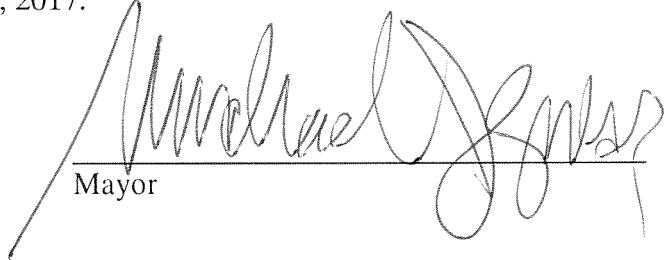


RESOLUTION R-46-17

A RESOLUTION AUTHORIZING THE EXECUTION  
OF A CERTAIN CONSTRUCTION, USE, AND  
INDEMNIFICATION AGREEMENT  
(1097 Belter Drive)

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 March 8, 2017, between the City of Wheaton and Rodrigo Ubilluz of 1097 Belter Drive, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 5<sup>th</sup> day of June, 2017.



\_\_\_\_\_  
Mayor

ATTEST:



\_\_\_\_\_  
Mary Bennett Hagan  
City Clerk

Roll Call Vote

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

Motion carried Unanimously



CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT  
RIGHT-OF-WAY (1097 Belter Dr.)  
Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 8th day of MARCH, 2017, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and RODRIGO UBILLUZ ("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, RODRIGO UBILLUZ (hereinafter "Owner"), the owner of the premises located at 1097 BELTER DRIVE, 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.) RODRIGO UBILLUZ are the owners of property located at 1097 BELTER DRIVE 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

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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.

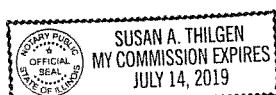
Rodrigo Ubillus  
Owner

\_\_\_\_\_  
Owner

Subscribed and sworn to before me this 8th day of March, 20 17.

Dee O'Dell  
Notary Public

(Notary Seal)



Attested by:

Marion Bennett Hagan  
City Clerk

Michael J. Hagan  
Mayor, City of Wheaton

EXHIBIT A

Legal Description:

LOT 195 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 NOVERMBER 16, 1987 AS DOCUMENT NUMBER R87-163492, AND CERTIFICATE OF CORRECTION RECORDED MARCH 11, 1988 AS DOCUMENT R88-024167 AND CERTIFICATE OF CORRECTION RECORDED JANUARY 31, 1989 AS DOCUMENT NUMBER R89-012256, IN DU PAGE COUNTY, ILLINOIS.

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1097 BELTER DR Wheaton, IL 60187  
address

