


RESOLUTION R-64-14

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(1315 Aurora Way)**


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 22, 2014, between the City of Wheaton and the Bernard and Gretta Tamling Family Trust, dated October 10, 2012 for 1315 Aurora Way, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 20th day of October, 2014.



Mayor

ATTEST:



City Clerk

Roll Call Vote

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

Motion Carried Unanimously

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

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 22 day of Sept, 2014, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and "BERNARD AND GRETTE TAMELING FAMILY TRUST, DATED October 10, 2012" ("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
" BERNARD AND GRETTE TAMELING FAMILY TRUST, DATED October 10, 2012"
WHEREAS, 1 (hereinafter "Owner"), the owner of the premises located at 1315 AURORA WAY, 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.
" BERNARD AND GRETTE TAMELING FAMILY TRUST, DATED October 10, 2012"
- 2.) 1 are the owners of property located at 1315 AURORA WAY 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 _____

_____ 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.

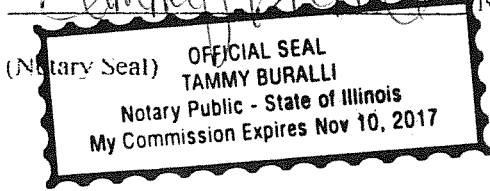
IN WITNESS WHEREOF, the Corporate authorities and the Owners have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here all on the date and year first above written.

Bernice Kaneling Trustee
Owner

Heather Kaneling Trustee
Owner

Subscribed and sworn to before me this 22 day of Sept, 2014.

Tammy Buralli
Notary Public



Michael Jones
Mayor, City of Wheaton

Attested by:
Sharon Burnett Hogan
City Clerk

EXHIBIT A

Legal Description:

THAT PART OF LOT 22 IN FIRST ADDITION TO HADLEY ESTATES, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 14, 1944 AS DOCUMENT 470321, LYING SOUTHWESTERLY OF A LINE DESCRIBED AS BEING IN THE SOUTHEASTERLY, OR REAR LINE OF SAID LOT AT A POINT 133.45 FEET SOUTHWESTERLY OF THE SOUTHEASTERLY CORNER THEREOF AND RUNNING IN A NORTHWESTERLY DIRECTION, PARALLEL TO THE NORTHEASTERLY LINE OF SAID LOT, TO ITS POINT OF INTERSECTION WITH THE NORTHWESTERLY, OR FRONT LINE OF SAID LOT, IN DUPAGE COUNTY, ILLINOIS.

