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EXHIBIT

ATTACHED TO

0020852237

DOCUMENT NUMBER

8-5-02

SEE PLAT BOOK

Box 337

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2002-08-05 10:02:50
Cook County Recorder 115.00

THIS DOCUMENT
PREPARED BY:

Steven M. Elrod, Esq.
Holland & Knight LLP
55 West Monroe Street
Suite 800
Chicago, IL 60603

AFTER RECORDING
RETURN TO:

Recorder's Box 337

EXHIBIT ATTACHED

This space for Recorder's use only

SUBDIVISION AGREEMENT
BY AND BETWEEN

THE VILLAGE OF NORTHBROOK

AND

SCHMIDT & ASSOCIATES CONSTRUCTION, INC.

(SHERMER RIDGE SUBDIVISION)

DATED AS OF September 25, 2002

BOX 337

PIN: 04-10-110-004

I hereby certify this to be a true and exact copy of the original.

7/30/02 Loralee G. Louis
Date Village Clerk

RECORDING FEE 115.00
DATE 8/5/02 COPIES 0
OK BY SM 48 pgs

SUBDIVISION AGREEMENT FOR SHERMER RIDGE SUBDIVISION

THIS AGREEMENT is made as of the 25th day of September, 2001, 2002, and is by and between the VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation (the "Village"), and SCHMIDT & ASSOCIATES CONSTRUCTION, INC., an Illinois corporation ("Developer").

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the Village's home rule powers, the parties hereto agree as follows:

SECTION 1. RECITALS.

- A. The Developer is, as of the Effective Date of this Agreement, the owner of record of the Subject Property.
B. The Developer desires and proposes to have the Subject Property subdivided into three lots of record and to develop each such lot with one single family detached dwelling, in accordance with the regulations in the R-4 Single Family Residential District.
C. The Village and the Developer desire that the Subject Property be developed and used only in substantial compliance with this Agreement.
D. A public hearing and public meeting were held by the Plan Commission on July 17, 2001 to consider the following requests of the Developer: (i) approval of a three lot subdivision; (ii) a variation to allow the concurrent processing of a tentative and final plat of subdivision; (iii) a waiver of the requirement for a separate on-site stormwater detention outlet; and (iv) such additional variations, waivers and other zoning relief as may be necessary to accomplish the development of the Subject Property. On August 7, 2001, the Plan Commission adopted Resolution No. 01-PC-14 recommending approval of the each of the Developer's requests.
E. The Corporate Authorities, after due and careful consideration, have concluded that the subdivision, development and use of the Subject Property pursuant to and in accordance with this Agreement would further enable the Village to control the development of the area and would serve the best interests of the Village.

SECTION 2. DEFINITIONS.

Whenever used in this Agreement, the following terms shall have the following meanings unless a different meaning is required by the context:

"Corporate Authorities": The President and Board of Trustees of the Village.

* All capitalized words and phrases throughout this Agreement shall have the meanings set forth in the preamble above and in Section 2 of this Agreement. If a word or phrase is not specifically defined in this Agreement, it shall have the meaning ascribed to it in the Subdivision Code.

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"Dedications and Contributions": The fees payable by developers of residential property to offset service impacts to Village parks and schools pursuant to Article IV of the Subdivision Code, and as established in Section 9 of this Agreement.

"Effective Date": The date of execution of this Agreement by all parties hereto, which date shall be deemed to be the date set forth in the first paragraph of Page 1 of this Agreement.

"Final Engineering Plan": That certain engineering plan prepared by Norman J. Toberman Associates, consisting of six sheets, with a latest revision date of October 3, 2001, which plan has been approved by the Village Engineer, a copy of which is attached to this Agreement as **Exhibit A**.

"Final Plat": That certain subdivision plat prepared by Tice Survey Company, consisting of two sheets, with latest revision date of September 25, 2001, a copy of which is attached to this Agreement as **Exhibit B**.

"Final Tree Preservation, Removal & Demolition Plan": That certain tree preservation, removal and site demolition plan prepared by Norman J. Toberman Associates, consisting of one sheet, with latest revision date of October 2, 2001, a copy of which is attached to this Agreement as **Exhibit C**.

"Force Majeure": Strikes, lockouts, acts of God or other factors beyond a party's reasonable control and reasonable ability to remedy; provided, however, that Force Majeure shall not include delays caused by weather conditions, unless such weather conditions are unusually severe or abnormal considering the time of year and the particular location involved.

"Lot": Lots 1, 2 and 3 of the Subject Property, as depicted on the Final Plat.

"Plan Commission": The Plan Commission of the Village, established by Section 2-451 of the Northbrook Municipal Code (1988), as the same has been and may, from time to time hereafter, be amended.

"Public Improvements": The public and private on-site and off-site improvements to be made in connection with the subdivision and development of the Subject Property, as described or listed on the Final Engineering Plan, and as provided in Section 6 of this Agreement.

"Public Improvements Standards Manual": Village of Northbrook Standards and Specifications for Public and Private Improvements, dated October, 1990, as the same has been and may, from time to time hereafter, be amended.

"Requirements of Law": All applicable federal, state and Village laws, statutes, codes, ordinances, resolutions, rules and regulations.

"Storm Water Facilities": The following specific Public Improvements, as depicted on the Final Engineering Plan: the storm water detention facility located in the rear portion of Lots 1, 2 and 3 on the Subject Property, and associated equipment, appurtenances, ponds, swales, and storm sewers installed and maintained on the Subject Property.

"Storm Water Facilities Covenant": That certain covenant providing for an easement on the Subject Property and across portions of each Lot, as necessary, and making

each Lot owner on the Subject Property responsible for the continuing care, conservation, maintenance and operation, in a first rate condition, of the Storm Water Facilities. The Storm Water Facilities Covenant shall be in form and substance substantially conforming with Exhibit D and satisfactory to the Village Attorney.

"Subdivision Code": The Village of Northbrook Subdivision and Development Code (1991), as the same has been and may, from time to time hereafter, be amended.

"Subject Property": That certain tract of land consisting of approximately 1.321 acres, commonly known as 1071 Shermer Road, Northbrook, Illinois and legally described in Exhibit E attached to this Agreement.

"Zoning Code": The Northbrook Zoning Code (1988), as the same has been and may, from time to time hereafter, be amended.

SECTION 3. APPROVAL OF DEVELOPMENT.

A. Adoption of Resolution Approving Final Plat and Requested Variation and Waiver. The Village shall adopt a valid and binding resolution, in substantially the form attached hereto as Exhibit F, granting the following for the Subject Property:

- i. a variation allowing for a combined tentative and final plat;
- ii. a waiver of the requirement to construct a storm water detention facility on a separate outlot on the Subject Property, and allowing for the construction of the Storm Water Detention Facility and associated Public Improvements in an easement; and
- iii. approval of the Final Plat.

B. Storm Water Facilities Covenant. As a condition for the approval of the waiver to allow for the construction of a storm water detention facility in an easement, the Developer shall execute and submit to the Village the Storm Water Facilities Covenant. Concurrent with the recordation of the Final Plat, the Village shall cause to be recorded in the Office of the Cook County Recorder of Deeds the Storm Water Facilities Covenant against the Subject Property.

C. Developer's Acknowledgement. The Developer acknowledges and agrees that, unless approved by the Village Manager, in his sole and absolute discretion, no construction, improvement, or development of any kind shall be permitted on any portion of the Subject Property unless and until this Agreement, the Final Plat, and the Storm Water Facilities Easement and Maintenance Covenant for the Subject Property are approved by the Village in accordance with the Subdivision Code, the Zoning Code and Section 3 of this Agreement and recorded where necessary or required, as determined by the Village.