P.I.N. 05-27-109023

PLAT OF SURVEY

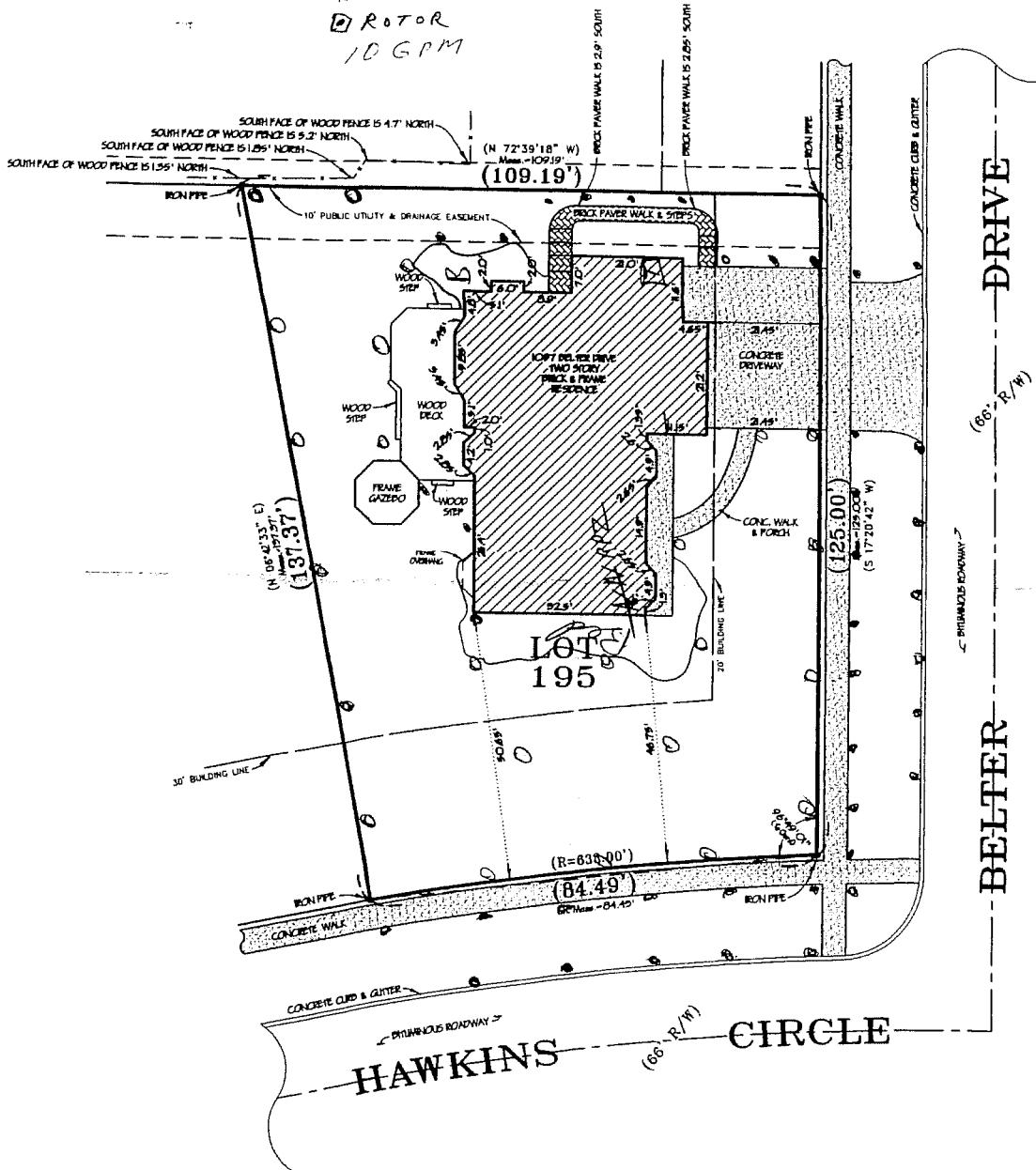
**SURVEY LEGEND**

LOT 105 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 R87-183492, AND CERTIFICATE OF CORRECTION RECORDED MARCH 11, 1988 AS DOCUMENT NUMBER R88-024167, AND CERTIFICATE OF CORRECTION RECORDED JANUARY 31, 1989 AS DOCUMENT NUMBER R89-012256, IN DU PAGE COUNTY, ILLINOIS.

1565 KI

AREA OF SITE = 12,531 SQ.FT

BACKFLOW RPZ 1  
 TIMER  
 ROTOR  
10 GPM



STATE OF ILLINOIS) 25  
COUNTY OF DU PAGE)

THIS IS TO CERTIFY THAT I, ALLEN D. CARRASCO, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF ILLINOIS, HAVE SURVEYED THE PROPERTY AS DESCRIBED HEREON AND THAT THE ANNECDOT PLAT IS A CORRECT AND TRUE REPRESENTATION THEREOF, AND THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

SIGNED AND SEALED AT WHEATON, ILLINOIS THIS 20th DAY OF May A.D. 2016  
BY Allen D. Cossarino ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-2561  
MY LICENSE EXPIRES NOVEMBER 30, 2016.

#### NOTES

**NOTES**

- 1. All distances shown herein are in feet and decimal parts thereof corrected to 88' Distances shown along curved lines are Arc Measurements unless otherwise noted.
- 2. Compare the Legal Description, Building Lines, and Easements as shown herein with your Title, Insurance Policy or Title Commitment.
- 3. Consult local authorities for additional setbacks and restrictions not shown herein.
- 4. Compute any survey points and report any discrepancies immediately.
- 5. Consult utility companies and municipalities prior to the start of any construction.
- 6. Dimensions to end of strings buildings are exterior foundation measurements.
- 7. Do Not Assume distances from scaled instruments made hereon.

CARRABUS LAND SURVEYORS

Residential & Commercial Land Surveying Services  
100 Belden Street, Poughkeepsie, NY 12601

100 BRIDGE STREET SUITE 1, WHEATON, ILLINOIS 60187  
(630) 668-0416 (FAX) 665-7682  
PREPARED FOR FRANK E. JEFFERS III, ATTORNEY AT LAW

