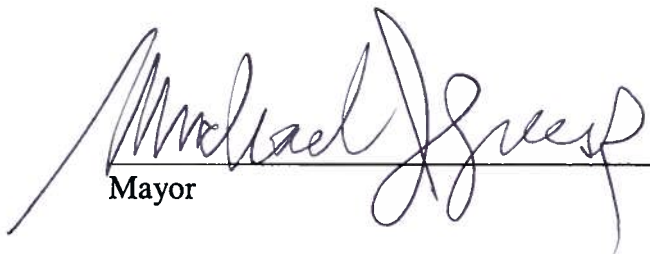


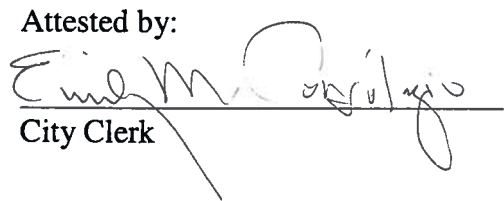
**RESOLUTION R-01-11**

**RESOLUTION AUTHORIZING THE EXECUTION  
OF A CERTAIN CONSTRUCTION, USE, AND  
INDEMNIFICATION AGREEMENT - (Taft 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 December 20, 2010, between the City of Wheaton and Packey Webb Ford, 1830 E. Roosevelt Road, Wheaton, Illinois, and the City Clerk is authorized to attest to the signature of the Mayor.

ADOPTED this 3<sup>rd</sup> day of January, 2011.

  
\_\_\_\_\_  
Mayor

Attested by:  
  
\_\_\_\_\_  
City Clerk

ROLL CALL VOTE

Ayes: Councilman Sues  
Councilwoman Corry  
Councilman Levine  
Councilman Mouhelis  
Mayor Gresk  
Councilman Prendiville  
Councilman Scalzo

Nays: None  
Absent: None

Motion Carried Unanimously



**CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT  
RIGHT-OF-WAY (Taft Avenue)**

**THIS CONSTRUCTION, USE AND INDEMNIFICATION AGREEMENT**, made and entered into this 20 day of December, 2010, among the **City of Wheaton**, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and **Packey Webb Ford** ("Owner").

**WITNESSETH**

**WHEREAS**, the City is in possession of a right-of-way within the City limits of the City of Wheaton, Illinois, located on Taft Avenue; and

**WHEREAS**, Packey Webb Ford (hereinafter "Owner"), is the owner of a business at the premises located at 1830 E. Roosevelt Road, Wheaton, Illinois, which premises, are owned by a different related entity, and which the property is legally described herein and is contiguous to a portion of the right-of-way; and

**WHEREAS**, the Owner would like to use a portion of the right-of-way for the purpose of maintaining a driveway access to provide ingress and egress to the Owner's property; and

**WHEREAS**, the Owner 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 Packey Webb Ford as follows:

1.) The foregoing recitals are incorporated herein as representing the intent of the undersigned and as substantive representations and covenants.

2.) Packey Webb Ford is the owner of a business located on the property at 1830 E. Roosevelt Road, Wheaton, Illinois, legally described as follows:

The legal description of property is hereby attached to this agreement as Exhibit B.

3.) The Owner, for a consideration of Ten Dollars (\$10.00) and other good and valuable consideration as stated herein, ~~is~~ hereby authorized to use a portion of the right-of-way more specifically identified as that portion of the undeveloped Taft Avenue right-of-way east of Lorraine Avenue and south of and adjacent to lots 13 through 24, in block 33 of Wheaton Estates Subdivision, in the northeast quarter of Section 22, Township 39 North, Range 10, East of the Third Principal Meridian, in DuPage County, Illinois for construction, maintenance and use of a driveway for ingress and egress of the business premises described in paragraph 2 of this Agreement and as depicted on Exhibit A, which is attached hereto and incorporated herein as if fully set forth.