SECTION 4. DEVELOPMENT OF THE SUBJECT PROPERTY.

Notwithstanding any use or development right that may be applicable or available to the Subject Property pursuant to the Zoning Code, the Subject Property shall be developed and used only as follows:

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A. **Specific Use and Development Restrictions.** No more than one single family detached dwelling and accessory structures, as permitted in the Zoning Code, shall be constructed or located on each Lot.

B. **General Use and Development Restrictions.** Development of the Subject Property, except for minor alterations due to final engineering and site work approved by the Village Engineer or the Director of Development, as appropriate, shall be pursuant to and in accordance with the following:

- i. this Agreement;
- ii. the Site Plan;
- iii. the Final Plat;
- iv. the Final Engineering Plan;
- v. the Final Tree Preservation, Removal & Demolition Plan;
- vi. Standards and Specifications Manual; and
- vii. the Requirements of Law.

Unless otherwise provided in this Agreement either specifically or in context, in the event of a conflict between or among any of the above plans or documents, the plan or document that provides the greatest control and protection for the Village, as determined by the Village Manager, shall control. All of the above plans and documents shall be interpreted so that the duties and requirements imposed by any one of them are cumulative among all of them, unless otherwise provided in this Agreement either specifically or in context.

SECTION 5. PUBLIC IMPROVEMENTS.

A. **Description of Public Improvements.** The Developer shall, at its sole cost and expense, construct and install all of the Public Improvements on the Subject Property including, without limitation, the following:

- i. Storm Water Facilities;
- ii. sanitary sewer main and service lines for each Lot;
- iii. water service lines for each Lot;
- iv. underground burial of any overhead utility lines within and adjacent to the Subject Property;
- v. public sidewalk, curb and gutter along the Shermer Road frontage; and
- vi. parkway landscaping.

B. **Design and Construction of the Public Improvements.** All Public Improvements shall be designed and constructed pursuant to and in accordance with the Final Engineering Plan, the Final Tree Preservation, Removal & Demolition Plan and the

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Standards and Specifications Manual, and to the satisfaction of the Village Engineer. All work performed on the Public Improvements shall be conducted in a good and workmanlike manner and with due dispatch in accordance with the schedule established in Subsection 5.D of this Agreement. All materials used for construction of the Public Improvements shall be new and of first quality.

C. Construction Traffic. The Village reserves the right to designate certain prescribed routes of access to the Subject Property for construction traffic to provide for the protection of pedestrians and to minimize disruption of traffic and damage to paved street surfaces; provided, however, that such designated routes shall not be unreasonably or unduly circuitous nor unreasonably or unduly hinder or obstruct direct and efficient access to the Subject Property for construction traffic. At all times during the construction of the Public Improvements, the Developer shall keep all routes used for construction traffic to be free and clear of mud, dirt, debris, obstructions and hazards and shall repair any damage caused by such construction traffic.

D. Completion of the Public Improvements. All Public Improvements shall be completed and made ready for inspection, approval and, where appropriate, acceptance by the Village pursuant to the construction schedule approved by the Village Engineer as part of the Final Engineering Plan. The Developer shall be allowed extensions of time beyond the completion dates set forth in such construction schedule only for unavoidable delay caused by Force Majeure.

E. Dedication and Maintenance of the Public Improvements.

i. **Final Inspection and Approval of the Public Improvements.** The Developer shall notify the Village when it believes that any or all of the Public Improvements have been fully and properly completed and shall request final inspection, approval and, where appropriate, acceptance of the Public Improvement or Public Improvements by the Village. Such notice and request shall comply with, and include, all requirements of Section 3-506 of the Subdivision Code and shall be given far enough in advance to allow the Village time to inspect the Public Improvements and to prepare a punch list of items requiring repair or correction and to allow the Developer time to make all required repairs and corrections prior to the scheduled completion date. The Developer shall promptly make all necessary repairs and corrections as specified on the punch list. The Village shall not be required to approve or accept any portion of the Public Improvements until all of the Public Improvements, including a punch list items, have been fully and properly completed.

ii. **Dedication and Acceptance of Specified Public Improvements.** Neither the execution of this Agreement nor the approval or recordation of the Final Plat shall constitute an acceptance by the Village of any public facilities that are depicted as "dedicated" on the Final Plat or Final Engineering Plan, if any, or of any Public Improvements. The acceptance of all Public Improvements shall be made only in compliance with the requirements of the Subdivision Code, including, without limitation, Sections 3-506 and 3-507 of that Code.

iii. **Developer's Maintenance of Public Improvements.** For a period of at least two years following Village approval, the Developer shall, at its sole cost and expense, maintain without any modification except as specifically approved in writing by the Village Engineer, in a first rate condition at all times, the Public Improvements. In the event the Village Engineer determines, in his sole and absolute discretion, that the Developer is not adequately maintaining, or has not adequately maintained, any

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Improvement, the Village may, after 10 days' prior written notice to the Developer, but shall not be obligated to, enter upon any or all of the Subject Property for the purpose of performing maintenance work on and to any such Improvement. In the event that the Village shall cause to be performed any work pursuant to this Subsection 5.E.iii, the Village shall have the right to draw from the performance securities deposited pursuant to Section 10 of this Agreement, or the right to demand payment directly from the Developer, based on costs actually incurred or on the Village's reasonable estimates of costs to be incurred, an amount of money sufficient to defray the entire costs of such work, including legal fees and administrative expenses. The Developer shall, upon demand by the Village, pay such amount to the Village.

F. Transfer of Ownership of the Public Improvements and Easements to the Village. Upon the approval of, and prior to acceptance of, the Public Improvements to be accepted by the Village pursuant to Subsection 5.E of this Agreement, the Developer shall execute, or cause to be executed, such documents as the Village shall request to transfer ownership of such Public Improvements to, and to evidence ownership of such Public Improvements by, the Village, free and clear of all liens, claims, encumbrances and restrictions unless otherwise approved by the Village in writing. The Developer shall, at the same time, grant, or cause to be granted, to the Village all such easements or other property rights as the Village may require to install, operate, maintain, service, repair and replace the Public Improvements that have not previously been granted to the Village, free and clear of all liens, claims, encumbrances and restrictions unless otherwise approved by the Village in writing.

G. Two-Year Guaranty of the Public Improvements. The Developer hereby guarantees the prompt and satisfactory correction of all defects and deficiencies in the Public Improvements, including, without limitation, landscaping installed by the Developer on public lands or within public rights-of-way or easements, that occur or become evident within two years after approval and, where appropriate, acceptance of the Public Improvements by the Village pursuant to this Agreement. If any such defect or deficiency occurs or becomes evident during such period, then the Developer shall, after 10 days' prior written notice from the Village (subject to Force Majeure), correct it or cause it to be corrected. In the event any Improvement is repaired or replaced pursuant to such a demand, the Guaranty provided by this Subsection 5.G shall be extended, as to such repair or replacement, for two full years from the date of such repair or replacement.

