

THIS DOCUMENT
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AFTER RECORDING
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Recorder's Box 337



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Cook County Recorder of Deeds
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RESTRICTIVE COVENANT FOR STORM WATER DETENTION AREA EASEMENTS AND MAINTENANCE

THIS RESTRICTIVE COVENANT is made this 23rd day of September, 2003, by **BRIMSTAR, L.L.C. ("Developer")**, the fee simple title owner of the parcel of real estate located in the Village of Northbrook, Cook County, Illinois commonly known as 1972 Shermer Road, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Restrictive Covenant ("**Property**").

NOW, THEREFORE, DEVELOPER DECLARES that the 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 Property and other properties in the Village of Northbrook ("**Village**").

1. Background.

A. The Northbrook Subdivision and Development Code provides that in order to obtain approval to resubdivide the Property into two lots, Developer is required to make adequate provision for the management of storm water for the Property. Developer has requested a waiver to construct and install on residential lots, instead of on a separate outlot, 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 adequate storm water drainage and management, as well as to collect and direct such storm water into the Village's storm sewer system ("**Storm Water Facilities**"). The Storm Water Facilities are more fully described in that certain final engineering plan prepared by Gary A. Wiss, Incorporated, consisting of seven sheets, with latest revision dates of May 28, 2003 (sheets 1-3 and 5-7) and June 6, 2003 (sheet 4), approved by the Village Engineer ("**Final Engineering Plan**").

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

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C. Developer desires to grant the necessary storm water detention and drainage easements and formalize the agreement among the Owners regarding the maintenance and use of the Storm Water Facilities by the Owners.

2. Grant of Easements.

A. Developer hereby establishes, for the use and benefit of Lots 1 and 2 of the Property or any part thereof, a perpetual easement and right of use appurtenant to and for the benefit of Lots 1 and 2 of the Property upon, under, and across that portion of the Property legally described on **Exhibit B** attached to and, by this reference, made a part of this Restrictive Covenant ("**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.

B. Developer 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, 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 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 30 days after receipt of such demand.

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D. In the event of a failure by any Owner, or combination of Owners, to pay sums properly due and payable hereunder within 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 amounts 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 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 Storm Water 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 100 years from the date this Restrictive Covenant is recorded, after which time such Restrictive Covenant shall be automatically extended for successive periods of 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 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

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Owners of the Property and their respective heirs, executors, administrators, successors, assigns and legal representatives, including, without limitation, all subsequent Owners of the 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 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 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, 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.

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.

DEVELOPER:

BRIMSTAR, L.L.C.

By: JERROLD L. BRIM
Name: *Jerrold L. Brim*
Title: MANAGER

WITNESS:

By: *Jerrold L. Brim*
Its: Manager

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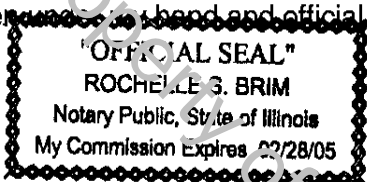
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ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

The foregoing instrument was acknowledged before me on Sept. 15, 2003 2003,
by VEROLD BAIN, the MANAGER of Brimstar, L.L.C., an Illinois
limited liability company, and by VEROLD BAIN, MANAGER of said
limited liability company.

Given under my hand and official seal this 15th day of September, 2003.



Rochelle S. Brim
Notary Public

My commission expires: 2/28/05

Cook County Clerk's Office

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EXHIBIT A

Legal Description of the Property

Lots 1 and 2 in Brimstar Subdivision of the East 264.30 feet of sub lot 6 in "Superior Court Partition," of the East half of the Southeast quarter of the Northeast quarter of Section 16, Township 42 North, Range 12 East of the Third Principal Meridian, according to the plat thereof recorded February 24, 1928, as Document No. 9736295, excepting therefrom that part taken for Shermer Road by Document No. 87-540338, recorded October 5, 1987, all in Cook County, Illinois.

Commonly known as 1972 Shermer Road, Northbrook, Illinois 60062

P.R.E.I. No.: 04-16-202-035

Property of Cook County Clerk's Office

UNOFFICIAL COPY**EXECUTION COPY**EXHIBIT BLegal Description of East Storm Water Detention Area

COMMENCING AT THE SOUTHEAST CORNER OF LOT 2 OF BRIMSTAR SUBDIVISION, BEING A SUBDIVISION OF THE EAST 264.30 FEET OF SUB LOT 6 IN "SUPERIOR COURT PARTITION", OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 14.00 FEET ALONG THE EAST LINE OF SAID LOT 2, TO THE POINT OF BEGINNING OF THE TRACT OF LAND DESCRIBED AS FOLLOWS: THENCE CONTINUING NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE SAID EAST LINE, A DISTANCE OF 79.21 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 41 SECONDS WEST, A DISTANCE OF 12.01 FEET; THENCE SOUTH 09 DEGREES 06 MINUTES 32 SECONDS WEST, A DISTANCE OF 52.98 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 41 SECONDS WEST, A DISTANCE OF 13.42 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 56 SECONDS EAST, A DISTANCE OF 4.72 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 41 SECONDS WEST, A DISTANCE OF 61.75 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 16 SECONDS WEST, A DISTANCE OF 52.51 FEET; THENCE NORTH 41 DEGREES 20 MINUTES 04 SECONDS EAST, A DISTANCE OF 20.53 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 16 SECONDS WEST, A DISTANCE OF 43.85 FEET TO A POINT ON THE NORTH LINE OF LOT 2; THENCE SOUTH 89 DEGREES 49 MINUTES 41 SECONDS WEST ALONG THE NORTH LINE OF LOTS 1 & 2, A DISTANCE OF 82.10 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 16 SECONDS EAST, A DISTANCE OF 38.75 FEET; THENCE NORTH 89 DEGREES 50 MINUTES 53 SECONDS EAST, A DISTANCE OF 18.85 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 16 SECONDS EAST, A DISTANCE OF 31.52 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 41 SECONDS EAST, A DISTANCE OF 26.75 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 16 SECONDS EAST, A DISTANCE OF 63.67 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 41 SECONDS EAST, A DISTANCE OF 118.38 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

Legal Description of West Storm Water Detention Area

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 OF BRIMSTAR SUBDIVISION, BEING A SUBDIVISION OF THE EAST 264.30 FEET OF SUB LOT 6 IN "SUPERIOR COURT PARTITION", OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 13.11 FEET ALONG THE WEST LINE OF SAID LOT 1, TO THE POINT OF BEGINNING OF THE TRACT OF LAND DESCRIBED AS FOLLOWS: THENCE NORTH 89 DEGREES 49 MINUTES 41 SECONDS EAST, A DISTANCE OF 58.84 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 16 SECONDS WEST, A DISTANCE OF 32.13 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 41 SECONDS WEST, A DISTANCE OF 22.40 FEET; THENCE NORTH 44 DEGREES 55 MINUTES 16 SECONDS WEST, A DISTANCE OF 14.92 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 41 SECONDS WEST, A DISTANCE OF 25.81 FEET TO A POINT ON THE WEST LINE OF LOT 1; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 42.72 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.