

RESOLUTION R-23-15

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(1540 Spero Court)**

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 May 5, 2015, between the City of Wheaton and Eriko and Takahisa Suzuki for 1540 Spero Court, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 18th day of May, 2015.

Mayor

ATTEST:

Shawn Bennett Hagen
City Clerk

City Clerk

	<u>Roll Call Vote</u>
Ayes:	Councilman Suess
	Councilwoman Fitch
	Councilman Prendiville
	Councilman Rutledge
	Mayor Gresk
	Councilman Saline
Nays:	None
Absent:	Councilman Scalzo

Motion Carried Unanimously

CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT
RIGHT-OF-WAY (1540 Spero Ct)
Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 5th day of May, 2015, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Suzuki ("Owner").

Eriko + Takahisa
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, Mr Suzuki (hereinafter "Owner"), the owner of the premises located at 1540 Spero Ct, 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.

Eriko and Takahisa
2.) Suzuki are the owners of property located at 1540 Spero Ct, 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 at 1540 Spero Ct.

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.

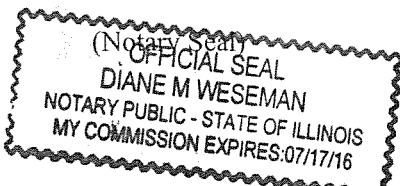
IN WITNESS WHEREOF, the Corporate authorities and the Owners have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here all on the date and year first above written.

X 
Owner


Owner

Subscribed and sworn to before me this 5th day of May, 2015.

Diane M Wese man Notary Public



Attested by:

Alison Bennett Hagen
City Clerk

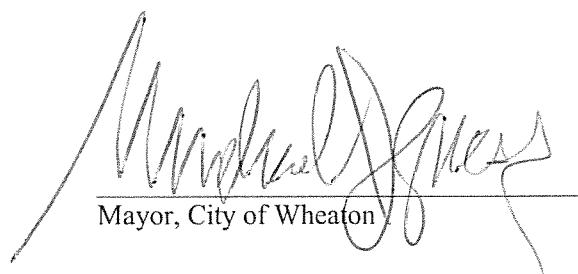

Mayor, City of Wheaton

EXHIBIT A

Legal Description:

Lot 46 in Spero's Sixth resubdivision of part of Arthur McIntosh
and Corp. East Butterfield Subdivision of part of the south half of Sect. 16
Township 39 North, Range W, East of the Third Principal Meridian
According to the Plat of Sect. Spero's Resubdivision
Recorded Dec 20, 1978 as Document R78-122637,
In Du Page County Illinois

1540 Spero Ct Wheaton, IL 60187
address

P.I.N. 05-10-302-015

LEGEND	
A = ASSUMED	NW = NORTHEAST
BL = BUILDING SETBACK LINE	P.O.B. = POINT OF BEGINNING
C = CALCULATED	P.O.C. = POINT OF COMMENCEMENT
C.E. = CITY EASEMENT	P.U.E. = PUBLIC UTILITY EASEMENT
CH = CHORD	P.U. & D.E. = PUBLIC UTILITY & DRAINAGE EASEMENT
C = CENTERLINE	
D = CDED	R = RECORD
D.E. = DRAINAGE EASEMENT	R.D. = RADIUS
E = EAST	R.O.W. = RIGHT OF WAY
F.I.P. = FOUND IRON PIPE	S = SOUTH
F.I.R. = FOUND IRON ROD	S.I.P. = SET IRON PIPE
FT. = FEET	S.I.R. = SET IRON ROD
L = ARC LENGTH	SE = SOUTHEAST
M = MEASURED	SW = SOUTHWEST
N = NORTH	V.E. = VILLAGE EASEMENT
N.E. = NORTHEAST	W = WEST
	----- = FENCE
	---- = EASEMENT LINE
	— = SETBACK LINE

MORRIS ENGINEERING INC.

5100 S. LINCOLN LISLE, ILLINOIS 60532
MAIN PHONE: (630)271-0770 SURVEY DEPT. PHONE (630)271-0599
EMAIL: SURVEY@ECIVIL.COM WEBSITE: ECIVIL.COM

