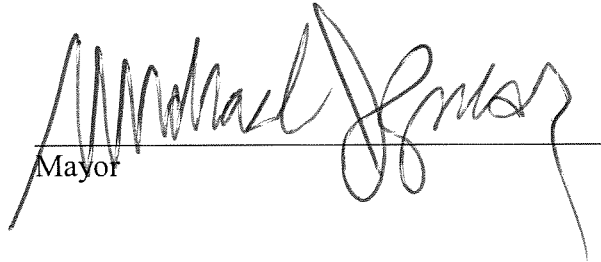


RESOLUTION R-74-13

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(1113 North Irving Avenue)**

BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is authorized to sign a certain Construction, Use and Indemnification Agreement dated August 21, 2013 between the City of Wheaton and Aaron J. and Erika Lytle of 1113 North Irving Avenue, Wheaton, Illinois; and the City Clerk is authorized to attest to the signature of the Mayor.

ADOPTED this 7th day of October, 2013.



Mayor

ATTEST:



City Clerk

Roll Call Vote

Ayes:	Councilman Sues
	Councilman Prendiville
	Councilman Rutledge
	Councilman Saline
	Mayor Gresk
	Councilman Scalzo
Nays:	None
Absent:	Councilwoman Pacino Sanguinetti

Motion Carried Unanimously

CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT
RIGHT-OF-WAY (IRVING (1113))
Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 1st day of August, 2009, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and AARON AND ERICA LYTLE ("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, AARON AND ERICA LYTLE (hereinafter "Owner"), the owner of the premises located at 1113 IRVING, 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.) AARON AND ERICA LYTLE are the owners of property located at 1113 IRVING, 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 1113 Irving 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.

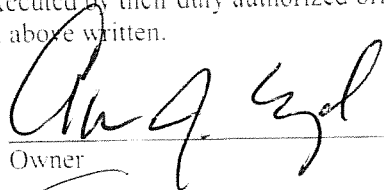
9.) The provisions set forth in this Agreement and exhibit represent the entire Agreement between the parties and shall preclude all prior agreements, contracts, understandings, promises and representations, oral or written, as it is the intent of the parties to provide for a complete integration within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

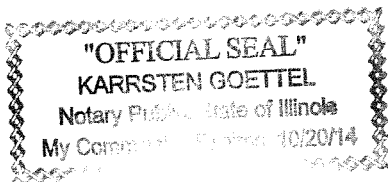

Owner

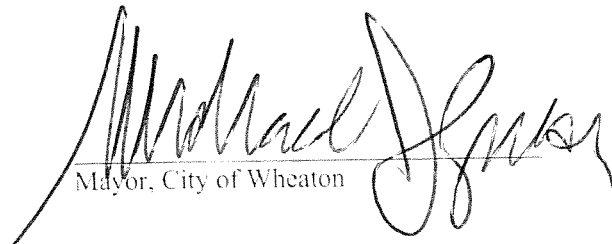

Owner

Subscribed and sworn to before me this 21st day of August, 2013.


Notary Public

(Notary Seal)




Mayor, City of Wheaton

Attested by:


City Clerk

EXHIBIT A

Legal Description:

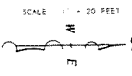
Lots 13: 14 in Arthur T. Mcintosh & Company Resubdivision
of Blocks 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 15 in NE
Corner Gary's Second Addition to Wheaton, being a
Subdivision of (together with other lands) Part of
the South half of Section 9 Township 30 North
Range 10 East of the Third Principal Meridian.
According to the Plat thereof Recorded April
21 @ 1923 as Document 164742 in Dodge
County Illinois

1113 Irving
address

Wheaton, IL 60187

P.I.N. _____

3/12/2012



Stelshaber Land Surveyors, Inc.
 1130 North Dearborn Street, Suite 200
 Chicago, IL 60610
 Tel: 312.329.8800 Fax: 312.329.8803

