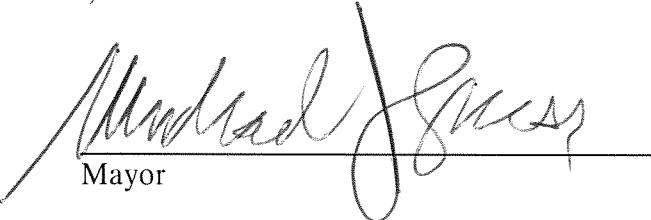


RESOLUTION R-65-15

A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(1702 East Prairie Avenue)

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 September 17, 2015, between the City of Wheaton and Lafayette and Susanne Ford of 1702 East Prairie Avenue, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 2nd day of November, 2015.



Michael Gresk
Mayor

ATTEST:



Aaron Bennett
City Clerk

Roll Call Vote

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

Motion Carried Unanimously

CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT

RIGHT-OF-WAY (Prairie)

Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 17th day of September, 2015, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Lafayette Susan Ford ("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, Susanne Ford (hereinafter "Owner"), the owner of the premises located at 1702 Prairie Ave., 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.) Susanne Ford are the owners of property located at 1702 Prairie Ave. 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 E. Prairie Ave.

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.

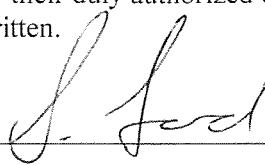
9.) The provisions set forth in this Agreement and exhibit represent the entire Agreement between the parties and shall precede all prior agreements, contracts, understandings, promises and representations, oral or written, as it is the intent of the parties to provide for a complete integration within 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.

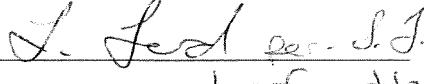
11.) The Owners obligations under this Agreement shall be joint and several.

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.

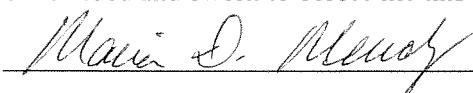


Owner *Susanne Ford*



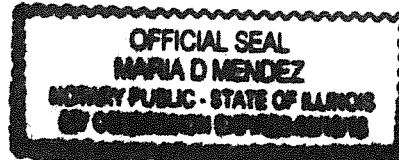
Owner *S. J. Lafayette*

Subscribed and sworn to before me this 17th day of September, 2015.

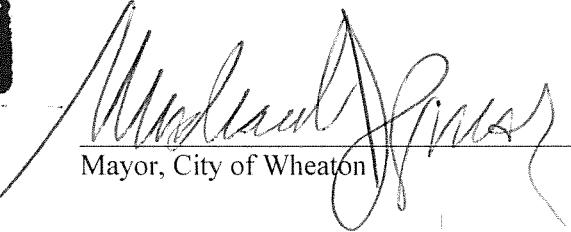


Notary Public

(Notary Seal)



02/13/18



Michael J. Pilla

Mayor, City of Wheaton

Attested by:



Jason Bennett Hagn
City Clerk

EXHIBIT A

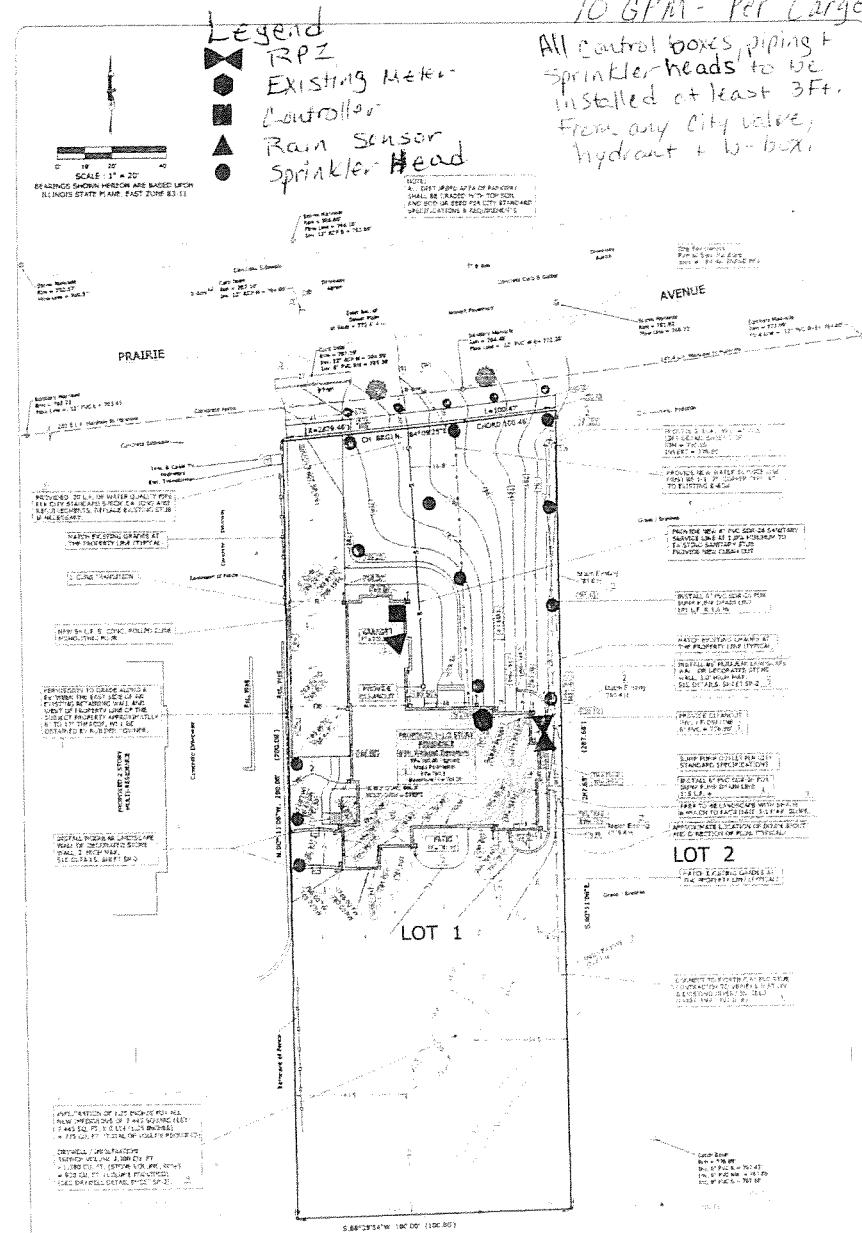
Legal Description:

LOT 1 OF WOODS EDGE PHASE II RESUBDIVISION & ABROGATION OF DRAINAGE
EASEMENTS, BEING A RESUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 18,
TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING
TO THE PLAT THEREOF RECORDED OCTOBER 25, 2013 AS DOCUMENT NUMBER
R2013-148292, IN DUPAGE COUNTY, ILLINOIS.

1702 E. Prairie Ave, Wheaton, IL 60187
address

P.I.N. 05-10-317-055

EXHIBIT B



SEPARATION AND EROSION CONTROL NOTES

- ALL EROSION CONTROL MEASURES SHALL BE IN ACCORDANCE WITH THE PROCEDURES AND STANDARDS FOR STREAM FLOW, EROSION AND SEDIMENT CONTROL, AND THE DUKE COUNTY STORMWATER MANAGEMENT CONSOLIDATED TECHNICAL REFERENCE MANUAL.
- SOIL DISTURBANCE SHALL BE CONDUCTED IN DUE A MANNER AS TO MINIMIZE EROSION. SOIL STABILIZATION FEATURES SHALL CONSIDER THE TIME OF YEAR, SITE CONDITIONS, AND THE USE OF TEMPORARY OR PERMANENT STABILIZATION.
- SOIL EROSION AND SEDIMENT CONTROL FEATURES SHALL BE CONSTRUCTED PRIOR TO THE COMMENCEMENT OF WORK AND DISCHARGES.
- TEMPORARY STABILIZATION SHALL BE APPLIED TO DISTURBED AREAS WITHIN 14 CALENDAR DAYS OF THE END OF ACTIVE HYDROLOGIC DISTURBANCE. PERMANENT STABILIZATION SHALL BE DONE WITHIN 14 DAYS AFTER COMPLETION OF THE FINAL GRADING OF THE SOIL.
- ALL STORM SEWER FACILITIES THAT ARE OR WILL BE FUNCTIONING DURING THE CONSTRUCTION SHALL BE PROTECTED, FILTERED, OR OTHERWISE TREATED TO AVOID SEWER OVERFLOWS.
- ALL TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES THAT ARE IN PLACE WITHIN 12 DAYS AFTER THE END OF ACTIVE HYDROLOGIC DISTURBANCE, UNLESS TEMPORARY MEASURES ARE NO LONGER NEEDED, TRAPPED SEDIMENT AND OTHER DISTURBED SOIL AREA SHALL BE PERMANENTLY STABILIZED.
- ALL TEMPORARY AND PERMANENT EROSION CONTROL MEASURES MUST BE MAINTAINED AND REPAVED AS NEEDED. THE GENERAL CONTRACTOR WILL BE RESPONSIBLE FOR INSPECTION AND REPAIR DURING CONSTRUCTION AND FOR A PERIOD OF ONE YEAR AFTER CONSTRUCTION IS COMPLETED.
- THE EROSION CONTROL MEASURES INDICATED ON PLANS ARE THE MINIMUM REQUIREMENTS. ADDITIONAL MEASURES MAY BE REQUIRED, AS DIRECTED BY THE ENGINEER OR GOVERNING AGENCY.

BENCHMARK INFORMATION

SOURCE BOND NUMBER:
DUKE COUNTY BENCHMARK STATION #40051
PREPARED BY: STANLEY L. PENGISON
CONTRACTOR: C.R. CONSTRUCTION
TELEPHONE: (630) 273-2600
FAX: (630) 273-2601

STATION IS LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST HARLEM AVENUE AND PRESIDENT STREET. STATION IS 20 FEET FROM THE CENTER LINE OF EAST HARLEM AVENUE AND 10 FEET FROM THE CENTER LINE OF PRESIDENT STREET. ELEVATION IS SET IN THE WEST FACE OF 7' X 10 FEET CONCRETE CONCRETE LIGHT BASE. MONUMENT IS 1.0 FEET ABOVE STREET SURFACE.

ELEVATION = 174.31 FEET (NAVD 88)



PREPARED BY: **AS** **11**
ADM Consultants, Inc.
PO Box 7, Wheaton, IL 60187
Tel (630) 273-2600 Fax (630) 273-2600
Advanced@admvt.com
Professional Design Firm #184-006014 effective 4/30/2015

© COPYRIGHT 2013, ADM CONSULTANTS, INC. ALL RIGHTS RESERVED.

10 GPM - Per Largest Zone

All control boxes, piping & sprinkler heads to be
installed at least 3 ft.
From any city valve/
hydrant + w-box.

TOPOGRAPHICAL SURVEY & SITE GRADING PLAN

LEGAL DESCRIPTION

LOT 1 OF WOODS EDGE PHASE II RESERVE EDITION & ADDITION OF DUKE COUNTY, ILLINOIS, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 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