

RESOLUTION R-2021-43

A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(27 Landon 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 May 12th, 2021, between the City of Wheaton and Nancy L. Singer, Jean K. Singer, and Carolyn F. Cartwright for 27 Landon Circle, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 17th day of May 2021.


Philip J. Suess

Mayor

ATTEST:


Karen Bennett-Hagan

City Clerk

Ayes: Roll Call Vote
Councilman Barbier
Councilwoman Bray-Parker
Councilman Brown
Mayor Suess
Councilwoman Fitch
Councilwoman Robbins
Councilman Weller

Nays: None
Absent: None
Motion Carried Unanimously

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CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT
RIGHT-OF-WAY (27 Landon Circle)
Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 12 day of May, 2021, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Nancy Singer, Jean Singer, Carolyn Cartwright ("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, Nancy Singer, Jean Singer, Carolyn Cartwright (hereinafter "Owner"), the owner of the premises located at 27 Landon 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.

2.) Nancy Singer, Jean Singer, Carolyn Cartwright are the owners of property located at 21 Landon 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 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.

Nancy L. Singer
OWNER, Nancy L. Singer

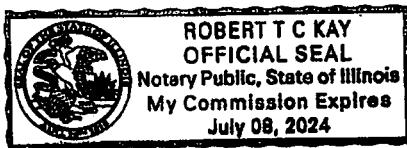
Jean K. Singer
Owner, Jean K. Singer

Carolyn F. Cartwright by Nancy Singer, POA
Owner, Carolyn F. Cartwright

Subscribed and sworn to before me this 12th day of May, 2021.

Robert T C Kay
Notary Public

(Notary Seal)



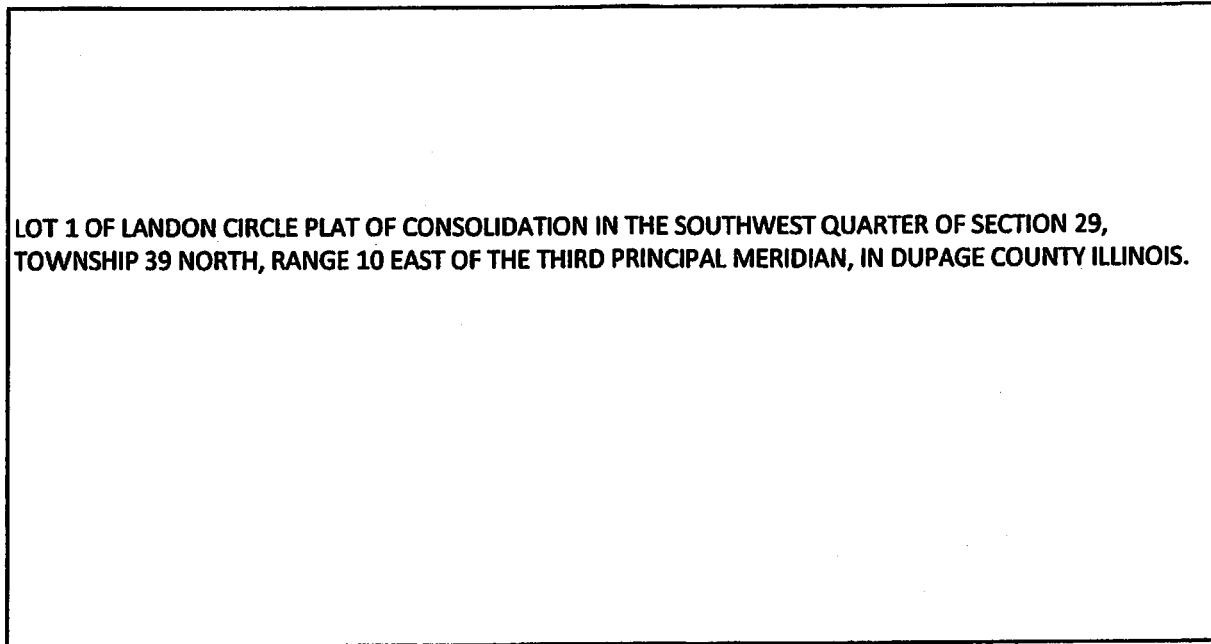
Attested by:

Shawn Smith-Hagan
City Clerk

Philip J. Sawyer
Mayor, City of Wheaton

EXHIBIT A

Legal Description:



27 Landon Circle Wheaton, IL 60189
Street Name

P.I.N. 05-29-300-026 and 027

LANDON CIRCLE PLAT OF CONSOLIDATION

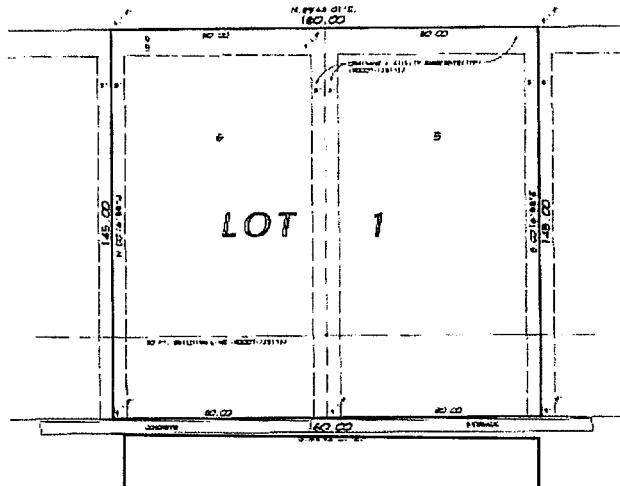


IN THE NORTHEAST QUADRANT OF SECTION 20, TOWNSHIP 29 NORTH, RANGE 10 EAST IN THE RUSHVILLE TOWNSHIP
IN DU PAGE COUNTY, ILLINOIS.

P. I. N. 05-29-108-026, 06-29-388-027

Exhibit B

MEATON PARK DISTRICT



LANDON CIRCLE

COUNTY CLERK'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

I, JOHN KACZMAREK, COUNTY CLERK OF DU PAGE COUNTY, ILLINOIS, DO HEREBY CERTIFY THAT THAT I FILED NO DELINQUENT GENERAL TAXES, NO UNPAID CURRENT GENERAL TAXES, NO UNPAID RENTED LAND TAXES, NO DELINQUENT OR UNPAID SPECIAL TAXES, NO SPECIAL ASSESSMENTS, NO MILITARY TAXES AGAINST ANY OF THE LAND SHOWN ON THIS PLAT.

GIVEN UNDER MY HAND AND SEAL AT MEATON, DU PAGE COUNTY, ILLINOIS, THIS 5th DAY OF APRIL, 2002.

John Kaczmarek
COUNTY CLERK

CITY COLLECTOR'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

I, THE CITY COLLECTOR FOR THE CITY OF MEATON, ILLINOIS, DO HEREBY CERTIFY THAT THERE ARE NO DELINQUENT OR UNPAID AMOUNTS OF EXEMPTED SPECIAL ASSESSMENTS OR ANY DEFERRED TAXES DUE THEREON THAT HAVE BEEN AMOUNTED AGAINST THE TRACT OF LAND DESCRIBED ON THIS PLAT.

THIS 5th DAY OF APRIL, 2002.

City Collector

DIRECTOR OF ENGINEERING CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

I, JOSEPH E. TRODORIC, DIRECTOR OF ENGINEERING FOR THE CITY OF MEATON, ILLINOIS, DO HEREBY CERTIFY THAT THE LAND IMPROVEMENTS DESCRIBED IN THE ANNEALED PLAT AND PLANS AND SPECIFICATIONS THEREON MEET THE MINIMUM REQUIREMENTS OF SAID CITY AND HAVE BEEN APPROVED BY ALL PUBLIC AUTHORITIES HAVING JURISDICTION THEREON.

DATED AT MEATON, ILLINOIS, THE 5th DAY OF APRIL, 2002.

Joseph E. Trodoric
DIRECTOR OF ENGINEERING

OWNER'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

THIS IS TO CERTIFY THAT MARY L. SINGER AND JEAN K. SINGER ARE THE HOLDERS OF RECORD TITLE OF THE PROPERTY SHOWN AND DESCRIBED HEREIN AND HAVE CAUSED THE SAME TO BE SURVEYED AND SUBDIVIDED AS HERON SHOWN FOR THE USES AND PURPOSES THEREIN SET FORTH, AND DO HEREBY ACKNOWLEDGE AND AGREE THE SAME UNDER THE TITLE AND TITLE HERON SHOWN.

WE FURTHER CERTIFY THAT THIS PROPERTY IS WITHIN COMMUNITY UNIT SCHOOL DISTRICT 200.

DATED THIS 5th DAY OF APRIL, 2002.

Mary L. Singer
MARY L. SINGER

Jean K. Singer
JEAN K. SINGER

NOTARY'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

I, A NOTARY PUBLIC IN AND FOR THE COUNTY IN THE STATE APPROVED, DO HEREBY CERTIFY THAT MARY L. SINGER AND JEAN K. SINGER PERSONALLY KNOWN TO ME TO BE THE SAME PERSONS whose names are subscribed to the foregoing instrument, APPEARED IN PERSON AND ACKNOWLEDGED THAT THEY SIGNED AND DELIVERED THE FOREGOING INSTRUMENT AS THEIR OWN FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL THIS 5th DAY OF APRIL, 2002.

