

RESOLUTION R-2020-101

A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(1801 Knollwood 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 September 22nd, 2020, between the City of Wheaton and Nathanael Marshall for 1801 Knollwood Drive, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 16th day of November 2020.



Philip J. Suess
Mayor

ATTEST:



Aaron Bennett
City Clerk

Ayes: Roll Call Vote
Councilman Barbier
Councilwoman Bray-Parker
Councilwoman Fitch
Mayor Suess
Councilwoman Robbins
Councilman Rutledge
Councilman Zaruba

Nays: None
Absent: None
Motion Carried Unanimously

NOV - 3 2020

Lawn Irrigation System

CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT

RIGHT-OF-WAY (1801 Knollwood Dr.)

Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 24 day of Sep., 2020, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Nathanael Marshall ("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, Nathanael Marshall (hereinafter "Owner"), the owner of the premises located at 1801 Knollwood Dr., 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.) Nathanael Marshall are the owners of property located at 1801 Knollwood Dr., 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 only that portion of the right-of-way specifically depicted and identified on Exhibit B which is attached hereto and incorporated herein as fully set forth as for construction, maintenance and use of a lawn irrigation system conforming to all applicable ordinances of the City and this Agreement. The 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 the 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.

MM/MM 09/24/2020
Owner

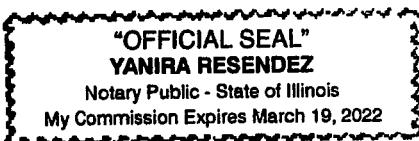
n/a
Owner

Subscribed and sworn to before me this 24 day of September, 2020.

Yanira

(Notary Seal)

Notary Public



Philip Suen

Mayor, City of Wheaton

Attested by:

Shawn Bennett

City Clerk

EXHIBIT A

Legal Description:

Lot 2, In Woodlawn Place, Being A Subdivision
of Part of Lot 1 In Muchfelt Land Partnership
Assessment Plat, Being part of The Northwest Quarter
of Section 8, Township 39 North, Range 10 East of
The Third Principal Meridian, According To The Plat
Thereof Recorded May 19, 2015, As Document R2015-052811
In DuPage County, Illinois

1801 Knollwood Dr. Wheaton, IL 60187
Street Name

P.I.N. 05-08-114-016

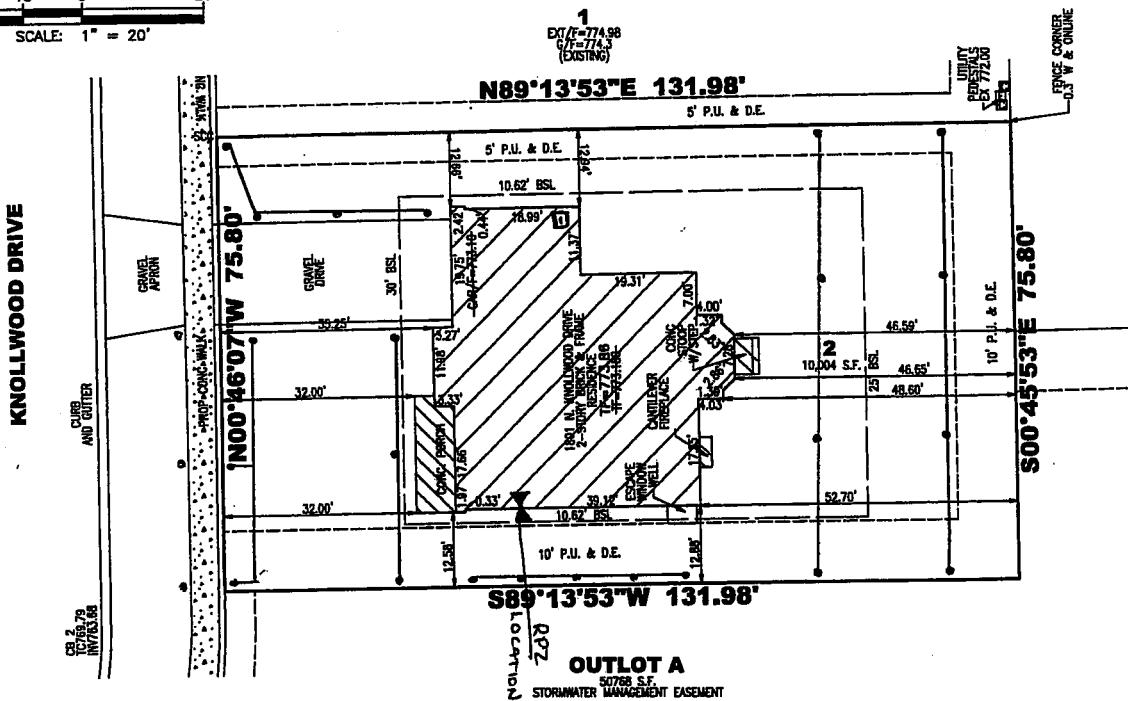


20 10 0 20
SCALE: 1" = 20'

PLAT OF SURVEY

"CLOSING SURVEY"

LOT 2, IN WOODLAWN PLACE, BEING A SUBDIVISION OF PART OF LOT 1 IN MUEHLFELT LAND PARTNERSHIP ASSESSMENT PLAT, BEING PART OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 19, 2015, AS DOCUMENT R2015-052811, IN DUPAGE COUNTY, ILLINOIS.



IRRIGATION LEGEND

- 4" PGP ROTARY SPRINKLERS
- 1" POLYETHYLENE PIPE
- 1" WILKINS 375 RPZ VALVE
- PILO HC 1200 CONTROL

MAX FLOW RATE X LARGEST ZONE

7.6 GPM

LEGEND

BSL	BUILDING SETBACK LINE
DE	DRAINAGE EASEMENT
UE	UTILITY EASEMENT
ACU	AIR CONDITIONER UNIT
BB	BUFFALO BOX
CO	CLEAN-OUT
EM	ELECTRIC METER
GM	GAZ METER
CONC	CONCRETE
FIR	FOUND IRON ROD
FNC	FENCE CORNER
PEDC	CABLE PEDESTAL
PEDE	ELECTRIC PEDESTAL
HMA	HOH MCA ASPHALT
SIR	SEWER ROD
SL	STREET LIGHT
TDC	TOP OF DEPRESSED CURB
TOC	TOP OF CURB
T/F	TOP OF FOUNDATION
P.U.	PUBLIC UTILITY &
& D.E.	DRAINAGE EASEMENT

SURVEYOR'S NOTES:

1. THIS SURVEY IS SUBJECT TO MATTERS OF TITLE WHICH MAY BE REVEALED BY A CURRENT TITLE REPORT.
2. BUILDING DIMENSIONS AND TIES SHOWN HEREON ARE MEASURED FROM THE OUTSIDE FACE OF CONCRETE FOUNDATION.
3. SURVEY IS BASED ON FIELD WORK COMPLETED ON 04-03-17

GENERAL NOTES:

1. DIMENSIONS ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF.
2. ONLY THOSE BUILDING LINE SETBACKS AND EASEMENTS WHICH ARE SHOWN ON THE RECORDED PLAT OF SUBDIVISIONS ARE SHOWN HERE ON. REFER TO THE DEED, TITLE INSURANCE POLICY AND LOCAL ORDINANCES FOR OTHER RESTRICTIONS.
3. COMPARE DEED DESCRIPTION AND SITE CONDITIONS WITH THE DATA GIVEN ON THIS PLAT AND REPORT AND DISCREPANCIES TO THE SURVEYOR AT ONCE.
4. NO DIMENSIONS SHALL BE DERIVED FROM SCALE MEASUREMENTS.
5. CERTIFIED COPIES OF THIS SURVEY BEAR AN IMPRESSED SEAL

DEVELOPER

M/I HOMES
400 EAST DIEHL ROAD, SUITE 230
NAPERVILLE, ILLINOIS 60563
P: 630-577-5200 F: 630-577-5220

SETBACKS:

FRONT YARD MINIMUM = 30.0',
SIDE YARD MINIMUM = VARIES
CORNER SIDE YARD MINIMUM = 12.0'
REAR YARD MINIMUM = 25.0'

SOURCE BENCHMARK:

DUPAGE COUNTY BENCHMARK #10001:
DISK SET IN WEST SIDE OF CONCRETE TRAFFIC SIGNAL
BASE, LOCATED IN THE SOUTHEAST CORNER OF GENEVA
ROAD AND PRESIDENT STREET.
ELEVATION = 770.40 (NAVD 1988).

SITE BENCHMARK:

NORTHWEST ARROW BOLT OF HYDRANT LOCATED IN
EAST RIGHT OF WAY OF WOODLAWN AVENUE WHERE IT
DEAD ENDS, APPROXIMATELY 356 FEET EAST OF THE
NORTHWEST CORNER OF SITE.
ELEVATION = 773.00

STATE OF ILLINOIS
COUNTY OF COOK

WE, MACKIE CONSULTANTS LLC, AN ILLINOIS PROFESSIONAL DESIGN FIRM NO. 184-002694, HEREBY CERTIFY THAT WE HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THIS PLAT REPRESENTS THE CONDITIONS FOUND AT THE TIME OF SAID SURVEY.

GIVEN UNDER MY HAND AND SEAL THIS 17th DAY OF
APRIL 2017 IN ROSEMONT, ILLINOIS.

MACKIE CONSULTANTS LLC

RUSSELL W. OLSEN
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 035-002718
LICENSE EXPIRES: NOVEMBER 30, 2018



Mackie Consultants, LLC
9575 W. Higgins Road, Suite 500
Rosemont, IL 60018
(847)696-1400
www.mackieconsult.com

DATE	DESCRIPTION	BY
01-10-17	FOUNDATION LOCATION	RWD
04-17-17	CLOSING SURVEY	RWD

DATE: 11-03-16 DR BY: SMC PROJ NO: 2638 LOT NO: 2

WOODLAWN PLACE
1801 N. KNOLLWOOD DRIVE
WHEATON, ILLINOIS