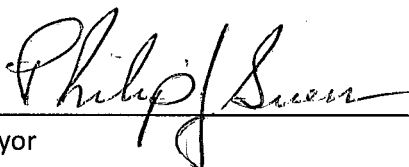


RESOLUTION R-2019-95

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(1407 South Gables Boulevard)**

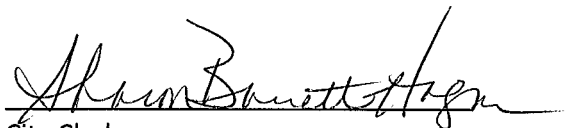
BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to sign, and the City Clerk is directed to attest to the Construction, Use and Indemnification Agreement dated October 2, 2019, between the City of Wheaton and Joseph Brems and Laura Voza for 1407 South Gables Boulevard, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 21st day of October 2019.



Mayor

ATTEST:



City Clerk

Roll Call Vote

Ayes: Councilman Rutledge
Councilman Zaruba
Councilman Barbier
Councilwoman Bray-Parker
Councilwoman Fitch
Mayor Sues
Councilwoman Robbins

Nays: None
Absent: None

Motion Carried Unanimously

CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT
RIGHT-OF-WAY (1407 Gables Blvd)
Street Name

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 2 day of 10, 2019, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Joseph Brews and Laura Vozza ("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, Joseph Brews & Laura Vozza (hereinafter "Owner"), the owner of the premises located at 1407 S Gables Blvd, 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.) Joseph Brews and Laura Vozza are the owners of property located at 1407 S Gables Blvd 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.

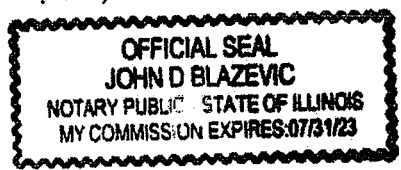
[Signature]
Owner

[Signature]
Owner

Subscribed and sworn to before me this 2nd day of October, 2019.

[Signature] Notary Public

(Notary Seal)



[Signature]
Mayor, City of Wheaton

Attested by:
[Signature]
City Clerk

EXHIBIT A

Legal Description:

LOT 3 OF PROPERTY OWNER'S DIVISION OF LOT 1 OF HADLEY ESTATES, BEING A
SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE
THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF PROPERTY OWNER'S
DIVISION, RECORDED MAY 15, 1947 AS DOCUMENT 521041 IN DUPAGE COUNTY,
ILLINOIS.

COMMONLY KNOWN AS 1407 S. GABLES BLVD, WHEATON, IL

PIN #05-20-400-005

EXHIBIT B

TOPOGRAPHICAL SITE DEVELOPMENT PLAN

LOT 2 OF PROPERTY OWNERS EVIDENCE OF PART OF SECTION 20, TOWNSHIP 20 NORTH, RANGE 12 NORTH, COUNTY OF WISCONSIN, ACCORDING TO THE PLAN OF PROPERTY OWNERS WHICH RECORDED JAN. 14, 1947 AS SUBDIVISION

CONDUIT WORK AS SHOWN ON SHEET 1 AND SHEET 2

PLANS 20-400-05

RECEIVED
SEP 16 2019

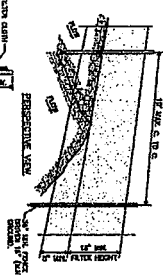
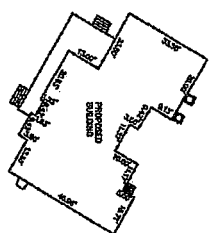
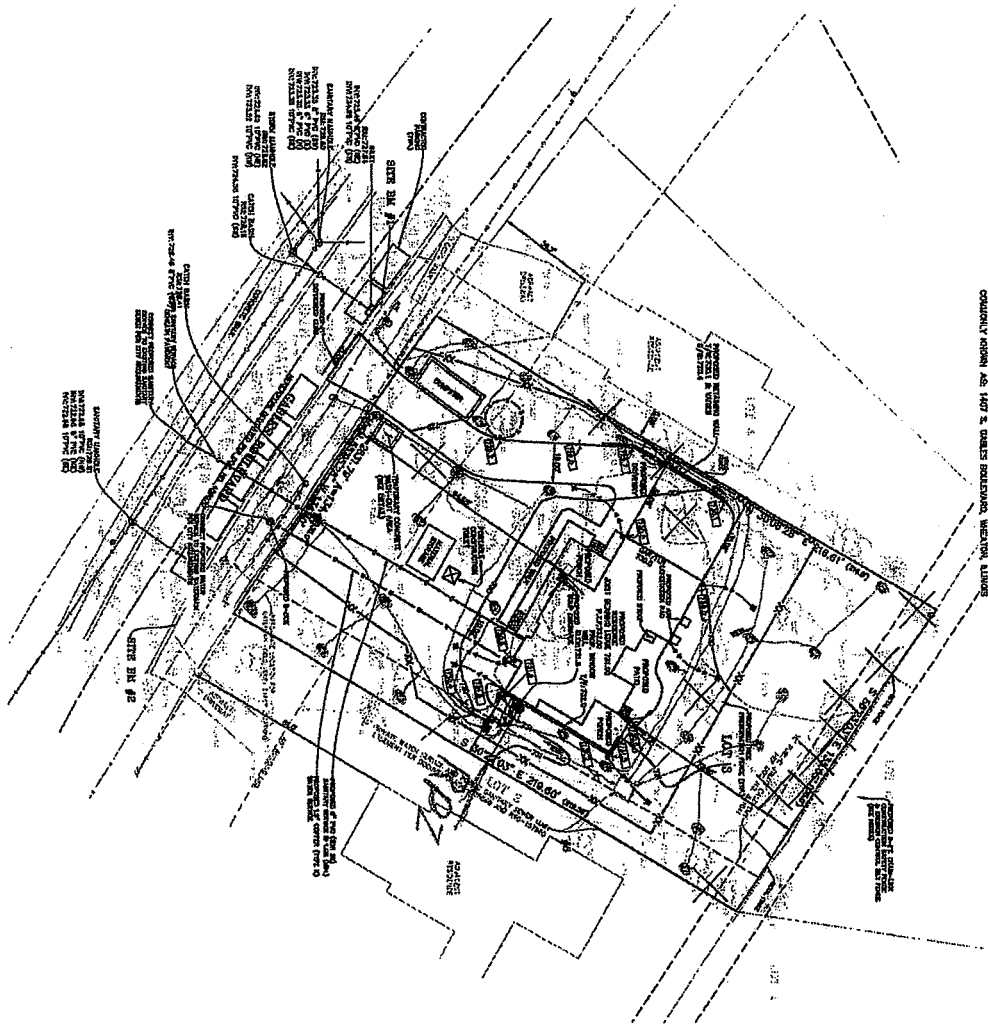
BUILDING & CODE ENFORCEMENT



SITE REVISIONS
 ALL CHANGES TO THIS PLAN SHALL BE MADE BY A SEPARATE SET OF REVISIONS. THE ENGINEER'S SIGNATURE AND SEAL SHALL BE AFFIXED TO EACH REVISION SHEET. THE DATE OF EACH REVISION SHALL BE SHOWN. THE ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF ALL REVISIONS. THE ORIGINAL PLAN SHALL BE KEPT ON FILE BY THE ENGINEER FOR A PERIOD OF TEN YEARS FROM THE DATE OF THE LAST REVISION.

MEASUREMENT DATA TABLE

STATION	BEARING	DISTANCE	MARK	REMARKS
1	N 89° 15' 00" E	100.00	1	Corner of Lot 1
2	S 89° 15' 00" E	100.00	2	Corner of Lot 2
3	S 0° 00' 00" E	100.00	3	Corner of Lot 3
4	N 89° 15' 00" W	100.00	4	Corner of Lot 4
5	N 0° 00' 00" W	100.00	5	Corner of Lot 5
6	N 89° 15' 00" W	100.00	6	Corner of Lot 6
7	N 0° 00' 00" W	100.00	7	Corner of Lot 7
8	N 89° 15' 00" E	100.00	8	Corner of Lot 8
9	S 89° 15' 00" E	100.00	9	Corner of Lot 9
10	S 0° 00' 00" E	100.00	10	Corner of Lot 10
11	S 89° 15' 00" E	100.00	11	Corner of Lot 11
12	S 0° 00' 00" E	100.00	12	Corner of Lot 12
13	S 89° 15' 00" E	100.00	13	Corner of Lot 13
14	S 0° 00' 00" E	100.00	14	Corner of Lot 14
15	S 89° 15' 00" E	100.00	15	Corner of Lot 15
16	S 0° 00' 00" E	100.00	16	Corner of Lot 16
17	S 89° 15' 00" E	100.00	17	Corner of Lot 17
18	S 0° 00' 00" E	100.00	18	Corner of Lot 18
19	S 89° 15' 00" E	100.00	19	Corner of Lot 19
20	S 0° 00' 00" E	100.00	20	Corner of Lot 20



- SILT FENCE**
1. FENCE TO BE PLACED UPSTREAM OF THE EROSION CONTROL MEASURES.
 2. FENCE SHALL BE CONSTRUCTED OF 2" GALVANIZED IRON PIPE, 4" DIA. AND 12' HIGH.
 3. FENCE SHALL BE SET ON A BED OF 6" SAND OR EQUIVALENT.
 4. FENCE SHALL BE SET ON A BED OF 6" SAND OR EQUIVALENT.
 5. FENCE SHALL BE SET ON A BED OF 6" SAND OR EQUIVALENT.

Call before you dig
 800.892.0123

ENGINEERING REQUIRE ASSOCIATES
 3170 WEST AURORA STREET
 WASHINGTON, ILLINOIS 62451
 PHONE: 618.426.4200
 FAX: 618.426.4201
 WWW: WWW.ENGREQ.COM