MY COMMISSION EXPIRES: 12/31/2003

Carolyn F. Carpenter
CAROLYN F. CARPENTER

Notary Public

OWNER'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

THIS IS TO CERTIFY THAT MARY L. SINGER AND CAROLYN F. CARPENTER ARE THE HOLDERS OF RECORD TITLE OF THE PROPERTY SHOWN AND DESCRIBED HEREIN AND HAVE CAUSED THE SAME TO BE SURVEYED AND SUBDIVIDED AS HERON SHOWN FOR THE USES AND PURPOSES THEREIN SET FORTH, AND DO HEREBY ACKNOWLEDGE AND AGREE THE SAME UNDER THE TITLE AND TITLE HERON SHOWN.

WE FURTHER CERTIFY THAT THIS PROPERTY IS WITHIN COMMUNITY UNIT SCHOOL DISTRICT 200.

DATED THIS 5th DAY OF APRIL, 2002.

Mary L. Singer
MARY L. SINGER

Carolyn F. Carpenter
CAROLYN F. CARPENTER

NOTARY'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

I, A NOTARY PUBLIC IN AND FOR THE COUNTY IN THE STATE APPROVED, DO HEREBY CERTIFY THAT MARY L. SINGER AND CAROLYN F. CARPENTER PERSONALLY KNOWN TO ME TO BE THE SAME PERSONS whose names are subscribed to the foregoing instrument, APPEARED IN PERSON AND ACKNOWLEDGED THAT THEY SIGNED AND DELIVERED THE FOREGOING INSTRUMENT AS THEIR OWN FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL THIS 5th DAY OF APRIL, 2002.

MY COMMISSION EXPIRES: 12/31/2003

Notary Public

COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

THIS INSTRUMENT, NO. _____, HAS BEEN FILED FOR RECORD IN THE RECORDER'S OFFICE OF DU PAGE COUNTY, ILLINOIS, THIS 5th DAY OF APRIL, 2002.

COUNTY RECORDER

CITY COUNCIL CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

APPROVED BY THE CITY COUNCIL OF THE CITY OF MEATON, DU PAGE COUNTY, ILLINOIS, THIS 5th DAY OF APRIL, 2002.

ATTEST: _____

ANTHONY CITY CLERK

NOTARY'S CERTIFICATE

STATE OF ILLINOIS / 1 23.

COUNTY OF DU PAGE /

THIS IS TO CERTIFY THAT STEINBRECHER LAND SURVEYORS, INC., LAND SURVEYING DESIGN FIRM NO. 104-00304, HAS SURVEYED AND CONSOLIDATED THE FOLLOWING DESCRIBED PROPERTY:

IN LOTS 4 AND 5 IN ANNEALED PLAT SUBDIVISION, OF PART OF THE NORTHEAST QUADRANT OF SECTION 20, TOWNSHIP 29 NORTH, RANGE 10 EAST IN THE RUSHVILLE TOWNSHIP, ILLINOIS, REC'D. 4/12/02, PLAT THEREOF REC'D. 4/12/02 AS DOCUMENT NO. 04027-128129 AND CERTIFICATE OF CORRECTION REC'D. 4/12/02 AS DOCUMENT NUMBER 04027-128130, IN DU PAGE COUNTY, ILLINOIS.

AS SHOWN ON THE ANNEALED PLAT WHICH IS THE BEST OF OUR KNOWLEDGE AND BELIEVE, IS A CORRECT REPRESENTATION OF SAID SURVEY AND SUBDIVISION. ALL DISTANCES ARE IN FEET AND DECIMAL PARTS THEREOF. SCALE OF MAP IS 1/8 FEET TO ONE INCH.

WE FURTHER CERTIFY THAT THE LAND INCLUDED IN THE ANNEALED PLAT IS WITHIN THE LIMITS OF THE CITY OF MEATON, WHICH HAS ADOPTED A CITY PLAN AND IS EXERCISING THE SPECIAL POWERS AUTHORIZED BY DIVISION 12 OF ARTICLE 11 OF THE ILLINOIS MUNICIPAL CODE.

WE FURTHER CERTIFY THAT NO PART OF THE PROPERTY SHOWN IN THIS PLAT IS LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS IDENTIFIED ON THE FLOOD INSURANCE RATE MAP FOR THE CITY OF MEATON, AND NUMBER 104027-128129, DATED AUGUST 1, 2001.

WEST CHICAGO, ILLINOIS, APRIL 29, 2002.



STEINBRECHER LAND SURVEYORS, INC.
PROFESSIONAL LAND SURVEYOR 10402
LICENSURE NUMBER 104027-128129
EXPIRATION DATE APRIL 29, 2003

RECORDED FOR:
MARY L. SINGER
27 LANDON CIRCLE
MEATON, IL 60151
RECORDED APRIL 29, 2002
RECORDED BY: RICHARD J. STEINBRECHER
PROFESSIONAL LAND SURVEYOR 10402
LICENSURE NUMBER 104027-128129
EXPIRATION DATE APRIL 29, 2003



Steinbrecher Land Surveyors, Inc.
Professional Land Surveying
Bingo Five Corporation No. 104-003228
141 S. Hennepin, West Chicago, IL 60185-2844
Fax 291-9322

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