1315 Aurora Way Wheaton, IL 60187
address

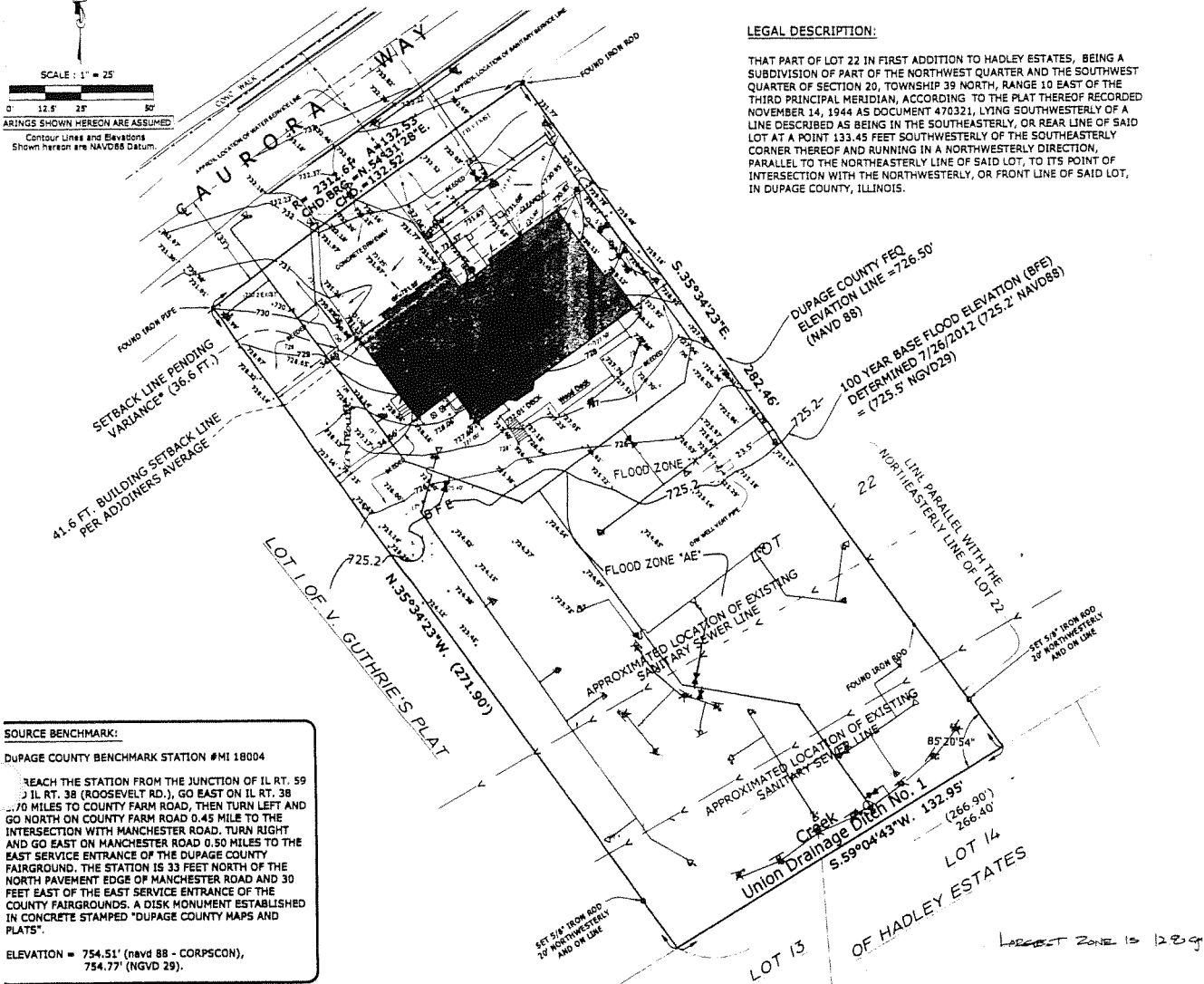
P.I.N. 05-20-111-001

FINAL GRADING PLAN

SCALE: 1" = 25'
 0 12.5 25 50
 DIMENSIONS SHOWN HEREON ARE ASSUMED
 Contour Lines and Elevations
 Shown Hereon are NAVD83 Datum

LEGAL DESCRIPTION:

THAT PART OF LOT 22 IN FIRST ADDITION TO HADLEY ESTATES, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 14, 1944 AS DOCUMENT 470321, LYING SOUTHWESTERLY OF A LINE DESCRIBED AS BEING IN THE SOUTHEASTERLY, OR REAR LINE OF SAID LOT AT A POINT 133.45 FEET SOUTHWESTERLY OF THE SOUTHEASTERLY CORNER THEREOF AND RUNNING IN A NORTHWESTERLY DIRECTION, PARALLEL TO THE NORTHEASTERLY LINE OF SAID LOT, TO ITS POINT OF INTERSECTION WITH THE NORTHWESTERLY, OR FRONT LINE OF SAID LOT, IN DUPAGE COUNTY, ILLINOIS.



SOURCE BENCHMARK:
 DUPAGE COUNTY BENCHMARK STATION #MI 18004
 REACH THE STATION FROM THE JUNCTION OF IL RT. 59 AND IL RT. 38 (ROOSEVELT RD.), GO EAST ON IL RT. 38 0.70 MILES TO COUNTY FARM ROAD, THEN TURN LEFT AND GO NORTH ON COUNTY FARM ROAD 0.45 MILE TO THE INTERSECTION WITH MANCHESTER ROAD, TURN RIGHT AND GO EAST ON MANCHESTER ROAD 0.50 MILES TO THE EAST SERVICE ENTRANCE OF THE DUPAGE COUNTY FAIRGROUND. THE STATION IS 33 FEET NORTH OF THE NORTH PAVEMENT EDGE OF MANCHESTER ROAD AND 30 FEET EAST OF THE EAST SERVICE ENTRANCE OF THE COUNTY FAIRGROUNDS. A DISK MONUMENT ESTABLISHED IN CONCRETE STAMPED "DUPAGE COUNTY MAPS AND PLATS".
 ELEVATION = 754.51' (NAVD 88 - CORPSCON),
 754.77' (NGVD 29).

FLOOD INFORMATION
 THE FLOOD RATE INSURANCE MAP SHOWS THE PROPERTY DESCRIBED HEREON FALLS WITHIN ZONES "AE" & "X", ACCORDING TO COMMUNITY PANEL NO. 170221 0504 H, FOUND ON MAP NO. 17043C0504H, DUPAGE COUNTY AND INCORPORATED AREAS, WITH AN EFFECTIVE DATE OF DECEMBER 16, 2004.
 ZONE "AE" ARE AREAS WHERE BASE FLOOD ELEVATIONS HAVE BEEN DETERMINED. ZONE "X" ARE (1) AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AND/OR (2) AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.

LEGEND

B	B-BOX	—	BOUNDARY LINE
⊕	FIRE HYDRANT	—	BOUNDARY LINE
⊕	UTILITY/POWER POLE	(53.00)	BOUNDARY LINE
⊕	DOWN SPOUT	174.50	BOUNDARY LINE
T/F	TOP OF FOUNDATION	174.50	BOUNDARY LINE
TC	TOP OF CURB	174.50	BOUNDARY LINE
FF	FINISHED FLOOR	174.50	BOUNDARY LINE
□	BUILDING	174.50	BOUNDARY LINE
□	CONCRETE	174.50	BOUNDARY LINE
—	FOUND IRON PIPE	—	BOUNDARY LINE
—	RECORD / DEED MEASURED	—	BOUNDARY LINE
—	CONTOUR LINE AS CONSTRUCTED WITHIN AREA OF CONSTRUCTION	—	BOUNDARY LINE
—	SPOT ELEVATION AS CONSTRUCTED	—	BOUNDARY LINE
—	CONTOUR LINE PROPOSED	—	BOUNDARY LINE
—	SPOT ELEVATION AS PROPOSED	—	BOUNDARY LINE
—	DRAINAGE SLOP AS PROPOSED	—	BOUNDARY LINE
—	DRAINAGE DIRECTION AS CONSTRUCTED	—	BOUNDARY LINE

FRONT SETBACK
 A = AS-BUILT SETBACK NORTHEAST RESIDENCE = 53.4'
 B = AS-BUILT SETBACK SOUTHWEST RESIDENCE = 29.8'
 ROUNDED AVERAGE FRONT SETBACK (A+B)/2 = 41.6'

FRONT SETBACK LINE PENDING VARIANCE
 SETBACK LINE PENDING VARIANCE ** IT IS OUR UNDERSTANDING THAT THE OWNER / BUILDER IS IN THE PROCESS OF OBTAINING A VARIANCE TO REDUCE THE FRONT BUILDING SETBACK FROM 41.6 FEET TO 36.6 FEET. THIS PLAN IS VOID IF SUCH VARIANCE IS NOT GRANTED.

SURVEY NOTES
 THE SURVEYOR EXPRESSES NO OPINION AS TO THE ACCURACY OF THE UNDERGROUND UTILITIES WHEN NOT READILY VISIBLE FROM THE SURFACE. IT IS RECOMMENDED THAT THE APPROPRIATE GOVERNMENTAL AGENCY, MUNICIPALITY AND / OR UTILITY COMPANY BE CONTACTED FOR VERIFICATION.
 THE PERMANENT PARCEL INDEX NUMBER FOR THE PROPERTY DESCRIBED HEREON IS 05-20-111-001.
 COMMONLY KNOWN AS 1315 AURORA WAY, WHEATON, ILLINOIS 60189.
 THE PROPERTY DESCRIBED HEREON CONTAINS 36,814.42 SQ. FT. / 0.845 ACRES. 9,718.5 FT. FALLS BETWEEN 53 FT. SETBACK AND BFE LINE.
 ALL SETBACKS AND EASEMENTS SHOWN HEREON ARE PER THE SUBDIVISION PLAT CITED, DOC. NO. 470321, UNLESS OTHERWISE NOTED.



STATE OF ILLINOIS)
 COUNTY OF KENDALL) SS
 I, CHARLES S. MARSHALL, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON, BEING COMPLETED IN THE FIELD ON 7/14/2014, IS A CORRECT REPRESENTATION OF A SURVEY PERFORMED AT AND UNDER MY DIRECTION.
 THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS FOR LAND BOUNDARY SURVEYS SET FORTH BY ILLINOIS STATE LAW.
 I ALSO CERTIFY THAT THE AS-CONSTRUCTED GRADING COMPLIES WITH THE APPROVED GRADING PLAN.
 ALL DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.
 GIVEN UNDER MY HAND AND SEAL THIS 4TH DAY OF SEPTEMBER, A.D. 2014.

Charles S. Marshall
 CHARLES S. MARSHALL
 ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3377
 LICENSE EXPIRES 11/30/2014

DATED	REVISIONS
9/4/2014	MISCELLANEOUS REVISIONS PER CITY ENGINEER COMMENTS DATED AUGUST 8, 2014



PREPARED BY:
ASMC
 ASM Consultants, Inc.
 PO Box 7, Plano, IL 60545
 Tel (630) 273-2500 Fax (630) 273-2600
 advanced@advct.com
 Professional Design Firm #184-006014 expires 4/30/2015

PREPARED FOR:
Magnolia
 Custom Homes
 20 Danada Square West
 Suite 206
 Wheaton, IL 60187

SITE INFORMATION:
 1315 AURORA WAY
 WHEATON, IL 60189

PROJECT NO.: 72700BFG
 PROJECT NAME: 1315 AURORA WAY
 DATE OF SURVEY: 7/14/2014
 DATE OF DRAWING: 9/4/2014
 DRAWN BY: PS CHECKED BY: CSH
FINAL GRADING PLAN

