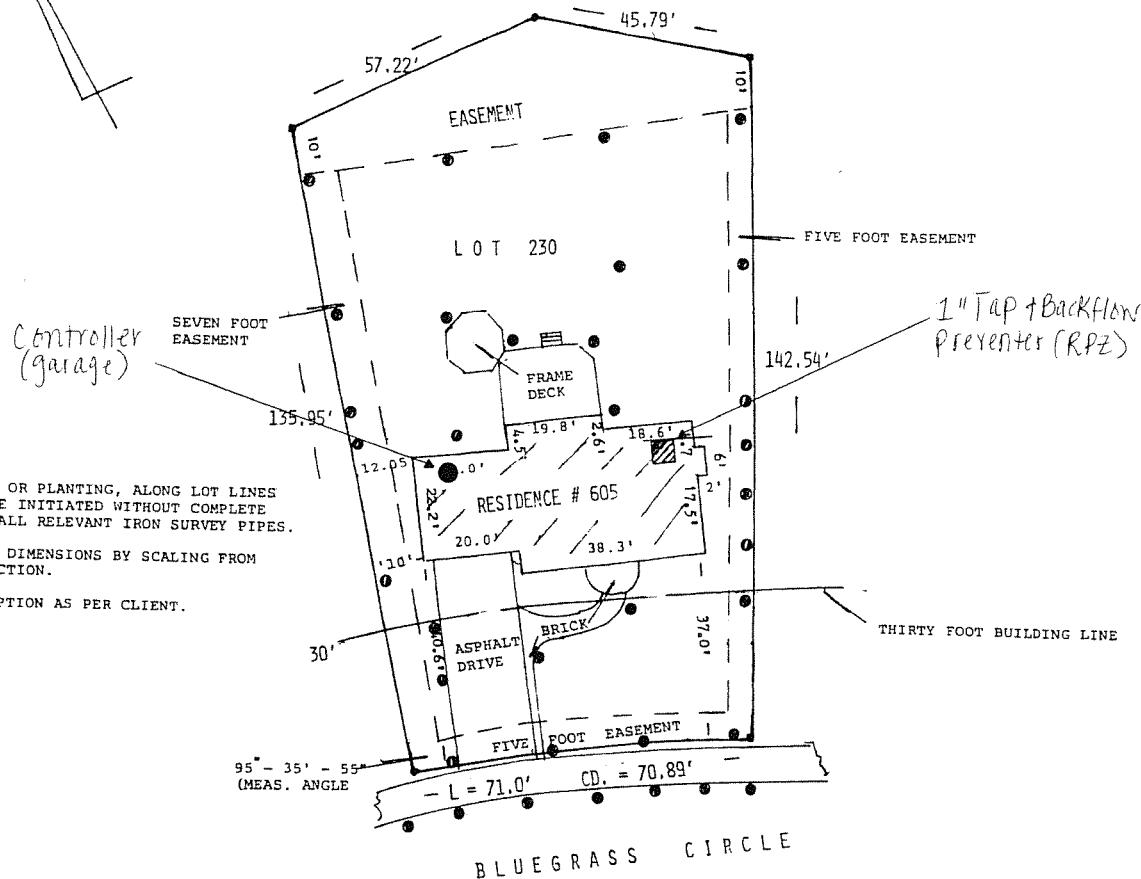
PHONE: (630) 830-4328

NORTH

LOT 230 IN DANADA FARMS NORTH UNIT 3, BEING A SUBDIVISION IN PART OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12th, 1987 AS DOCUMENT R87-148928, IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS 605 BLUEGRASS CIRCLE, WHEATON, ILLINOIS.

RESIDENCE IS TWO STORY FRAME (SIDED) STRUCTURE



SURVEYOR'S LICENSE EXPIRATION (RENEWAL)
DATE IS NOVEMBER 30th, 2004.

SCALE: ONE INCH EQUALS: 20 FEET
ORDER NUMBER: 7276

FIELD BOOK: WHEATON PAGE: FILE

PLEASE NOTE: REFER TO ABSTRACT OR DEED FOR BUILDING LINE RESTRICTIONS OR EASEMENTS NOT SHOWN ON SURVEY PLAT. COMPARE DESCRIPTION AND POINTS BEFORE BUILDING AND REPORT ANY DISCREPANCY IMMEDIATELY TO AMERICAN SURVEY COMPANY.

• EXISTING IRONS FOUND

STATE OF ILLINOIS)
COUNTY OF COOK) ss:

I, BRUCE F. SCHOLLER, LICENSED PROFESSIONAL LAND SURVEYOR,
DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY
DESCRIBED ABOVE AND THAT THE PLAT HERON DRAWN IS A
CORRECT REPRESENTATION OF SAID SURVEY. DIMENSIONS ARE
SHOWN IN FEET AND DECIMAL PARTS THEREOF AND ARE COR-
RECTED TO THE STANDARD SET AT 69 DEGREES, 28' AND 47.11111111111111 FEET.