H. Issuance of Permits and Certificates.

i. **Right to Withhold Permits and Certificates.** The Village shall have the absolute right to withhold any building permit or certificate of occupancy at any time the Developer is in violation of, or is not in full compliance with, the terms of this Agreement.

ii. **Demolition of Existing Single Family Detached Dwelling.** The Village shall have no obligation to issue any building permits for work to be performed on Lot 1, Lot 2 or Lot 3 until the existing single family detached dwelling and accessory uses located on the Subject Property has been demolished and all debris resulting from such demolition has been removed from the Subject Property in accordance with the Final Tree Preservation, Removal & Demolition Plan to the satisfaction of the Director of Development.

iii. **Completion of Storm Water Facilities.** The Village shall have no obligation to issue any building permits or other permits for work to be performed on the

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Subject Property until the storm water facilities, as depicted on the Final Engineering Plan and the Final Plat, are completed to the satisfaction of the Village Engineer.

iv. Completion of Public Improvements. The Village shall issue no certificates of occupancy for any building or structure located on the Subject Property until the Public Improvements are completed by the Developer in accordance with the schedule established pursuant to Subsection 5.D of this Agreement or until other arrangements satisfactory to the Village Engineer, in his sole and absolute discretion, shall have been made. The issuance of any building permit or certificate of occupancy by the Village at any time prior to completion of all the Public Improvements and approval and, where appropriate, acceptance thereof by the Village shall not confer on the Developer any right or entitlement to any other building permit or certificate of occupancy.

Completion of Construction. If the Developer fails to diligently pursue all construction as required in, or permitted by, Sections 4 and 5 of this Agreement to completion within the time period prescribed in the building permit or permits issued by the Village for such construction, and if the building permit or permits are not renewed within three months after the expiration thereof, the Developer shall, within 60 days after notice from the Village, remove any partially constructed or partially completed buildings, structures or Public Improvements from the Subject Property. In the event the Developer fails or refuses to remove said buildings, structures and Public Improvements, as required, the Village shall have, and is hereby granted, in addition to all other rights afforded to the Village in this Agreement and by law, the right, at its option, to demolish and/or remove any of said buildings, structures and Public Improvements, and the Village shall have the right to charge the Developer an amount sufficient to defray the entire cost of such work, including legal and administrative costs, if the amount so charged is not paid by the Developer within 30 days following a demand in writing by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien against the Lot on which the work was performed, and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien in the same manner as mortgage foreclosure proceedings.

SECTION 6. DAMAGE TO PUBLIC PROPERTY.

The Developer shall maintain the Subject Property and all streets, sidewalks and other public property in and adjacent to the Subject Property in a good and clean condition at all times during development of the Subject Property and construction of the Public Improvements. Further, the Developer shall promptly clean all mud, dirt or debris deposited on any street, sidewalk or other public property in or adjacent to the Subject Property by the Owner/Developer or any agent of or contractor hired by, or on behalf of, the Developer; and shall repair any damage that may be caused by the activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

SECTION 7. RECAPTURE.

A. Paid by Developer. The developer does hereby unconditionally agree to pay, promptly upon request by the Village, a fair and equitable share of all prior storm and sanitary sewer improvements that have been developed in the area surrounding the Subject Property and that benefit the Subject Property. Computations of such recapture benefit has been determined by the Village, based on applicable recapture resolutions, and acknowledged by the Developer, to be as follows:

Storm and Sanitary Sewer:	Resolution No. 61-R-4	\$350.00
	Total	\$350.00

B. Paid to Developer. The parties do hereby agree that the Developer is not entitled to any recapture amounts as a result of the installation of the Public Improvements.

SECTION 8. CONTRIBUTIONS.

The Developer shall, and does hereby agree to, fully comply with, and cause to be paid, the fees in lieu of land contributions calculated pursuant to Subsection 4-101 G of the Subdivision Code, for the following districts:

- i. Northbrook Park District;
- ii. Northfield Township High School District No. 225; and
- iii. Elementary School District No. 28.

The fees required pursuant to this Section 8 are based on a per unit basis and paid at the issuance of any certificate of occupancy for each single family detached dwelling on each Lot on the Subject Property.

SECTION 9. PAYMENT OF VILLAGE FEES AND COSTS.

A. General Requirements. In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement, the Developer shall pay to the Village, as and when due, all application, inspection and permit fees, all water and sewer general and special connection fees, tap-on fees, charges and contributions, and all other fees, charges and contributions required by applicable Village codes, ordinances, resolutions, rules or regulations.

B. Special Requirements. In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Developer shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and other consulting or administrative fees, costs and expenses incurred or accrued in connection with the review and processing of plans for the development of the Subject Property and in connection with the negotiation, preparation, consideration and review of this Agreement. Payment of all such fees, costs and expenses for which demand has been made, but payment has not been received, by the Village prior to execution of this Agreement shall be made by a certified or cashier's check immediately upon execution of this Agreement by the Village President. Further, the Developer agrees that it will continue to be liable for and to pay, immediately upon presentation of a written demand or demands therefor, such fees, costs and expenses incurred in connection with any applications, documents or proposals, whether formal or informal, of whatever kind submitted by the Developer during the term of this Agreement in connection with the development and use of the Subject Property. Further, the Developer agrees that it shall be liable for and shall pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

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SECTION 10. PERFORMANCE SECURITY.

As security to the Village for the performance by the Developer of the Developer's obligations to construct and complete the Public Improvements pursuant to and in accordance with this Agreement, the Developer shall deposit with the Village Manager performance guarantees ("Guarantee") consisting of a cash deposit and letter of credit as required pursuant to Section 3-502 of the Subdivision Code. The Guarantee shall be administered pursuant to Sections 3-504, 3-505, 3-506 and 3-507 of the Subdivision Code. The letter of credit shall be in a form and substance substantially conforming with Exhibit G and satisfactory to the Village Attorney.

SECTION 11. LIABILITY AND INDEMNITY OF VILLAGE.

A. Village Review. The Developer acknowledges and agrees that the Village is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of any plans for the Subject Property or the Public Improvements, or the issuance of any approvals, permits, certificates, or acceptances, for the development or use of the Subject Property or the Public Improvements, and that the Village's review and approval of any such plans and the Public Improvements and issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants and licensees, or any third party, against damage or injury of any kind at any time.

B. Village Procedure. The Developer acknowledges and agrees that all notices, meetings and hearings have been properly given and held by the Village with respect to the approval of this Agreement and agree not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

C. Indemnity. The Developer, only as to its own respective acts or omissions, agrees to, and does hereby, hold harmless and indemnify the Village, the Corporate Authorities, the Plan Commission and all Village elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, from any and all claims that may be asserted at any time against any of such parties in connection with (i) the Village's review and approval of any plans for the Subject Property or the Public Improvements; (ii) the issuance of any approval, permit, certificate or acceptance for the Subject Property or the Public Improvements; (iii) the development, construction, maintenance or use of any portion of the Subject Property or the Public Improvements; and (iv) the collection and distribution of amounts paid by the Developer pursuant to Section 8 of this Agreement.

D. Defense Expense. The Developer, only as to its own acts or omissions, shall, and do hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims referenced in Subsection 11.C of this Agreement.

SECTION 12. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.

A. Binding on Successors. All obligations assumed by the Developer under this Agreement shall be binding upon such party personally, upon any and all of the respective party's heirs, successors and assigns, and upon any and all of the respective successor legal or beneficial owners of all or any portion of the Subject Property. To assure that

all such heirs, successors, assigns and successor owners have notice of this Agreement and the obligations created by it, the Developer shall each:

1. Deposit with the Village Clerk, concurrent with the Village's approval of this Agreement, any consents or other documents necessary to authorize the Village to record this Agreement with the Office of the Cook County Recorder; and
2. Notify the Village in writing at least 30 days prior to any date upon which such party transfers a legal or beneficial interest in any portion of the Subject Property to any party not a party to this Agreement; and
3. Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the sale of all or any portion of the Subject Property to any party not a party to this Agreement; and
4. Require, prior to the transfer of all or any portion of the Subject Property, or any legal or equitable interest therein, to any party not a party to this Agreement, the transferee of said portion of or interest in the Subject Property to execute an enforceable written agreement, in substantially the form attached to this Agreement as **Exhibit H**, agreeing to be bound by the provisions of this Agreement (a "Transferee Assumption Agreement") and to provide the Village, upon request, with such reasonable assurance of the financial ability of such transferee to meet those obligations as the Village may require; provided, however, that the requirements stated in the three preceding clauses shall not apply to any contract for, or transfer of, an individual Lot or group of Lots for which all Public Improvements have been completed and approved and, where appropriate, accepted pursuant to Section 5 of this Agreement.

B. Limited Release of the Developer. The Village agrees that upon a successor becoming bound to the personal obligation created in the manner provided in this Agreement and providing the financial assurances required herein, the personal liability of the Developer shall be released to the extent of the transferee's assumption of such liability. The failure of the Developer to provide the Village with a fully executed copy of a Transferee Assumption Agreement required above by the transferee to be bound by the provisions of this Agreement and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any such transfer shall result in such party remaining fully liable for all of such party's obligations under this Agreement but shall not relieve the transferee of its liability for all such obligations as a successor to such party.

SECTION 13. TERM.

The provisions of this Agreement shall run with and bind the Subject Property, and shall inure to the benefit of, and be enforceable by, the Developer, the Village and any of their respective legal representatives, heirs, grantees, successors and assigns, from the date this Agreement is recorded and until the Public Improvements are approved by the Village and the Public Improvements, as required by this Agreement and the Subdivision Code, are accepted by the Village. Following such approval and acceptance, the Village agrees, upon written request of the Developer, to execute appropriate and recordable evidence of the termination of this Agreement.

SECTION 14. ENFORCEMENT.

The parties to this Agreement may, in law or in equity, by suit, action, mandamus or any other proceeding, including without limitation specific performance, enforce or compel the

performance of this Agreement; provided, however, that the Developer agree that they will not seek, and do not have the right to seek, to recover a judgment for monetary damages against the Village or any elected or appointed officials, officers, employees, agents, representatives, engineers or attorneys thereof, on account of the negotiation, execution or breach of any of the terms and conditions of this Agreement. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village shall be entitled to withhold the issuance of building permits or certificates of occupancy for any and all buildings and structures within the Subject Property at any time when the Developer has failed or refused to meet fully any of its obligations under this Agreement. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement, the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial proceeding.

SECTION 15. GENERAL PROVISIONS.

A. Notice. Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i), personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or (iv) by facsimile. Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to Village shall be addressed to, and delivered at, the following address:

Village of Northbrook
1225 Cedar Lane
Northbrook, IL 60062
Attention: Village Manager

With a copy to:

Steven M. Elrod, Esq.
Holland & Knight LLP
55 West Monroe, Suite 800
Chicago, IL 60603

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Notices and communications to the Developer shall be addressed to, and delivered at, the following addresses:

Schmidt & Associates Construction, Inc.
1225 Wilmette Avenue
Wilmette, IL 60091
Attention: Bernard Schmidt, President

With a copy to:

Bruce Salk, Esq.
Cohn, Salk & Huvard
630 Dundee Road, Suite 120
Northbrook, IL 60062

- B. Time of the Essence.** Time is of the essence in the performance of all terms and provisions of this Agreement.
- C. Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supercedes any and all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.
- D. Exhibits.** Exhibits A through H attached to this Agreement are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.
- E. Amendments and Modifications.** No amendment or modification to this Agreement shall be effective unless and until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.
- F. Changes in Laws.** Unless otherwise explicitly provided in this Agreement, any reference to any Requirements of Law shall be deemed to include any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.
- G. Authority to Execute.** The Village hereby warrants and represents to the Developer that the persons executing this Agreement on its behalf have been properly authorized to do so by the Corporate Authorities. The Developer hereby warrants and represents to the Village (i) that it is the record owner of fee simple title to the Subject Property; (ii) except as otherwise noted in this Agreement, that no other person or entity has any legal, beneficial, contractual or security interest in the Subject Property; (iii) that it has the full and complete right, power and authority to enter into this Agreement and to agree to the terms, provisions and conditions set forth in and to bind the Subject Property as set forth in this Agreement; (iv) that all legal actions needed to authorize the execution, delivery and performance of this Agreement have been taken; and (v) that neither the execution of this Agreement nor the performance of the obligations assumed by the Developer will (a) result in a breach or default under any agreement to which the Developer is a party or to which it or the Subject Property is bound or (b) violate any statute, law, restriction, court order or agreement to which the Developer or the Subject Property are subject.
- H. Calendar Days and Time.** Any reference herein to "day" or "days" shall mean calendar and not business days. If the date for giving of any notice required to be given hereunder or the performance of any obligation hereunder falls on a Saturday, Sunday or

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Federal holiday, then said notice or obligation may be given or performed on the next business day after such Saturday, Sunday or Federal holiday.

I. **No Third Party Beneficiaries.** No claim as a third party beneficiary under this Agreement by any person, firm or corporation shall be made, or be valid, against the Village or the Developer.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first above written.

ATTEST:

Ronald N. Louis
Village Clerk

VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation

By: *Robert J. Meyer*
Village President - *no term*

ATTEST:

Man [Signature]

SCHMIDT & ASSOCIATES CONSTRUCTION, INC., an Illinois corporation

By: *[Signature]*
is: President

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ACKNOWLEDGEMENTS

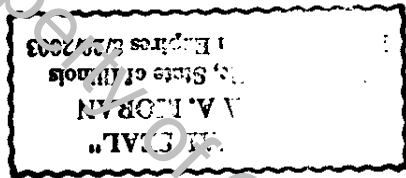
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me on July 29, 2002, by Robert J. Jaeger, the Village President of the VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation, and by Lona N. Louis, the Village Clerk of said municipal corporation.

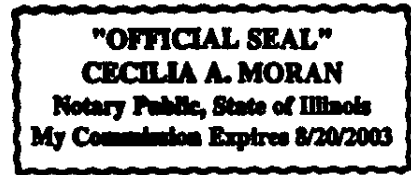
Given under my hand and official seal this 29th day of July, 2002.

Cecilia A. Moran
Signature of Notary

SEAL



My Commission expires: _____



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

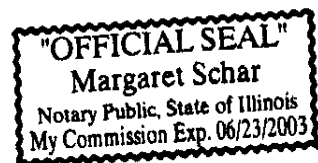
The foregoing instrument was acknowledged before me on July 12, 2002, by BERNARD SCHMIDT, the PRESIDENT and of SCHMIDT & ASSOCIATES CONSTRUCTION, INC., an Illinois corporation, which individuals are known to me to be the identical persons who signed the foregoing instrument as such officers of the corporation for and on behalf of said corporation, and that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned.

Given under my hand and official seal this 12th day of July, 2002.

Margaret Schar
Signature of Notary

SEAL

My Commission expires: _____



EXECUTION COPY

CONSENT OF MORTGAGEE

CORUS BANK, which is the holder of a mortgage dated as of April 15, 2001, and recorded in the Office of the Cook County Recorder, Illinois on April 16, 2001, as Document No. 0010304836*, encumbering the Subject Property (as defined in the Subdivision Agreement to which this Consent is attached), hereby consents to the recording of said Subdivision Agreement and agrees that its lien shall be subject to the provisions of such Subdivision Agreement.

* modified from time to time

IN WITNESS WHEREOF, the undersigned has caused this Consent to be executed on July 22, 2002.

ATTEST:

CORUS BANK, an Illinois banking corporation

By: Peter R. Freund
Its: Vice President

By: [Signature]
Its: CLO

STATE OF ILLINOIS)
COUNTY OF Cook) SS.