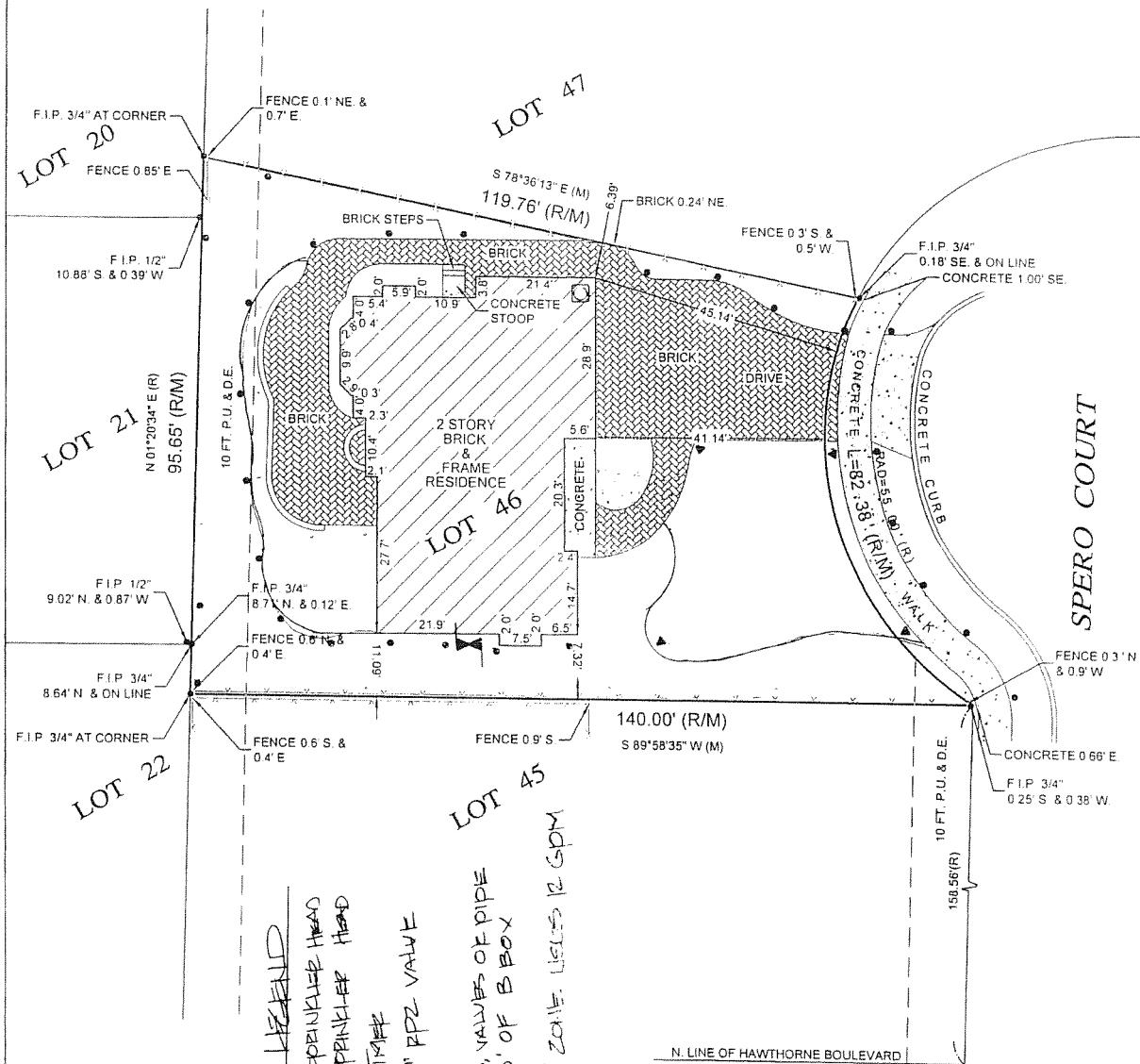
PLAT OF SURVEY

AREA OF SURVEY:
CONTAINING 9.935 SQ. FT. 0.23 ACRES MORE OR LESS

0' 10' 0 20'
BASIS OF BEARING:
WESTERLY LINE OF LOT 45 AS FOUND

BASIS OF BEARING:
WESTERLY LINE OF LOT 46 AS FOUND
MONUMENTED AND OCCUPIED PER RECORD
SUBDIVISION PLAT.
N 01°20'34" E (R)

LOT 46 IN SPERO'S SIXTH RESUBDIVISION OF PART OF ARTHUR T. MCINTOSH AND COMPANY'S EAST BOULEVARD SUBDIVISION OF PART OF THE SOUTH HALF OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID SPERO'S RESUBDIVISION RECORDED DECEMBER 20, 1978 AS DOCUMENT R78-122637, IN DUPAGE COUNTY, ILLINOIS.



STATE OF ILLINOIS }
COUNTY OF DUKE }

I, THE UNDERSIGNED, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY
DATED, THIS 3rd DAY OF OCTOBER, A.D., 2014, AT
LISLE, ILLINOIS

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 035-2317
LICENSE EXPIRATION DATE NOVEMBER 30, 2014
ILLINOIS BUSINESS REGISTRATION NO. 184-001245



NOTE:

1. ALL TIES SHOWN ON THIS SURVEY ARE MEASURED TO THE BUILDING'S SIDING (BRICK, FRAME, STUCCO, METAL, ETC.) AND NOT TO THE FOUNDATION, UNLESS NOTED OTHERWISE.
2. ROOF LINES AND OVERHANGS ARE TYPICALLY NOT SHOWN HEREON.
3. COMPARE ALL DISTANCES AND POINTS IN FIELD AND REPORT ANY DISCREPANCIES TO SURVEYOR AT ONCE.
4. NO DIMENSIONS SHALL BE ASSUMED BY DRAWING.

ADDRESS COMMONLY KNOWN AS 1540 SPERO COURT

WHEATON, ILL.

SEVENTY-TWO HANDBOOK & GARVER, Etc

14-08-0220

FILE NUMBER DATE DRAWN BY: 09-30-14 (08) DRAWN BY: J.B. REVISED:

