

RESOLUTION R-2021-27

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A CERTAIN CONSTRUCTION, USE, AND
INDEMNIFICATION AGREEMENT
(42 Citation 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 April 8th, 2021, between the City of Wheaton and Cary B. & Theresa M. Pierce for 42 Citation Circle, Wheaton, Illinois, attached hereto as Exhibit 1.

ADOPTED this 19th day of April 2021.



Mayor

ATTEST:



City Clerk

	<u>Roll Call Vote</u>
Ayes:	Councilwoman Robbins Councilman Rutledge Councilman Zaruba Councilman Barbier Councilwoman Bray-Parker Councilwoman Fitch Mayor Sues
Nays:	None
Absent:	None
	<u>Motion Carried Unanimously</u>



APR 9 2021

ENGINEERING – APPLICATION FOR PERMIT

Project Address: 42 CITATION ~~ST~~ CIRCLE Phone: 630-977-9208

Owner of Property: Cary B Price Theresa M Price E-Mail:
Address of Property Owner: Hon. Cary pierce taw
(if different than above) @jmail.com

Contractor: WESTERN IRRIGATION Phone: 630-653-3931

Contact Person: JEFF ADAMSON E-mail: JEFF-WESTERN
@COMCAST.NET

Address: 26N 30T ST CHARLES RD CAROL STREAM IL 60188

Expiration Dates PCR: Insurance: Bond:

Description of Work: LAWN SPRINKLERS

I hereby certify that all work described above will be done pursuant to the provisions of this permit and the applicable City Code provisions. I further certify that I will contact all other applicable governmental agencies having jurisdiction over the work for their requirements and will notify J.U.L.I.E. at 1-800-892-0123 or 811 for utility locations.

Print Name: JEFF ADAMSON

Signature: [Signature]

Address: 26N 30T ST CHARLES RD CAROL STREAM IL 60188

Phone: 630-653-3931 Email: JEFF.WESTERN@COMCAST.NET Fax:

This permit is hereby approved, and all work is to be done in accordance with the applicant's approved plan, applicable ordinances, specifications and regulations of the City of Wheaton governing said work, and the following special conditions:

Conditions and/or Comments:

Approved by: Date: Permit No.: 202100703 Permit Fee:

RECEIVED

Lawn Irrigation System

APR 9 2021

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

BUILDING & CODE ENFORCEMENT

THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT, made and entered into this 8 day of APRIL, 2021, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Cary B Pierce Theresa M Pierce ("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, Cary B Pierce Theresa M Pierce (hereinafter "Owner"), the owner of the premises located at 42 CITATION 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.) Cary B Pierce Theresa M Pierce are the owners of property located at 42 CITATION 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.

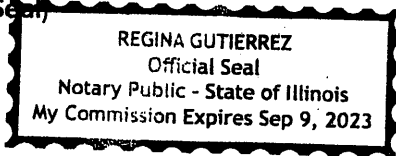
Camy B Pierce
Owner

Theresa M. Pierce
Owner

Subscribed and sworn to before me this 8th day of April, 2021.

Regina Gutierrez Notary Public

(Notary Seal)



Philip J. Swen
Mayor, City of Wheaton

Attested by:

Sharon Burnett Hagan
City Clerk

EXHIBIT A

Legal Description:

LOT 149 IN DANADA FARMS UNIT 2, BEING A SUBDIVISION OF PART OF THE SOUTH EAST QUARTER OF SECTION 21 AND THE NORTH EAST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 1987 AS DOCUMENT R87-148927, IN DUPAGE COUNTY, ILLINOIS.

42 CITATION Circle Wheaton, IL 60187
Street Name

P.I.N. 05-28-206-010

1218 E. Central Road
Arlington Heights, IL 60005
Phone: 847-382-7600
Fax: 847-382-7718



E-MAIL AND INTERNET ADDRESSES:
http://www.maic.com AND sales@maic.com

21-1/2 N. County Street
Waukegan, IL 60085
Phone: 847-336-2473
Fax: 847-336-2113

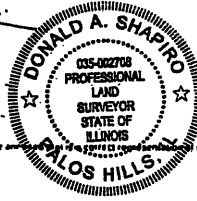
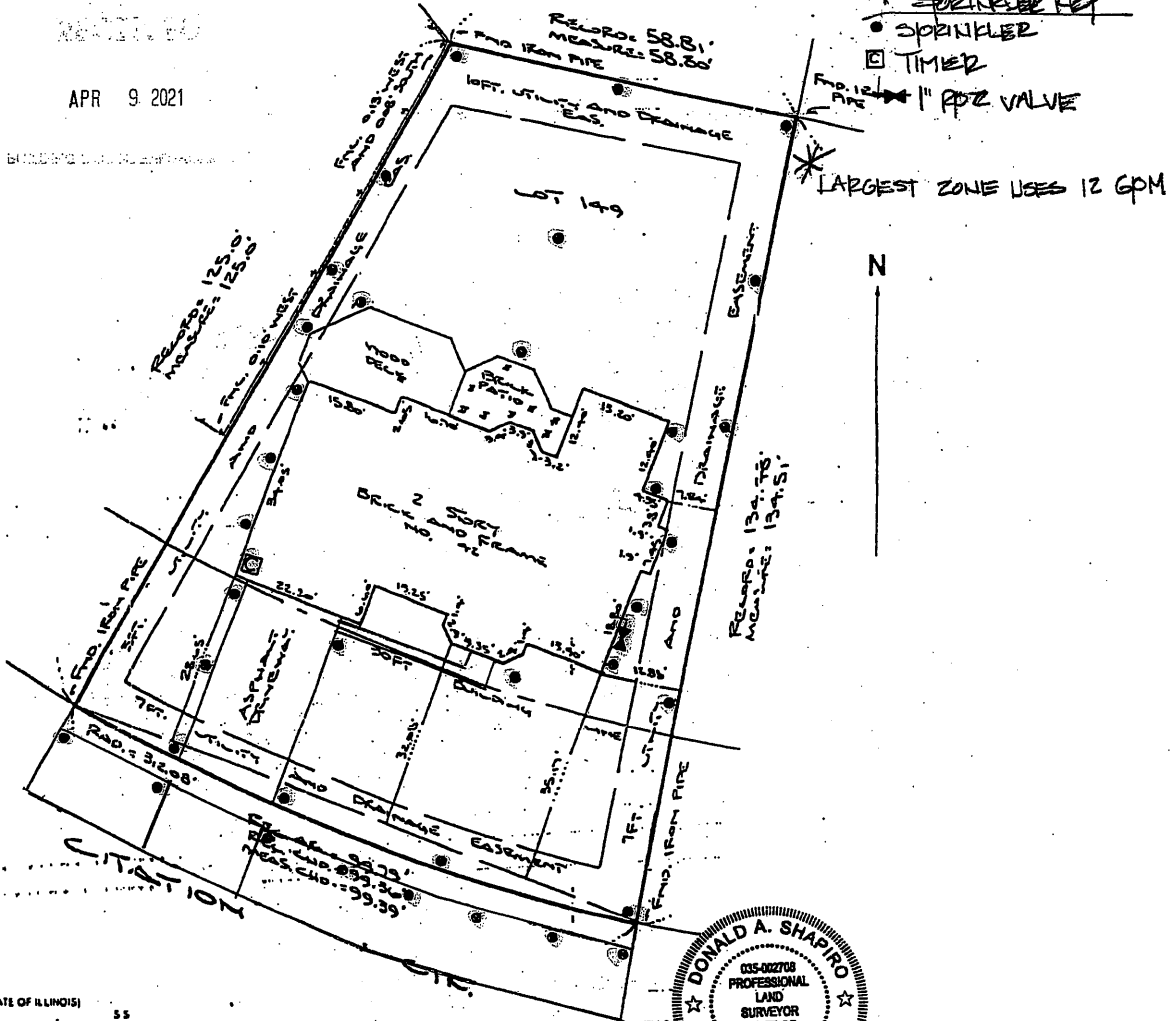
9800 S. Roberts Road
Palos Hills, IL 60485
Phone: 708-430-4077
Fax: 708-598-0896

PLAT OF SURVEY

46-1/2 S. County Farm Road
Whoson, IL 60187
Phone: 630-690-3733
Fax: 630-690-3735

LOT 149 IN DANADA FARMS UNIT 2, BEING A SUBDIVISION OF PART OF THE SOUTH EAST QUARTER OF SECTION 21 AND THE NORTH EAST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 1987 AS DOCUMENT R87-148927, IN DUPAGE COUNTY, ILLINOIS.

APR 9 2021



STATE OF ILLINOIS) 55
COUNTY OF LAKE)

On behalf of MID AMERICA SURVEY COMPANY I hereby certify that the above described property was surveyed under my supervision and that the survey was made in accordance with the laws of the State of Illinois.

Survey Dated: June 4 1999
All distances shown are in feet & decimal parts thereof. No angles or distances are to be determined by reading.
Scale: 1" = 20'
Job No. 231-259
Address: 92 CITATION CIR.
WILMINGTON
PLM: 05-78-200-010
Created by: TERRA II, LLC

MID AMERICA SURVEY COMPANY
Donald A. Shapiro
Registered Land Surveyor

Compare your deed plan and site markings with this plan and if a discrepancy exists which you may find

COPYRIGHT 1999 MID AMERICA SURVEY COMPANY