File and Return To: J. William Braithwaite Arnstein & Lehr LLP 2800 W. Higgins Rd. Suite 425 Hoffman Estates, IL 60195

Doc#: 0606749127 Fee: \$56.00 Eugene "Gene" Moore RHSP Fee:\$10.0(

Cook County Recorder of Deeds

for the

Date: 03/08/2006 02:52 PM Pg: 1 of 17

The Above Space for Recorder's Use Only

#### **AGREEMENT**

This Agreement ("Agreement") is made this day of November, 2005, by and between G. Meese & Associates, Ltd., an Illinois corporation, ("Meese") and Jon W. Anderson and Elaine Anderson (the "Andersons").

#### PREAMBLE

This Agreement is made in consideration of the mutual covenants and conditions contained herein including the issue of Meese to utilize a portion of the property owned by the Andersons and in resolution of concerns of the Andersons with Meese's development application for the Nathan's Glenn Subdivision (the "Meese Development")

Whereas, Meese is the owner of the property described in Exhibit A attached hereto and a part hereof (the "Meese Property"), and

Whereas, the Andersons are the owners of the property described in Exhibit B attached hereto and a part hereof (the "Anderson Property"), and

Whereas, the County of Cook and the Corporate Authorities of the Vinage of South Barrington have approved the proposed plat of subdivision for the Meese Development; and

Whereas, there have been a number of prior agreements, written and verbal, between Meese and the Andersons, all of which are superseded upon the execution of this Agreement; and

Whereas, there is currently located on the southerly portions of the Meese Property and northerly portions of the Anderson Property a unified body of water which shall be a part of a unified detention area:

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Now therefore, it is hereby agreed:

The Andersons approve and consent to the Final Engineering Drawings 1. for the Meese Development prepared by I.G. Consulting consisting of 11 pages entitled "Nathan's Glenn Subdivision Algonquin Road" dated 11/02/01 and last revised 06/17/05 (the "Final Engineering Drawings"), a copy of which is attached hereto as Exhibit C. Subject to the provisions of this Agreement, the Andersons agree to permit filling of their property to allow construction of the Meese Development as set forth on the Final The Andersons hereby grant to Meese a Engineering Drawings. Temporary license to enter upon the Anderson Property to perform all work pursuant to Final Engineering Drawings and this Agreement. Meese represents and affirms that the maximum horizontal southerly encroachment permitted on the Anderson Property in the event of a 100 year flood event ("Maximum Horizontal Southerly Encroachment") is accurately depicted on Exhibit D attached hereto by four (4) points marked thereon. In the event that the water level during such 100 year flood event, or one or a lesser degree, exceeds said Maximum Horizontal Southerly Encroachment Line shown on Exhibit D, Meese shall take corrective action which will result in limiting the encroachment to said Maximum Horizontal Southerly Encroachment Line. The corrective action may include expanding the border of the retention area to the north and/or west, and/or east. At this time, Meese is unaware of any legal or engineering reasons why the Detention Area depicted on Exhibit C could not or would not be constructed as exproved. However, in the event that modifications to the Detention Area depicted on Exhibit C are required, Meese agrees to use its best efforts to obtain approval of a plan as closely approximating the configuration shown on Exhibit C as practicable. Andersons agree to cooperate with Meese in polaining approval of such revised plan if necessary, provided that such revision does not adversely affect the Anderson Property.

Notwithstanding the forgoing, if the implementation and completion of the work provided for by the Final Engineering Drawings (whether or not the work is implemented pursuant to such Final Engineering Drawings) results in damage to the Anderson Property at any time in the future, Meese shall be liable for such damage.

The Andersons represent that since the occupancy of the residence on the Anderson Property by the Andersons on August 25, 1987, the Anderson residence has suffered no structural damage from the Detention Area (as it now exists) or from drainage except a minor accumulation of water measuring no more than one-eighth (1/8<sup>th</sup>) inch during a power outage which disabled a sump pump.

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- 2. The Andersons hereby grant to Meese and to subsequent owners of the Meese Property a temporary construction easement of access to such portions of the Anderson Property as are reasonably required for construction and restoration activities provided for herein. All construction and restoration activities by or on behalf of Meese on the Anderson Property shall be completed within sixty (60) days after the beginning of such activities, subject to delays caused by inclement weather. Such activities shall commence within seven (7) days after issuance of permits authorizing such activities; Meese shall diligently pursue the issuance of such permits.
- 3. Meese and the Andersons agree that the Andersons and residents of Nathan's Glenn shall be entitled to use and shall have access rights to the entire Detention Area for recreational activities, including but not limited ic ice skating, swimming, fishing and boating by boats and water craft which are not motorized.

The Andersons may at any time at their option, install, maintain, repair and reinstall a deck and/or pier on the northerly portion of the Anderson Property, including over that portion of the Anderson Property which is within the area covered by the water of the Detention Area. Meese agrees that neither Meese nor any subsequent owner of property in Nathan's Glenn shall have any right to enter upon the dry land or any deck or pier of the Anderson Property in conjunction with their use of the Detention Area. Similarly, the Andersons agree that they shall have no right to enter upon the dry land or any deck or pier on the property of any subsequent owner of any part of the Meese Property. Meese agrees that, except as to any deck and/or dock over the water of the Detection Area which is on the Anderson Property, Meese shall be responsible for maintaining the portions of the Detention Area on the Anderson Property in a manner which allows for appropriate stormwater management and which protects the public health, safety and welfare. In the event that Meese shall fail to so maintain the portions of the Detention Area on the Anderson Property, the Andersons shall have the right to conduct any necessary maintenance activities on the Anderson property and shall be entitled to recover their reasonable maintenance expenses from Meese.

The Andersons agree to maintain a minimum of One Million Dollars (\$1,000,000) in general liability insurance coverage on the Anderson Property.

The Andersons and lot owners in Nathan's Glenn shall not remove water from the Detention Area, for irrigation or any other purpose.

In connection with the construction of the Detention Area, Meese shall 4. improve the Detention Area edge on the Anderson Property in accordance

with specifications set forth on the letter of Phoenix Environmental, Inc. dated October 6, 2005, a copy of which is attached hereto as Exhibit E and in a manner consistent with the edging style and material of the Detention Area on the Meese Property; subject however, to the right of the Andersons to specify the areas on their property where such plantings and applications shall occur and in lieu of such plantings and application, areas will be sodded. Meese shall restore and landscape, with materials similar to those existing, all areas of the Anderson Property damaged by construction activities related to the construction of the Detention Area, with the restoration of top soil to a minimum depth of twelve (12) inches and the replacement of all grass areas which are disturbed with sod (rather than seeding). This obligation to restore shall include, but not be liniled to, any damage done to the Andersons' sump pump drainage pipe. In the event that any trees on the Anderson Property are damaged during construction, Meese shall, at its expense, replace said trees on an inchfor-inch dirimeter at breast height basis in locations selected by the Andersons. The Andersons have, with permission of Meese, tagged eleven (11) trees, described on Exhibit F attached hereto and made a part hereof, on the Meese Property, all of which shall be moved to and planted on the Anderson Property at locations designated by Anderson or his landscaper, by Meese. While such relocated trees may be utilized to fulfill the obligation of Meese to replace any existing tree on the Anderson Property damaged by Meese if less than eleven (11) trees are so damaged, nevertheless the eleven (11) trees listed on Exhibit F shall be moved and planted on the Anderson Property.

5. As part of the development of the Meese Property, there shall be installed by Meese and at the expense of Meese on the Anderson Property certain drainage pipes (the "Drainage Pipes") and certain grading and restoration in connection with the installation of said Drainage. Pipes, in conformity with the drawing labeled "Drawing Depicting Location of Drainage Pipes" which is attached hereto as Exhibit G. Subsequent maintenance, repair and replacement of the Drainage Pipes shall be borne by Meese, and subsequent owners of the Meese Property (including the Homeowners Association provided for herein), as hereinafter set forth.

The Maintenance of the Drainage Pipes shall be in a manner customary and appropriate as per civil engineering standards for these kinds of pipes, but in any case shall include as a minimum the following level of maintenance:

- a. The inspection by a qualified engineer during March or April of each year to ascertain that the Drainage Pipes are functioning properly.
- b. The immediate implementation of any corrective action in the event that any said inspections find any current or incipient problems and

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immediate implementation of corrective action in the event that the Drainage Pipes malfunction at any other time.

The Homeowners Association provided for in this Agreement shall deposit annually by December 31 of each year, beginning on December 31, 2005 the sum of \$1,000.00, to be increased by three percent (3%) per year to adjust for inflation, as a monetary reserve in a bank account which can be accessed by said Association upon approval of the owners of the Anderson Property specifically designated for replacement of the Drainage Pipes. The reserve equals the total prospective cost of replacing the Drainage Pipes based upon an assumed useful life of such Drainage Pipes of 20 years. The Homeowners Association on an annual basis in the month of January shall provide evidence to the owners of the Anderson Property of such deposits and the status of the reserve. During the first quarter of 2025, the President of the Association shall meet with the owners of the Anderson Property to review the said monetary reserve, the status and condition of the Drainage Pipes and the then estimated cost of replacement thereof, and discuss and attempt to agree upon:

- a) Whether the annual payments should be continued and, also in what amount;
- b) Whether the monetary reserve should be paid, in whole or in part, with additional funds if determined to be appropriate, to the owners of the Anderson Property who would then undertake all further responsibility as to said Drainage Pipes.

The Andersons shall receive copies of the engineering reports required by this Agreement and shall receive reports of all repairs completed.

The Andersons shall grant to Meese a permanent easement of access to the Anderson Property which will permit the entry of inspectors and workmen as needed to perform the inspections and work provided for herein. The occupants of the Anderson Property shall be given reasonable advance notice of such activities. Such easement shall be delivered by Andersons to Meese within ninety (90) days after installation of the pipes and delivery to the Andersons by Meese of an "as built" survey.

6. Prior to conveyance of any lot or parcel of land of the Meese Property, Meese shall establish, as an Illinois not-for-profit corporation, a Homeowners Association for the Meese Property and record covenants and restrictions which provide, inter alia, for maintenance of the Detention Area and the Drainage Pipes and mandatory dues for that purpose, with the right of the Homeowners Association to place liens on the property of any owner who does not pay such dues within not less than ninety (90)

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days after the due date thereof. A copy of such covenants and restrictions has been delivered to the Andersons and approved by them. In addition, in the event of a failure of the Homeowners Association to discharge its obligations pursuant to such Covenants and Restrictions, or the failure of the Homeowners Association to maintain its corporate status in good standing with the Secretary of State of Illinois, the obligations created in this Agreement in favor of the Andersons shall become the obligations of all owners of lots in Nathan's Glenn Subdivision, jointly and severally.

- 7. The Andersons shall have no obligation to contribute to any Homeowners Association expense or dues in connection with the Detention Area or for any other reason.
- 8. The Andersons shall not object to, or take any action causing, encouraging, or permitting any other person or entity to object to the plan for the Messe Development with Cook County on behalf of Andersons or with respect to Andersons' Property. In the event the Andersons object, encourage or permit any such objection, this Agreement will be null and void.
- 9. To secure the obligations of Meese to the Andersons of all initial improvements on the Anderson Property, as provided in this Agreement, prior to the commencement of work on the Anderson Property, Meese shall deliver to Brian Fornek, as Escrowee, the sum of \$25,000.00 (the "Escrow Deposit". Said Escrow Deposit shall be held by said Escrowee until Escrowee is advised in writing by Anderson's Engineer that all work required to be performed by Meese on the Anderson Property has been satisfactorily performed in accordance with this Agreement. Such Escrow Deposit shall be returned to Meese when said Escrowee is so advised by said Anderson's Engineer that all said work has been satisfactorily performed by Meese.
- 10. This Agreement is subject to the grant of all necessary approvals of the Meese Development plan by Cook County and the Village of South Barrington.
- 11. All notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be given in writing at the addresses set forth below, by any of the following means:
  - (i) Personal service.
  - (ii) Electronic communications, whether by telex, facsimile, telegram or other telecopy, with proof of receipt by addressee.
  - (iii) Overnight courier.

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(iv) Registered or certified first class mail, postage prepaid, return receipt requested.

#### To whom notice is to be given:

If to Meese:

G. Meese & Associates

P.O. Box 1514

Barrington, IL 60011

Facsimile No. 847/487-1222

with a copy to:

Brian M. Fornek

Fornek & Associates

201 Houston St. Suite 300

Batavia, IL 60510

Facsimile No. 630/879-8390

If to the Andersons:

Jon W. and Elaine Anderson

40 Lakeside Drive

South Barrington, IL 60010 Facsimile No. 847/490-5365

with a copy to:

Arnstein & Lehr LLP

2800 West Higgins Road

Suite 425

Hoffman Estates, Illinois 60195 Attn: J. William Braithwaite

Facsimile: (847) 643-3355

Either party may change the address for notices to such party by written notice to the other. Notice given by personal service shall be effective upon the date delivered, if personally delivered, or the date of attempted delivery, if refused. Notice given by mail shall be effective on the third business day after posting. Notice by overnight courier shall be effective on the next business day following delivery of such notice to such courier. Notice given by fax shall be effective on the date of completion of the fax transmission, so long as such notice is further sent by personal service, the U.S. mails, or overnight courier, as aforesaid.

- 12. This Agreement shall run with the land and shall be binding upon and inure to the benefit of Meese's and the Andersons' successors in interest and assigns.
- 13. This Agreement supersedes all prior agreements, oral or written, between the parties hereto and their agents, employees and engineers.

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## **UNOFFICIAL COPY**

Its:

G. MEESE AND ASSOCIATES

**President** 

	Elaine Andusm Elaine Anderson			
STATE OF ILLINOIS )				
COUNTY OF COOK				
State aforesaid, DO HEREBY C'ERTIFY Meese & Associates, Ltd., personally knowns subscribed to the foregoing Agreement acknowledged that he signed, sealed and	a notary public in and for said County, in the that Gerald D. Meese, as President of G. wn to me to be the same person whose name t, appeared before me this day in person and delivered the said Agreement, on behalf of ary act, for the uses and purposes therein set			
GIVEN under my hand and seal this	s 79 day of November, 2005.			
STATE OF ILLINOIS ) )SS. COUNTY OF COOK )	OFFICIAL SEAL BRIAN M FORNEK NOTARY PUBLIC - STATE OF ILLINOIS			
I, J. William Brautaviule, a notary public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Jon W. Anderson and Elaine Anderson, nusband and wife, personally known to me to be the same persons whose names are subscribed to the foregoing Agreement, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said Agreement, as their free and voluntary act, for the uses and purposes therein set forth.				
GIVEN under my hand and seal this	sday of November, 2005.			
J Wicher S Notary Publi My Commission by S	Notary Public  OFFICIAL SEAL WILLIAM BRAITHWAITE  WILLIAM BRAITHWAITE  Storte of Illinois			
#38391v7/clr (10/27/05 clean)	Notary Public - State of Illinois  Motory Public - State of Illinois			
	Andrew Control (1984)			

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#### **EXHIBIT LIST**

EXHIBIT	DESCRIPTION				
Α	Legal Description of Meese Property				
В	Legal Description of Anderson Property				
C	Final Engineering Drawings				
	Maximum Horizontal Southerly Encroachment described in Section 1 of Agreement				
E	Detention Area Edging Specifications per letter of Phoenix Environmental, Inc. dated October 8, 2005				
F	Trees Selected and Tagged by Anderson on Meese Property				
G	Drawing depicting Location of Drainage Pipes				

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#### **EXHIBIT A**

Legal Description of Meese Property

THAT PART OF NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER THAT IS 1015.00 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER: THENCE NORTHERLY ALONG A LINE (HEREINAFTER REFERRED TO AS LINE "A") A DISTANCE OF 1260.56 FEET TO A POINT ON THE CENTER LINE OF ALGONCO'N ROAD (STATE RTE. 62) THAT IS 1232.0 FEET NORTHWESTERLY OF (MEASURED ALONG SAID CENTER LINE) THE EAST LINE OF SAID NORTHEAST QUARTER THENCE NORTHWESTERLY ALONG SAID CENTER LINE A DISTANCE OF 600.0 FEET; THENCE SOUTHERLY PARALLEL WITH SAID LINE (A) A DISTANCE OF 696.0 FEET; THENCE WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 244.24 FEET; THENCE SOUTHERLY AT RIGHT ANGLES TO DESCRIBED COURSE A DISTANCE OF 244.24 FEET; THENCE SOUTHERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE AND PARALLEL WITH SAID LINE "A" A DISTANCE OF 922.96 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER THAT IS 772.43 FEET WEST OF POINT OF BEGINNING; THENCE EASTERLY ALONG SAID SOUTH LINE A DISTANCE OF 772.43 FEET TO THE POINT OF BECKNING; LESS AND EXCEPT A TRACT AS DESCRIBED AS COMMENCING AT A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER, THAT IS 1015.00 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER, SAID SOUTH LINE BEARS AN ASSUMED BEARING OF SOUTH 89 DEGREES 42 MINUTES 29 SECONDS WEST; THENCE NORTH OO DEGREES 32 MINUTES 38 SECONDS WEST 1187.18 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH OO DEGREES 32 MINUTES 38 SECONDS WEST 10.88 FEET TO A POINT ON THE NORTH 00 DEGREES 32 MINUTES 38 SECONDS WEST, 10.88 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF F.A.P. 339 (ILLINOIS ROUTE 62) AS RECORDED ON JANUARY 30, 1933 AS DOCUMENT NUMBER, 11194095, IN THE COOK COUNTY RECORDER'S OFFICE, STATE OF ILLINOIS, SAID RIGHT OF WAY LINE BEING A 19148.61 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEAFS NORTH 35 DEGREES 33 MINUTES 34 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, CENTRAL ANGLE OF 01 DEGREES 47 MINUTES 34 SECONDS, 599.11 FEET TO THE MOST EASTERLY LINE OF THE EASTING'S WERE SUBDIVISION, BEING A SUBDIVISION OF PART OF SAID NORTHEAST QUARTER, ACCORDING TO THE PLAT THEREOF RECORDED ON ULTGER 5, 1987 AS DOCUMENT NUMBER 87541370; THENCE SOUTH 00 DEGREES 32 MINUTES 24 SCONDS EAST, 12.00 FEET ALONG SAID EASTERLY LINE, THENCE SOUTH 53 DEGREES 07 MINUTES 14 SECONDS EAST, 261.10 FEET; THENCE SOUTH 54 DEGREES 01 MINUTES 29 SECONDS EAST, 337.33 FEET TO THE POINT OF -10/4/5 OFFICE BEGINNING, IN COOK COUNTY, ILLINOIS.

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#### **EXHIBIT B**

Legal Description of Anderson Property

LOT 205 IN SOUTH BARRINGTON LAKES UNIT FOUR BEING A SUBDIVISION OF PARTS OF AND THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 22, Stopperty Of Coot County Clerk's Office TOWNSHIP 42 NORTH, RANGE 9, EAST MERIDIAN IN COOK COUNTY, ILLINOIS.

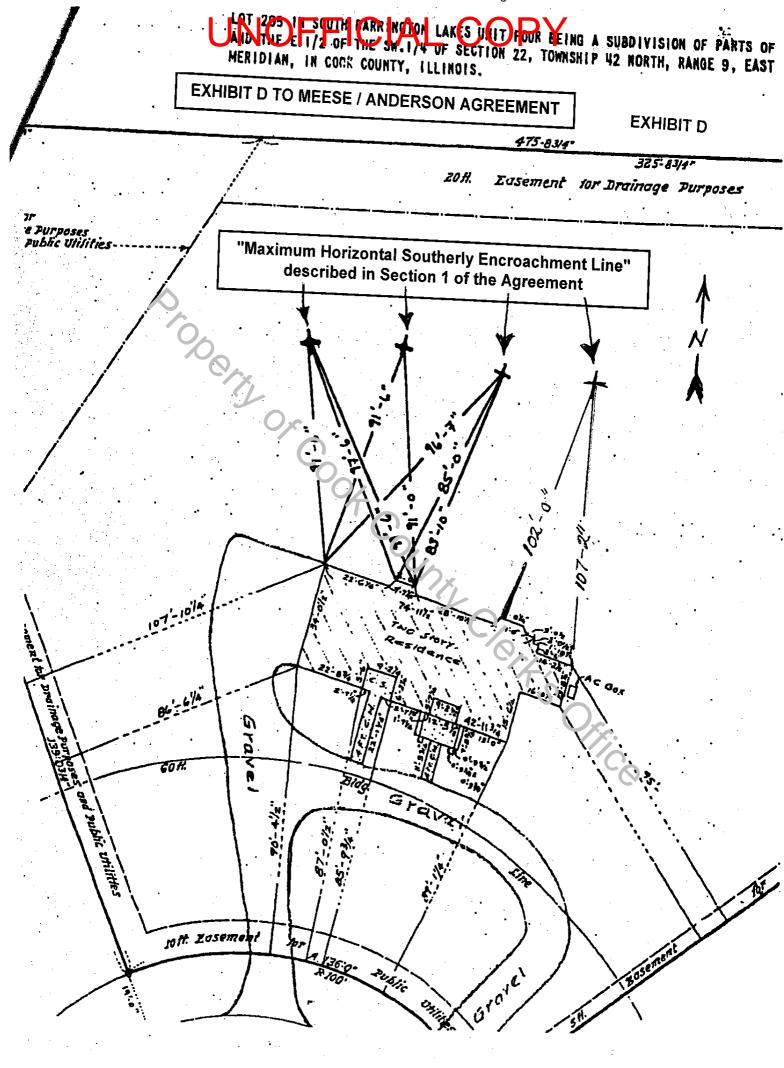
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### EXHIBIT C RECORDING NOTATION

Final Engineering Drawings for the Meese Development prepared by I.G. Consulting consisting of 11 pages entitled "Nathan's Glenn Subdivision Algonquin Road" dated 11/02/01 and last revised 06/17/05 can be viewed at the office of Fornek & Associates PC, 201 Houston St., Suite 300, Batavia, IL 60510 or at the office of Arnstein & Lehr LLP, 2800 W. Higgins Road, Suite 425, Hoffman Estates, IL 60195.

