

RESOLUTION R-44-14

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

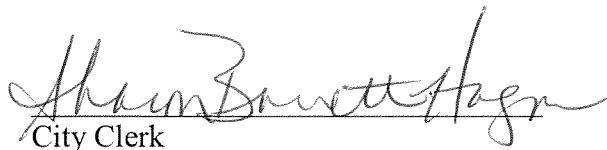
BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to sign and the City Clerk is directed to attest to the Construction, Use and Indemnification Agreement dated June 14, 2014, between the City of Wheaton and Stanley and Karen Brashears of 119 Hawkins Circle, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 21st day of July, 2014.



Michael J. Gresk
Mayor

ATTEST:



Karen Brashears
City Clerk

Roll Call Vote

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

Motion Carried Unanimously

CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT

RIGHT-OF-WAY (HAWKINS CIRCLE)

Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 14th day of JUNE, 2014, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and M&M BRASHERS ("Owner").

Stanley & Karen
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, M&M BRASHERS (hereinafter "Owner"), the owner of the premises located at 119 HAWKINS 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.

Stanley & Karen
2.) M&M BRASHERS are the owners of property located at 119 HAWKINS 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 119 Hawkins Cir

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.

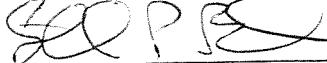
10.) This Agreement shall be recorded in the Office of the Record of Deeds, DuPage County, Illinois, at the expense of the Owners.

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.

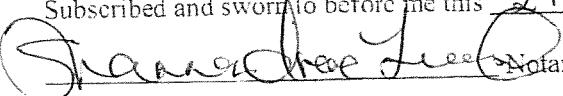
IN WITNESS WHEREOF, the Corporate authorities and the Owners have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here all on the date and year first above written.

Owner

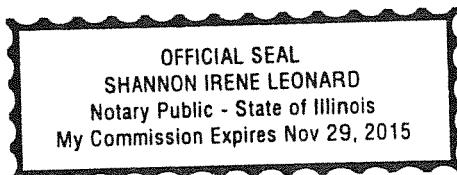


Owner

Subscribed and sworn to before me this 24th day of June, 20 14.


Notary Public

(Notary Seal)



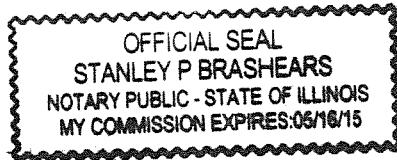
Mayor, City of Wheaton

Attested by:

City Clerk

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



Karen Brashears
Owner

Subscribed and sworn to before me this 23rd day of June, 20 14.

SPB Notary Public

(Notary Seal)

Michael Grees
Mayor, City of Wheaton

Attested by:

Shambrette Hagan
City Clerk

EXHIBIT A

Legal Description:

LOT 218 IN DANADA FARMS EAST UNIT 3, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27 AND PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 16, 1987, AS DOCUMENT NO. R87-163492, AND CERTIFICATE OF CORRECTION RECORDED MARCH 11, 1988, AS DOCUMENT NO. R88-024167, IN DUPAGE COUNTY, ILLINOIS.