4.) The City retains the right to enter said right-of-way for the purpose of maintaining the existing City utility systems (water main, storm and sanitary sewers) if any. If the City performs maintenance work on any of the aforesaid utility systems, the Owner shall restore the driveway at their sole cost and expense.

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 ninety (90) 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, Owner 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 Owner, or Owner's agents, as a result of the design, construction, maintenance, use or abandonment of the driveway described herein.

8.) This Agreement is not an easement.

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.

IN WITNESS WHEREOF, the Corporate authorities and the Owner has hereunto set their hand and seal, 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.

*Michael Jones*  
Mayor, City of Wheaton

Attested by:  
*Erin M. Conroy*  
City Clerk

*J. Bradley Webb*  
J. Bradley Webb

*Gregory J. Webb*  
Gregory J. Webb

*John C. Webb*  
John C. Webb

Subscribed and sworn to before me this 20<sup>th</sup> day of December, 2010.  
*Joy Prospal*  
Notary Public  
(Notary Seal)





**EXHIBIT B**

**Legal Description**

**Parcel 1:**

THE WEST 15 FEET OF LOT 3 (EXCEPT THE NORTH 5 FEET THEREOF) AND ALL OF LOTS 4, 5, 6, 7, 8 AND 9 (EXCEPT THE NORTH 5 FEET THEREOF) AND ALL OF LOT 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 AND 24 AND THE WEST 1/2 OF VACATED OTT AVENUE LYING EAST OF AND ADJOINING SAID LOT 24 AND THE NORTH 1/2 OF THAT PORTION OF VACATED TAFT AVENUE BOUNDED ON THE EAST BY THE CENTERLINE OF VACATED OTT AVENUE AND ON THE WEST BY THE WEST LINE OF SAID LOT 22 EXTENDED SOUTH, ALL IN BLOCK 33 IN WHEATON ESTATES, BEING A SUBDIVISION IN SECTION 22, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1924 AS DOCUMENT 182391, IN DUPAGE COUNTY, ILLINOIS.

**Parcel 2:**

LOT 15 AND THAT PART OF VACATED OTT AVENUE LYING WEST OF AND ADJOINING SAID LOT 15 AND THAT PORTION OF THE NORTH 1/2 AND THE NORTH 12 FEET OF THE SOUTH 33 FEET OF VACATED TAFT AVENUE BOUNDED ON THE WEST BY THE CENTERLINE OF OTT AVENUE AND BOUNDED ON THE EAST BY THE EAST LINE EXTENDED SOUTH OF LOT 15, ALL IN BLOCK 34 IN WHEATON ESTATES, BEING A SUBDIVISION IN SECTION 22, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1924 AS DOCUMENT 182391, IN DUPAGE COUNTY, ILLINOIS.

**Parcel 3:**

LOT 1 (EXCEPT THE EAST 20 FEET THEREOF) AND (EXCEPT THAT PART DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 1, 35.00 FEET; THENCE NORTHERLY PARALLEL WITH THE WEST LINE OF SAID LOT 1, 37.00 FEET; THENCE SOUTHWESTERLY 51.63 FEET TO THE POINT OF BEGINNING) AND ALL OF LOTS 2, 3, 4 AND 5 AND THE SOUTH 1/2 OF THAT PORTION OF VACATED TAFT AVENUE BOUNDED ON THE EAST BY THE WEST LINE OF THE EAST 20 FEET OF SAID LOT 1 EXTENDED NORTH AND ON THE WEST BY THE WEST LINE OF SAID LOT 3 EXTENDED NORTH, ALL IN BLOCK 35 IN WHEATON ESTATES, BEING A SUBDIVISION IN SECTION 22, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1924 AS DOCUMENT 182391, IN DUPAGE COUNTY, ILLINOIS.

Commonly known as 1830 E. Roosevelt Road, Wheaton, IL 60189

P.I.N.: 05-22-200-018 & -025  
05-22-201-024  
05-22-204-045