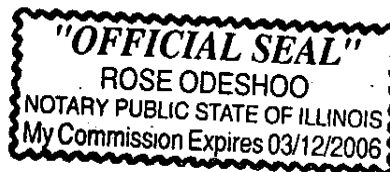
The foregoing instrument was acknowledged before me on July 22, 2002, by DAVID R. KEISCHKE the Commercial Lender and PETER R. FREUND the V.P. of CORUS BANK, an ILLINOIS banking corporation, which individuals are known to me to be the identical persons who signed the foregoing instrument as such officers of the corporation for and on behalf of said corporation, and that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned.

Given under my hand and official seal this 22 day of July, 2002.

[Signature]
Signature of Notary

SEAL

My Commission expires: _____



INDEX OF EXHIBITS

- Exhibit A Final Engineering Plan
- Exhibit B Final Plat
- Exhibit C Final Tree Preservation, Removal & Demolition Plan
- Exhibit D Storm Water Facilities Easement & Maintenance Covenant
- Exhibit E Legal Description of the Subject Property
- Exhibit F Resolution Approving Final Plat and Variation and Waiver
- Exhibit G Letter of Credit Form
- Exhibit H Transferee Assumption Agreement

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EXHIBIT ATTACHED

UNOFFICIAL COPYRESOLUTION NO. 01-R-138

(Authorizing the Approval and Execution of the
Subdivision Agreement for Shermer Ridge Subdivision)

Schmidt & Associates Construction, Inc. (the "Developer") has submitted plans to develop the property commonly known as 1071 Shermer Road (the "Subject Property") into a three lot subdivision. A public hearing to consider (i) a variation for the consolidated approval of a tentative and final plat of subdivision for the Subject Property, (ii) a waiver of the requirement to construct a storm water detention facility on a separate outlot, and instead allow construction in an easement, and (iii) approval of the Final Plat for the Subject Property was held at the Plan Commission's regular meeting on July 17, 2001, with a formal recommendation being rendered during the Plan Commission's regular meeting on August 7, 2001 (Plan Commission Resolution No. 01-PC-14).

The Village staff and the Developer have agreed on terms and conditions of a subdivision agreement to control the development of the Subject Property into a three lot subdivision, and the President and Board of Trustees find it beneficial to enter into such an agreement.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois, THAT:

Section 1. The Subdivision Agreement by and between the Village of Northbrook and the Developer (the "Agreement") shall be, and is hereby, approved in substantially the form attached to and, by this reference, made a part of this Resolution.

Section 2. The Village President and the Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, said Agreement only after receipt by the Village of at least two copies of said Agreement fully executed by all parties thereto; provided, however, that if the two fully executed copies of the Agreement are not submitted to the Village within 60 days, then this authority to execute and seal shall, at the option of the Board of Trustees, be null and void.

Section 3. The Village Manager shall be, and is hereby, directed to record the Agreement with the Office of the Cook County Recorder of Deeds upon satisfactory completion of all administrative details relating thereto, and as provided in the Agreement.

PASSED: This 25th day of September, 2001.

AYES: (7) Trustees Jaeger, Frum, Karagianis, Buehler, Doneywald
and Meek and President Damisch

NAYS: (0)

ABSENT: (0)

ABSTAIN: (0)

/s/ Mark W Damisch

Village President

ATTEST:

/s/ Lona N Louis

Village Clerk

I hereby certify this to be a true and exact copy of the original.

Date

7/30/02 Lona N Louis

Village Clerk

BOX 337

STORM WATER FACILITIES EASEMENT & MAINTENANCE COVENANT

RESTRICTIVE COVENANT FOR STORM WATER
DETENTION AREA EASEMENTS AND MAINTENANCE

THIS RESTRICTIVE COVENANT is made this ____ day of _____, 2002, by **SCHMIDT & ASSOCIATES CONSTRUCTION, INC.**, an Illinois corporation ("**Schmidt**"), the owner of record title to the parcel of real estate located in the Village of Northbrook, Cook County, Illinois commonly known as 1071. Shermer Road, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Restrictive Covenant (the "**Subject Property**").

NOW, THEREFORE, SCHMIDT DECLARES that the Subject Property and all portions thereof are and shall be held, transferred, sold, conveyed, used, and occupied subject to the covenants hereinafter set forth, which covenants are for the purpose of protecting the value and desirability of the Subject Property and other properties in the Village of Northbrook.

1. Background

A. In order to obtain approval to subdivide the Subject Property into three lots, Schmidt is required to make adequate provision for the management of storm water for the Subject Property. Schmidt has requested to construct and install a storm water detention pond to store such storm water as well as such related equipment, appurtenances, swales, and storm sewer connections as required to ensure for adequate storm water drainage and management, as well as to collect and direct such storm water into the Village's storm sewer system (the "**Storm Water Facilities**"). The Storm Water Facilities are more fully described in that certain final engineering plan prepared by Norman J. Toberman & Associates, consisting of six sheets, with a latest revision date of October 3, 2001, approved by the Village of Northbrook (the "**Village**") Village Engineer (the "**Final Engineering Plan**").

B. Schmidt and the Village have agreed that the Storm Water Facilities shall be privately-owned and the owners of the Subject Property shall be responsible for the continuing care, conservation, maintenance and operation, in a first rate condition, of the Storm Water Facilities of the Subject Property (the "**Owners**").

C. Schmidt desires to formalize the necessary storm water easements and the agreement regarding the maintenance and use of the Storm Water Facilities by the Owners.

2. Grant of Easements.

A. Schmidt hereby establishes, for the use and benefit of Lots 1, 2 and 3 of the Subject Property or any part thereof, a perpetual easement and right of use appurtenant to and for the benefit of Lots 1, 2 and 3 of the Subject Property upon, under, and across that portion of the Subject Property legally described on **Exhibit B** attached to and, by this reference, made a part of this Restrictive Covenant (the "**Storm Water Detention Area**"), for the sole purpose of storm water detention and drainage. The easement granted by this Restrictive Covenant is not intended to and shall not be construed as creating any rights in or for the benefit of the general public or for any other parcel of real estate.

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B. Schmidt hereby grants, warrants, and conveys to the Village a perpetual easement upon, under, and across the Storm Water Detention Area for the purpose of enforcing the terms of this Restrictive Covenant.

3. Maintenance of Storm Water Facilities.

A. No change shall be made in the finished grade of the land within the Storm Water Detention Area, and no construction of any kind whatsoever shall be erected or permitted to exist within the Storm Water Detention Area, that might materially impede storm water drainage therein or materially reduce the storm water detention capacity thereof. Trees, shrubs, fences and normal landscape planting shall be permitted within the Storm Water Detention Area only with the prior written approval of the Village Manager. No obstructions may be erected or permitted upon the Storm Water Detention Area or the Subject Property that will in any way unreasonably interfere with any rights created by this Restrictive Covenant. The Owners shall maintain a grass cover on the surface of that portion of each Owner's lot located within the Storm Water Detention Area and shall keep such grass and landscaping in a trimmed condition.

B. The Owners, at their sole cost and expense, shall cooperatively supervise, operate, manage, maintain and keep in good repair in a first rate condition the Storm Water Facilities and shall keep such Storm Water Facilities clear and reasonably free of obstructions of every nature, and shall provide adequate drainage therefor. Operation and maintenance of the Storm Water Facilities shall include, but not be limited to, the payment of water or sewer use fees, if any, labor, mowing, maintenance equipment and tools, insurance, and all other things reasonably necessary for the everyday maintenance of the Storm Water Facilities. All such costs shall be shared and paid by the Owners in equal parts.