119 Hawks Circle Wheaton, IL 60187
address

P.I.N. 05-27-108-039

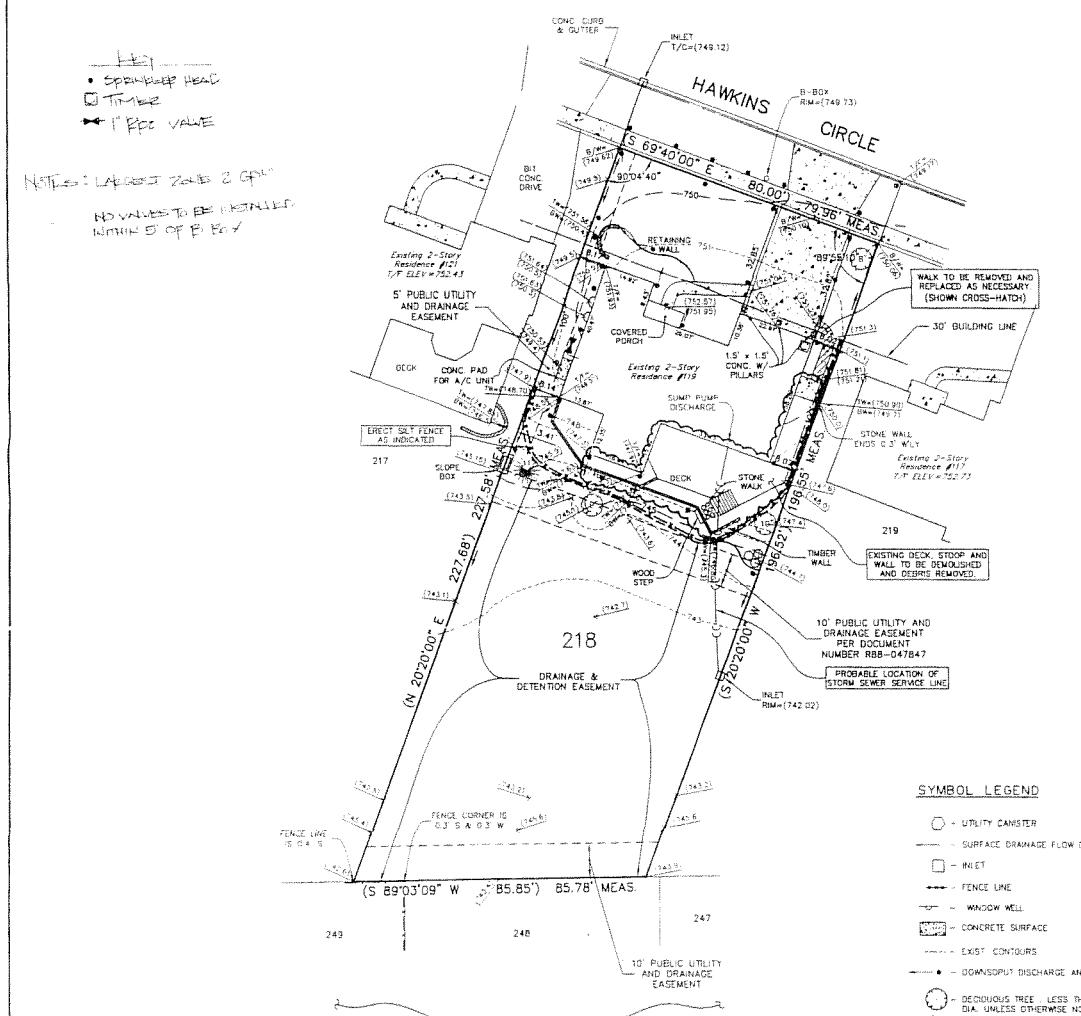
2014LCPRJ1377

DEMOLITION PLAN

SHEET 2 OF 3

N

LOT 216 IN DANADA FARMS EAST UNIT 3, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27 AND PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 16, 1987 AS DOCUMENT NUMBER RSB-163492, AND CERTIFICATE OF CORRECTION RECORDED MARCH 11, 1988 AS DOCUMENT NUMBER RSB-024167 AND CERTIFICATE OF CORRECTION RECORDED JANUARY 31, 1989 AS DOCUMENT NUMBER RSB-012256, IN DUPAGE COUNTY, ILLINOIS.



SYMBOL LEGEND

- - UTILITY CANISTER
- - SURFACE DRAINAGE FLOW DIRECTION
- - INLET
- - FENCE LINE
- - WINDOW WELL
- - CONCRETE SURFACE
- - EXIST CONTOURS
- - DOWNSPOT DISCHARGE AND DIRECTION OF FLOW
- - DECIDUOUS TREE, LESS THAN 6" DIA. UNLESS OTHERWISE NOTED
- - EVERGREEN TREE, LESS THAN 6" DIA. UNLESS OTHERWISE NOTED
- (XXX-XX) - ELEV. TO RUMBLESTRIPS IN PARENTHESES INDICATES EXISTING LITHODAL SURFACE ELEVATIONS (UNLESS OTHERWISE INDICATED)
- XXX-X - ELEV. TO TENTH INDICATES EXISTING NON-LITHODAL SURFACE ELEVATIONS
- *** - SAFETY FENCE
- - INDICATES SLT FENCE TO BE ERECTED (SEE DETAIL)
- ~~~ - INDICATES AREA WHERE DECK, STOOP, AND WALL ARE TO BE REMOVED

PROFESSIONAL ENGINEER'S CERTIFICATION

STATE OF ILLINOIS SS

COUNTY OF DU PAGE

I, STEPHEN J. BUS, A LICENSED PROFESSIONAL ENGINEER OF ILLINOIS, HEREBY CERTIFY THAT THIS TECHNICAL SUBDIVISION WAS PREPARED ON BEHALF OF ASHLEY HOMES BY CEMCON, LTD. UNDER MY PERSONAL DIRECTION FOR THE PURPOSES SETFORTH HEREIN.

DATED THIS 9TH DAY OF MAY, A.D. 2005.

ILLINOIS LICENSED PROFESSIONAL ENGINEER NO. 0561-054690
LICENSE EXPIRES ON NOVEMBER 30, 2005
PROFESSIONAL DESIGN FIRM NO. 184167
EXPIRATION DATE IS APRIL 30, 2007

LOT AREA = 16987 SQ. FT.

CONSTRUCTION ACCESS NOTE:
CONSTRUCTION ACCESS TO REAR YARD IS TO BE ALONG EAST SIDE OF HOUSE

MUELLER BOLTS ON FIRE HYDRANT AT
LOTS 216 & 217
ELEV. +722.68
MUELLER BOLT ON FIRE HYDRANT AT
LOTS 220 & 221
ELEV. +722.45

Demolition Plan		5-09-05/SMC
Vestant	4-28-05/SMC	
Type of Survey	Date	Bk-Pg Date Dtr
Common Address	119 HAWKINS CIRCLE	
Client	PHILLIPS MARTIN REAL ESTATE c/o STAN BRASHLINS	
Job No.	7120 21B	Scale: 1" = 20'
File Name	21BDP	Disc. No. R:\464052
CEMCON, Ltd.		
Consulting Engineers, Land Surveyors & Planners 2280 White Oak Creek, Suite 100 Elgin, IL 60123-2280 Phone: 630-852-2100 Fax: 630-852-2199		
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