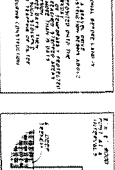
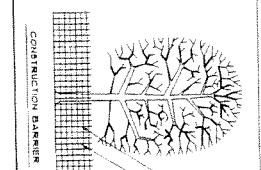
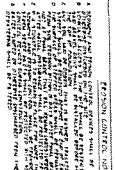
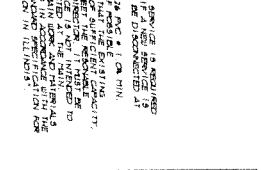
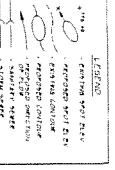
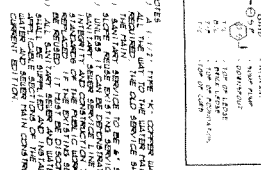
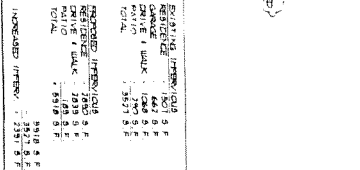
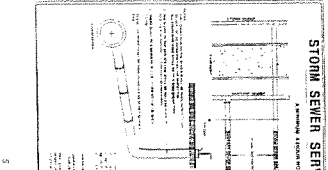
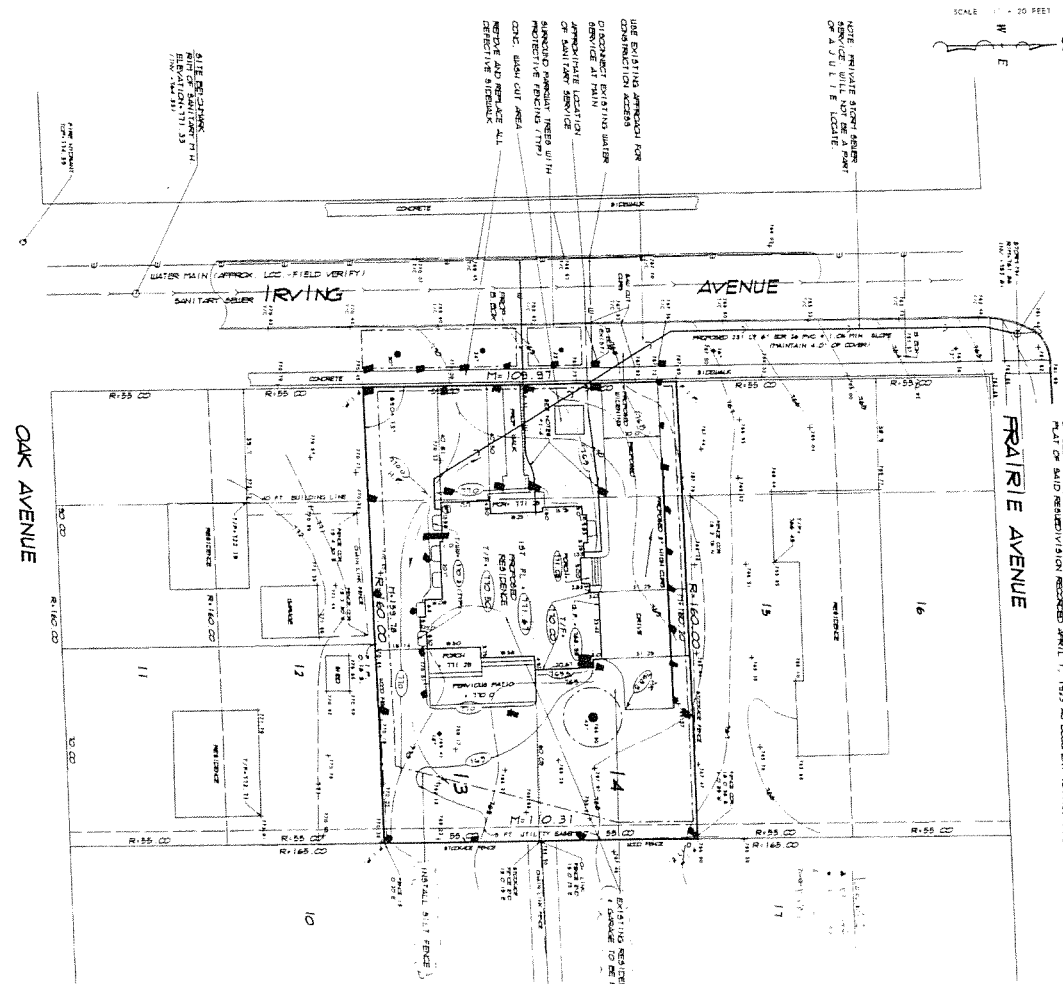
LEGEND
 1. EXISTING CONCRETE
 2. EXISTING ASPHALT
 3. EXISTING GRAVEL
 4. EXISTING SAND
 5. EXISTING DIRT
 6. EXISTING CURB
 7. EXISTING DRIVE
 8. EXISTING SIDEWALK
 9. EXISTING FENCE
 10. EXISTING UTILITY

STATE OF ILLINOIS
 COUNTY OF DU PAGE
 I, **Michael J. Stelshaber**, a duly Licensed Professional Engineer in the State of Illinois, do hereby certify that the above is a true and correct copy of the original as shown to me.

Michael J. Stelshaber
 Professional Engineer
 License # 000000000
 State of Illinois
 Expires 12/31/2012

STATE OF ILLINOIS
 COUNTY OF DU PAGE
 I, **Michael J. Stelshaber**, a duly Licensed Professional Engineer in the State of Illinois, do hereby certify that the above is a true and correct copy of the original as shown to me.

Michael J. Stelshaber
 Professional Engineer
 License # 000000000
 State of Illinois
 Expires 12/31/2012



STORM SEWER SERVICE CONNECTION DETAIL
 FOUNDATION WALL
 STORM SEWER PIPE
 SERVICE CONNECTION

'ABOVE GRADE' CONCRETE CURBOUT
 CONCRETE CURB
 ASPHALT
 GRAVEL
 DRAINAGE

CONSTRUCTION BARRIER
 CONSTRUCTION BARRIER
 GRAVEL
 DRAINAGE
 FOUNDATION

SILL FRAME
 SILL FRAME
 CONCRETE
 FOUNDATION

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 COUNTY OF DU PAGE
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Michael J. Stelshaber
 Professional Engineer
 License # 000000000
 State of Illinois
 Expires 12/31/2012

PROJECT LOCATION:
 1113 IRVING AVENUE
 WHEATON, IL.

SITE PLAN

PREPARED FOR:
 AARON & ERIKA LYTLE

REVISIONS	BY:
5-28-2012	MS
11-12-12	MS
5-27-2013	MS

SHEET
 1 OF 1

