

**THIS DOCUMENT WAS
PREPARED BY AND AFTER
RECORDING RETURN TO:**

Village of Lombard
Community Development Department
255 E. Wilson Avenue
Lombard, IL 60148

[The above space for recording purposes]

**RIGHT-OF-WAY ENCROACHMENT WAIVER AND AGREEMENT (HEREINAFTER
THE "AGREEMENT")**

Re: Proposed Public Right-of-Way Use for Fence

We, Tony and Michelle Simek, represent that we are the legal owners
(hereinafter the "Owners") of real property legally described on EXHIBIT A attached hereto
and made part thereof commonly known as: 444 S. WESTMORE-MEYERS RD.,
Lombard, Illinois, 60148; PIN(s) #: 06-09-308-034; (hereinafter the "Property").

We have undertaken the following project at the above stated Property, that encroaches on the
public right-of-way:

Project: Construction of a fence, at the location as shown on EXHIBIT B attached hereto and
made part hereof (hereinafter the "Fence").

We understand that the Lombard Village Code does not allow for the construction of the Fence
in the public right-of-way. We agree that the Fence constructed in the public right-of-way at the
above property will be our responsibility to maintain, repair and replace, if necessary, due to any
damage by the Village of Lombard (hereinafter the "Village") or other public agencies, or due to
normal wear and tear.

We also understand that as a condition of the Village of Lombard granting permission to utilize the public right-of-way abutting the Property for the aforesaid purposes, the undersigned owners covenant and agree not to sue, and to protect, indemnify, defend and hold harmless, the Village of Lombard and its elected officials, officers, agents and employees from and against any and all claims, costs, actions, losses, demands, injuries and expenses of whatever nature, including but not limited to attorneys' fees, arising out of the Fence being located in the public right-of-way and/or from any acts or omissions by the Owners or the contractors, sub-contractors, agents or employees of the Owners in maintaining the Fence and/or in conjunctions with the use of the public right-of-way abutting the Property for the aforesaid purposes.

We understand that the terms and conditions contained herein apply uniquely to the public right-of-way adjacent to the Property at the above address, and with said use of the public right-of-way adjacent to the Property being limited solely to the extent that the Fence encroaches upon the public right-of-way as shown on EXHIBIT B, and it is the intent of ourselves and the Village to have the terms and conditions of this instrument run with the land and be binding on subsequent purchasers.

This agreement is being entered into pursuant to the requirements of Village of Lombard Ordinance No. 6917, adopted February 6, 2014, and recorded with the DuPage County Recorder's Office as document number R2014-018375 on March 6, 2014. In the event the Fence is ever destroyed or moved, such that the encroachment into the public right-of-way, as shown on EXHIBIT B no longer exists, this Agreement shall be null and void, and the Village shall record a document so indicating with the DuPage County Recorder's Office.

This document shall be signed, notarized and recorded thereafter with the DuPage County Recorder's Office.

NOTE: ALL OWNERS MUST SIGN

Michelle Simek
Name: Michelle Simek
6/18/14
Date

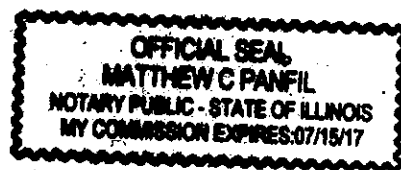
Tony Simek
Name: Tony Simek
6/19/2014
Date

NOTARY: State of Illinois, County of DuPage) SS

I, MATTHEW C. PANFILL, a Notary Public in and for the County and State aforesaid, do hereby certify that MICHELLE SIMEK & Tony Simek, known to me to be the same persons whose names are here subscribed to the foregoing instrument, and appeared before me this day in person and acknowledged that they signed and delivered said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand notarial seal this 18th day of JUNE, 2014.

Notary Signature: *Matthew C Panfil*



[SEAL]

Accepted and approved by the Village of Lombard this 19th day of June, 2014, pursuant to action taken by the President and Board of Trustees at the Village Board meeting hold on the 19th of June, 2014.

Keith Giagnorio
Keith Giagnorio, Village President

Sharon Kuderna
Sharon Kuderna, Village Clerk

June 19, 2014
Date

June 19, 2014
Date

EXHIBIT A

Legal Description of Property

LOT 167 IN ROBERTSON'S WESTMORE, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1922 AS DOCUMENT 156381, IN DUPAGE COUNTY, ILLINOIS.

EXHIBIT B

Survey Showing the Extent of the Encroachment of the Fence into the Public Right-of-Way
(As determined by the comparison of the known distance from the sidewalk to the property line to the measured distance from the fence to the sidewalk.)