Property of Cook County Clerk's Office



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EXHIBIT E TO MEESE/ANDERSON AGREEMENT



### Phoenix Environmental, Inc.

Environmental Consultants
94 Railroad Street, Gilberts, IL 60136
Ph 847-836-1090 Fx 847-836-1092
Email: phoenixenv@prodigy.net

October 5, 2005

Mr. Jon Anderson 40 Lakeside Drive South Barrington, 12 60010

Re: Planting Plan for Jetention area located within the Anderson Parcel and Nathan's Glenn Subdivision, Barrington, Cook County, Illinois

#### Dear Mr. Anderson:

Thank you for meeting with me on July 25, 2005 in regards to the Nathan's Glenn Subdivision, Barrington, Cook County, Illinois. At this meeting, we discussed a planting plan for the detention basin buffer area located on the Nathan's Glenn Subdivision and also on your parcel. The seed mix that was discussed was a native prairie seed application with native grasses and wildflowers. The native grass application will provide a hardy, deep-rooted vegetation which will provide shoreline stabilization and erosion control for your area. The wildflowers will provide colors of yellow, red, and purple, providing vegetative biodiversity.

This native application will be installed around the entire basin (or-site and off-site) to promote a native consistency between the two properties. This native seed mix will be planted at the normal water elevation of the basin and on each side of the berm area, as previously discussed. This planting list is as follows.

#### UPPER SLOPES OF BASIN: MESIC PRAIRIE ZONE

Botanic name	Common name	Oz/acre	
Andropogon gerardii	Big bluestem	48.00	
Andropogon scoparius	Little bluestern	32.00	
Aster laevis	Smooth blue aster	2.00	
Aster novae-angliae	New England aster	2.00	
Avena sativa	Seed oats (cover crop)	640.00	
Bouteloua curtipendula	Sideoats grama	8.00	
Cureopsis tripteris	Tall coreopsis	3.00	
Desmodium canadense	Canada tick-trefoil	2.00	

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Echinacea pallida	Pale purple coneflower	4.00
Elymus canadensis	Canada wild rye	48.00
Eryngium yuccifolium	Rattlesnake master	2.00
Heliopsis helianthoides	False sunflower	3.00
Lespedeza capitata	Round-headed bush clover	2.00
Lolium multiflorum	Italian rye grass (cover crop)	160.00
M narda fistulosa	Wild bergamot	4.00
Far.com virgatum	Switchgrass	24.00
Penstr.no) digitalis	Foxglove beardtongue	2.00
Petalostenium purpureum	Purple prairie clover	2.00
Ratibida pinnste	Yellow coneflower	4.00
Rudheckiu hirta	Black-eyed Susan	6.00
Silphium integrifolium	Rosinweed	2.00
Silphium laciniatum	Compass plant	2.00
Silphium terebinthinaceum	Prairie dock	2.00
Solidago rigida	Sriff goldenrod	3.00
Sorghastrum nutans	Indi in grass	32.00
Zizia aurea	Golden Alexanders	2.00
-		

All erosion control measures will be installed outside of the project area, as identified on sheet 4 of the Nathan's Glenn Subdivision prepared by IG Consulting, Inc.

I hope you are satisfied with the planting plan that we have prepared. If you have any 750//ico questions, I can be reached at my office.

Sincerely,

PHOENIX ENVIRONMENTAL, INC.

Robert L. Vanni Vice President

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# UNOFFICIAL COPY Exhibit £ to Meese / Anderson Agreement

Trees Selected and Tagged by Anderson, on Meese Property as of 9/12/05

### Type and Size

In number order as to location starting at northernmost tree.

$\wedge$	<u>Type</u>	Circumference in Inches at 4 ft.  Above Ground	Caliber in <u>Inches</u>	
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11.	Ash Ash Ash Ash Ash Ash Ash Locust Locust	23 21 18 24 26 19 13 24 18 15 14	7.32 6.69 5.73 7.64 8.28 6.05 5.73 7.64 5.73 4.77 4.46	