C. If any Owner fails, or any combination of Owners fail, to cooperate in supervising, operating, maintaining, and keeping in good repair the Storm Water Facilities, then the other Owner, or Owners, may so supervise, operate, maintain or repair such Storm Water Facilities and thereafter submit to the other Owner, or combination of Owners, the costs and expenses thereby incurred, along with copies of all bills and invoices to evidence such written demand. Payment of sums so demanded must be made within thirty (30) days after receipt of such demand.

D. In the event of a failure by any Owner, or combination of Owners, to pay sums properly due and payable hereunder within thirty (30) days after receipt of written demand for payment, then, in addition to any other remedies or rights available to it at law or in equity, the Owner, or combination of Owners, entitled to payment shall have a lien against the lot or parcel, or lots or parcels, owned by the defaulting Owner, or combination of Owners, to secure payment of all amount as properly due hereunder. Such lien shall arise immediately upon recording of a notice of lien in the Office of the Cook County Recorder of Deeds, Illinois, identifying this Restrictive Covenant, the parties hereto, the date of recording this Restrictive Covenant, the document number of such recording, the legal description of the lot or parcel, or lots or parcels, owned by the defaulting Owner, or combination of Owners, the name of the defaulting Owner, or combination of Owners, and the amounts then due and payable under this Restrictive Covenant. Such lien shall remain in full force and effect until such amounts are paid in full. Said lien may be foreclosed by any proceeding at law or in equity. Notwithstanding the foregoing, any first mortgage encumbrance owned or held by a bank or insurance company, savings and loan association, or other such person or entity engaged in the business of making real estate loans, recorded against the lot or parcel of the defaulting Owner, or combination of Owners, prior to the date any lien authorized under this Restrictive Covenant is recorded, which by law would be a lien having priority over the lien authorized under this Restrictive Covenant, shall have priority, except

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as to any amounts which may properly become due and payable from and after the date on which the said first mortgage encumbrance is foreclosed and the holder thereof takes possession of the lot or parcel or accepts a conveyance of interest therein (other than as security). The holder of a first mortgage encumbrance shall not be personally liable for any sums due and payable under this Restrictive Covenant accrued before the date on which the first mortgage encumbrance is foreclosed and the holder thereof takes possession of the lot or parcel and accepts a conveyance of any interest therein (other than as security).

4. **Retained Rights.** The Owners retain the right to use the Storm Water Detention Area in any manner that will not prevent or interfere with the exercise of the mutual rights granted under this Restrictive Covenant.

5. **Mutual Waiver.** If any loss, cost, damage or expense is incurred by any Owner, in connection with the operation of the Storm Water Facilities or the Stormwater Detention Area on its lot, and such Owner is then covered in whole or in part by insurance with respect to such loss, cost, damage or expense, then the Owner so insured hereby releases the other Owners from any liability it may have on account of such loss, cost, damage or expense to the extent of any amount recoverable by reason of such insurance and waives any right of subrogation which might otherwise exist in or accrue to any person or account thereof.

6. **Term.** The restrictions hereby imposed shall be enforceable for a term of one hundred (100) years from the date this Restrictive Covenant is recorded, after which time such Restrictive Covenant shall be automatically extended for successive periods of ten (10) years unless an instrument amending this Restrictive Covenant shall be recorded and provide for some other duration. If any of the rights or restrictions imposed by this Restrictive Covenant would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living lawful descendants of the current Governor of the State of Illinois.

7. **Covenants Running with the Land.** The easements, restrictions, covenants, and agreements contained in this Restrictive Covenant shall be easements, restrictions, covenants, and agreements running with the land and shall be binding upon and inure to the benefit of the Owners of the Subject Property and their respective heirs, executors, administrators, successors, assigns and legal representatives, including, without limitation, all subsequent Owners of the Subject Property or any portion thereof, and all persons claiming under them.

8. **Recordation.** This Restrictive Covenant shall be recorded with the Office of the Cook County Recorder of Deeds, Illinois and all contracts and deeds of conveyance relating to the Subject Property or any part thereof shall be subject to the provisions of this Restrictive Covenant.

9. **Notices.** All notices required to be served by this Restrictive Covenant shall be served in writing and shall be deemed to be served when delivered personally or three (3) business days following deposit, by certified or registered mail, return receipt requested, in the United States mail, postage prepaid, at the common address for the parcel.

10. **Enforcement.** The parties hereto do hereby recognize and agree that the Village has a valid interest in ensuring that the easements, restrictions, covenants, and agreements in this Restrictive Covenant are properly performed and therefore do hereby grant unto the Village the right to enforce these easements, restrictions, covenants, and agreements by any proceeding at law or in equity against any person or persons violating or attempting to violate any easement,

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restriction, covenant or agreement contained in this Restrictive Covenant, either to restrain violation, to compel affirmative action or to recover damages, and against the land to enforce any lien created by the easements, restrictions, covenants, or agreements. These easements, restrictions, covenants, or agreements may also be enforced in said manner by any Owner. In addition, the Village may exercise any of the rights granted to the parties in Section 3 of this Restrictive Covenant. The Village shall be under no obligation to exercise the rights granted in this Restrictive Covenant except as it shall determine to be in its best interest. No failure to exercise at any time any right herein granted to the Village shall be construed as a waiver of that or any other rights.

11. **Amendment of Agreement.** This Restrictive Covenant may be modified, amended or annulled only by written agreement of the parties hereto and only upon the express, prior written approval of the Village Manager.

12. **Headings.** The headings of the Sections of this Restrictive Covenant are intended for convenience and reference only and are not intended to alter, amend, or affect any of the terms or provisions of this Restrictive Covenant.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on and as of the day and year first set forth above.

SCHMIDT & ASSOCIATES CONSTRUCTION, INC.

By: [Signature]
President

ATTEST:

By: [Signature]
Its: [Signature]

ACKNOWLEDGEMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me on July 12, 2002, by BERNARD SCHMIDT, the PRESIDENT and _____, the _____ of **SCHMIDT & ASSOCIATES CONSTRUCTION, INC.**, an Illinois corporation, which individuals are known to me to be the identical persons who signed the foregoing instrument as such officers of the corporation for and on behalf of said corporation, and that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned.

Given under my hand and official seal this 12th day of July, 2002.

[Signature]
Signature of Notary

SEAL

My Commission expires: _____

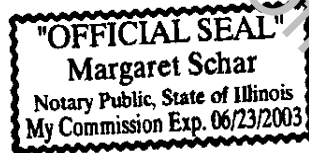


EXHIBIT E

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

LOT 10 IN ASSESSOR'S DIVISION OF SECTION 10, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE FOLLOWING DESCRIBED 3 TRACTS OF LAND:

- (1) COMMENCING AT A STAKE AT THE SOUTHEAST CORNER OF THE NORTH ½ OF THE NORTHWEST ¼ OF SAID SECTION 10, RUNNING THENCE SOUTH 19 ½ RODS MORE OR LESS TO THE LAND DEEDED TO JO FRED SEIBERT; THENCE WESTERLY ALONG SAID SEIBERT'S NORTH LINE ABOUT 34 RODS TO THE CENTER OF MILWAUKEE ROAD (WAUKEGAN ROAD); THENCE NORTHERLY ALONG CENTER OF SAID ROAD ABOUT 41 RODS TO THE SOUTH LINE OF SAID NORTH ½ OF THE NORTHWEST ¼ THENCE EAST TO THE POINT OF BEGINNING;
- (2) BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SHERMER ROAD WITH THE EASTERLY LINE OF MILWAUKEE ROAD (WAUKEGAN ROAD); THENCE RUNNING NORTHEASTERLY ALONG SAID SOUTHERLY LINE OF SHERMER ROAD A DISTANCE OF 200 FEET TO A POINT; THENCE RUNNING SOUTHEASTERLY PARALLEL WITH THE SAID SOUTHERLY LINE OF SHERMER ROAD A DISTANCE OF 200 FEET TO THE SAID EASTERLY LINE MILWAUKEE ROAD (WAUKEGAN ROAD) THENCE RUNNING NORTHWESTERLY ALONG THE SAID EASTERLY OF MILWAUKEE ROAD (WAUKEGAN ROAD) A DISTANCE OF 200 FEET TO THE POINT OF BEGINNING;
- (3) COMMENCING AT THE NORTHWEST CORNER OF LOT 26 IN ASSESSOR'S DIVISION AFORESAID; THENCE WEST ON THE NORTH LINE OF SAID LOT 26, EXTENDED WEST 156.54 FEET TO A POINT; THENCE NORTHWESTERLY ON A LINE PARALLEL WITH AND 233.27 FEET NORTHEASTERLY OF THE CENTER LINE OF WAUKEGAN ROAD (AS MEASURED ON A LINE PARALLEL WITH THE SOUTHERLY LINE OF SHERMER ROAD) A DISTANCE OF 21.56 FEET TO A POINT; THENCE SOUTHWESTERLY ON A LINE 200 FEET SOUTHEASTERLY (AS MEASURED ON THE EASTERLY LINE OF WAUKEGAN ROAD) AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SHERMER ROAD A DISTANCE OF 233.27 FEET TO THE CENTER LINE OF WAUKEGAN ROAD; THENCE SOUTHEASTERLY ON THE CENTER LINE OF WAUKEGAN ROAD 716.75 FEET TO A POINT IN THE NORTH AND SOUTH CENTER LINE OF SAID SECTION 10, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH ON THE NORTH AND SOUTH CENTER LINE OF SAID SECTION 10, TOWNSHIP 42, RANGE 12 A DISTANCE OF 688.72 FEET TO A POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

Commonly known as 1071 Shermer Road, Northbrook, IL 60062

P.I.N. No.: 04-10-110-004-0000

AFTER RECORDING OF THE FINAL PLAT, THE SUBJECT PROPERTY WILL BE LEGALLY DESCRIBED AS:

LOTS 1, 2 AND 3 IN SHERMER RIDGE RESUBDIVISION, BEING A RESUBDIVISION OF PART OF LOT 10 IN ASSESSOR'S DIVISION OF SECTION 10, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN.

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EXHIBIT F

RESOLUTION NO. 01-R-

(Approving Final Plat and Variation and Waiver for Shermer Ridge Subdivision)

Schmidt & Associates Construction, Inc. (the "Developer") has submitted plans to develop the property commonly known as 1071 Shermer Road (the "Subject Property") into a three lot subdivision. The Developer has requested, pursuant to Section 2-102 of the Northbrook Subdivision and Development Code, the following zoning relief: (i) a variation for the consolidated approval of a tentative and final plat of subdivision (the "Final Plat") for the Subject Property; (ii) a waiver of the requirement to construct a storm water detention facility on a separate outlot, and instead allow construction in an easement; and (iii) approval of the Final Plat for the Subject Property. The Subject Property shall be developed pursuant to a certain subdivision agreement (the "Agreement") which was approved by the Village in Resolution No. 01-R_____.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois, THAT:

Section 1. APPROVAL OF VARIATION AND WAIVER.

A. Variation Granting Approval of Combined Tentative and Final Plat. A variation shall be and is hereby granted to allow for the approval of a combined tentative and final plat of subdivision for the Subject Property, shall be and is hereby, granted to the Developer in accordance with and pursuant to Section 2-102 of the Subdivision Code and the home rule powers of the Village of Northbrook.

B. Waiver to Allow for the Construction of a Storm Water Detention Facility in an Easement. A waiver of the requirement to construct a storm water detention facility in an outlot, as required by Subsection 4-104 C of the Subdivision Code, and allowing for the construction of the storm water detention facility in an easement shall be, shall be and is hereby, granted to the Developer in accordance with and pursuant to Section 2-102 of the Subdivision Code and the home rule powers of the Village of Northbrook.

Section 2. APPROVAL OF FINAL PLAT.

A. Approval of Final Plat. The Final Plat prepared by Tice Survey Co., consisting of two sheets, with latest revision date of _____, 2001 ("Final Plat") shall be and is hereby approved.

B. Authorization. The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, the Final Plat, subject to certification by the Office of the Cook County Clerk that there are no property tax delinquencies, as well as all other certifications as necessary.

C. Recordation. The Village Manager is hereby directed to record said Final Plat with the Office of the Cook County Recorder upon satisfactory completion of all administrative details relating thereto.

Section 3. CONDITION.

The approval of the variation and waiver in Section 1 and the approval of the Final Plat in Section 2 of this Resolution shall be, and are hereby, conditioned upon submission of two fully executed copies of the Storm Water Facilities Covenant and recordation of the Storm Water Facilities Covenant in the Office of the Cook County Recorder of Deeds.

PASSED: This ___ day of _____, 2001.

AYES: ()

NAYS: ()

ABSENT: ()

ABSTAIN: ()

Village President

ATTEST:

Village Clerk

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EXHIBIT G

20852237

FORM OF IRREVOCABLE LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT NO. _____ AMOUNT: _____

EXPIRATION DATE: _____ DATE OF ISSUE: _____

[Name of Bank]

[Address]

TO: Village of Northbrook
1225 Cedar Lane
Northbrook, IL 60062
Attention: Village Manager

WE HEREBY AUTHORIZE YOU TO DRAW AT SIGHT on the _____ UP TO AN AGGREGATE
AMOUNT OF _____ United States Dollars
(\$ _____) for _____ account of
_____ (the "Customer").

Drafts under this Letter of Credit shall bear upon their face the words:

Drawn under _____
Credit No. _____ Dated: _____

and shall be in the form attached hereto as Exhibit "A" and shall be accompanied by one of the following documents executed by the Village Manager, an individual designated as acting Village Manager, or the Assistant Village Manager:

(a) A written statement on the form attached hereto as Exhibit "B" stating that, conditioned upon proper notice to the Northbrook Village Manager, Letter of Credit No. _____ will expire within 35 days or less and that the Customer has failed to deliver to the Northbrook Village Manager evidence of a renewal of Letter of Credit No. _____; or

(b) A written statement on the form attached hereto as Exhibit "C" stating that all or any part of the Public Improvements required to be constructed pursuant to Section 5 of the Subdivision Agreement dated _____, 2001 by and between the Village of Northbrook and Schmidt & Associates Construction, Inc., an Illinois corporation, (the "Subdivision Agreement") have not been constructed in accordance with the Subdivision Agreement; or

(c) A written statement on the form attached hereto as Exhibit "D" stating that all or any part of the costs, payments, permit fees or other fees required to be paid to the Village

pursuant to the Subdivision Agreement have not been paid in accordance with the Subdivision Agreement; or

(d) A written statement on the form attached hereto as Exhibit "E" stating that all or any portion of the maintenance, repair, or restoration required to be performed pursuant to Section 5 of the Subdivision Agreement has not been performed in accordance with the Subdivision Agreement; or

(e) A written statement on the form attached hereto as Exhibit "F" stating that all or any portion of the Customer's undertakings pursuant to the Subdivision Agreement have not been performed in accordance with the Subdivision Agreement.

EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS LETTER OF CREDIT, THIS LETTER OF CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE BROCHURE NO. 500" (THE "UNIFORM RULES"). IN THE EVENT OF A CONFLICT BETWEEN THIS LETTER OF CREDIT AND THE UNIFORM RULES, THIS LETTER OF CREDIT SHALL CONTROL.

WE HEREBY AGREE with the drawers of drafts drawn under and in compliance with the terms of this Letter of Credit, that:

1. Drafts drawn under and in compliance with this Letter of Credit shall be duly honored immediately upon presentation to the drawees if presented on or before the above-stated Expiration Date or presented at our office together with the original of this Letter of Credit on or before that date.

2. The amount of any draft drawn under this Letter of Credit must be endorsed on the reverse hereof by our bank.

3. If, within three days after any draft drawn under this Letter of Credit is presented to us in conformance with the terms of this Letter of Credit, we fail to honor same, we agree to pay all attorneys' fees, court costs and other expenses incurred by the Village of Northbrook in enforcing the terms hereof.

4. This Letter of Credit shall expire on _____, 20____, as stated hereinabove; provided, however, that we shall notify the Northbrook Village Manager by certified mail, return receipt requested, at least 35 days, but not more than 60 days, prior to said expiration date, that this Letter of Credit is about to expire.

5. In no event shall this Letter of Credit or the obligations contained herein expire except upon the prior written notice required herein, it being expressly agreed that the above expiration date shall be extended as shall be required to comply with the prior written notice required herein.

6. No consent, acknowledgment, or approval of any kind from the Customer shall be necessary or required prior to honoring any draft presented in conformance with the terms of this Letter of Credit.

7. The aggregate amount of this Letter of Credit may be reduced only upon receipt by us of a document executed by the Northbrook Village Manager stating that such aggregate amount shall be reduced in an amount permitted by the Northbrook Subdivision and

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20852237

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Development Code because of the satisfactory completion of all or part of the Public Improvements required to be constructed pursuant to Section 5 of the Subdivision Agreement.

8. This Letter of Credit is irrevocable.

[Signature of Bank Officer]

[Signature of Bank Officer]

[Officer's Title]

[Officer's Title]

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EXHIBIT "A" TO FORM OF IRREVOCABLE LETTER OF CREDIT

FORM OF DRAFT

20852237

[To Be Supplied By Issuing Bank]

Property of Cook County Clerk's Office

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EXHIBIT "B" TO FORM OF IRREVOCABLE LETTER OF CREDIT

20852237

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that Letter of Credit No. _____ dated _____ in the amount of \$ _____ will expire within 35 days or less and that _____ has failed to deliver to the Northbrook Village Manager evidence of a renewal of Letter of Credit No. _____.

Very truly yours,

Northbrook Village Manager

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EXHIBIT "C" TO FORM OF IRREVOCABLE LETTER OF CREDIT

20852237

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the Public Improvements required to be constructed pursuant to Section 5 of the Subdivision Agreement dated _____, 2001 by and between the Village of Northbrook and Schmidt & Associates Construction, Inc., an Illinois corporation, have not been constructed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

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EXHIBIT "D" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the costs, payments, permit fees or other fees required to be paid pursuant the Subdivision Agreement dated _____, 2001 by and between the Village of Northbrook and Schmidt & Associates Construction, Inc., an Illinois corporation, have not been paid in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

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EXHIBIT "E" TO FORM OF IRREVOCABLE LETTER OF CREDIT

20852237

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the maintenance, repair or restoration required to be performed pursuant to the Subdivision Agreement dated _____, 2001 by and between the Village of Northbrook and Schmidt & Associates Construction, Inc., an Illinois corporation, have not been performed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

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EXHIBIT "F" TO FORM OF IRREVOCABLE LETTER OF CREDIT

20852237

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the undertakings of the Customer (as that term is defined in the above-referenced Letter of Credit) pursuant to the Subdivision Agreement dated _____, 2001 by and between the Village of Northbrook and Schmidt & Associates Construction, Inc., an Illinois corporation, have not been performed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

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EXHIBIT H

TRANSFeree ASSUMPTION AGREEMENT

THIS AGREEMENT, made as of this _____ day of _____, 20____, by, between and among [OWNER] (the "Owner"), [TRANSFeree] (the "Transferee") and the Village of Northbrook, Illinois, an Illinois municipal corporation (the "Village"),

WITNESSETH:

WHEREAS, pursuant to that certain real estate sale contract dated _____, 20____, the Transferee agreed to purchase from the Owner certain real property situated in Cook County, Illinois and legally described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof ("Subject Property"); and

WHEREAS, following the conveyance of the Subject Property by the Owner, the Transferee will be the legal owner of the Subject Property; and

WHEREAS, as a condition to the conveyance of the Subject Property by the Owner, the Owner and the Village require that the Transferee agree to comply with all the terms, requirements and obligations set forth in that certain Subdivision Agreement, dated as of _____, 2001, and recorded in the Office of the Cook County Recorder on _____, 2001, as Document No. _____, by and between the Village and Schmidt & Associates Construction, Inc., an Illinois corporation, as amended from time to time ("Subdivision Agreement");

NOW, THEREFORE, in consideration of the agreement of the Owner to convey the Subject Property to the Transferee and of the Village to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between and among the Village, the Owner and the Transferee as follows:

1. **Recitals.** The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.

2. **Assumption of Obligations.** The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors and administrators, hereby agrees, at its sole cost and expense, to comply with all of the terms, requirements and obligations of the Subdivision Agreement, including all exhibits and attachments thereto, regardless of whether such terms, requirements and obligations are to be performed and provided by, or are imposed upon, the Owner or the developer of the Subject Property.

3. **Assurances of Financial Ability.** Contemporaneously with the Transferee's execution of this Agreement, the Transferee shall deposit with the Village Administrator the performance security required by Section 10 of the Subdivision Agreement. Upon execution of this Agreement by the Village and deposit with the Village Administrator of the required performance security, the Village shall surrender the original performance security to the Owner. In addition, and not in limitation of the foregoing, the Transferee shall, upon the request of the Village, provide the Village with such reasonable assurances of financial ability to meet the obligations assumed hereunder as the Village may, from time to time, require.

4. Payment of Village Fees and Costs. In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement, the Subdivision Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Transferee shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and other consulting or administrative fees, costs and expenses incurred in connection with the negotiation, preparation, consideration and review of this Agreement.

5. Acknowledgment and Release of Transferor. The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements and obligations of the Subdivision Agreement, including all exhibits and attachments thereto, and the Village hereby releases the Owner from any personal liability for failure to comply with the terms, requirements and obligations of the Subdivision Agreement.

6. Trustee Exculpation. This Agreement is executed by [Bank], not personally, but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by [Bank] are undertaken by it solely as Trustee as aforesaid, and not individually, and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against the Trustee by reason of any of the terms, provisions, stipulations, covenants, conditions and/or statements contained in this Agreement. Any such liability shall be asserted instead against [the property contained in Trust Number _____ or the beneficiaries thereof or against] the other signatories hereof or their successors.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

ATTEST:

VILLAGE OF NORTHBROOK

Village Clerk

By: _____
Village President

ATTEST:

[OWNER]

By: _____
Its: _____

ATTEST:

[TRANSFEREE]

By: _____
Its: _____

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ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on _____,
20____, by _____, the Village President of the **VILLAGE OF NORTHBROOK**, an
Illinois municipal corporation, and by _____, the Village Clerk of said municipal
corporation.

Signature of Notary

SEAL

My Commission expires:

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me on
_____ 20____, by _____, President of **[TRANSFEREE]** and
_____, Secretary of said _____.

Signature of Notary

SEAL

My Commission expires:

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on _____,
20____, by _____, President of [OWNER] and _____, Secretary of said
_____.

Signature of Notary

SEAL

My Commission expires:

Property of Cook County Clerk's Office

EXHIBIT ATTACHED

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