

# UNOFFICIAL COPY

THIS INSTRUMENT  
PREPARED BY:

Stewart J. Weiss  
Holland & Knight LLP  
131 S. Dearborn Street  
30th Floor  
Chicago, Illinois 60603



1412634068

Doc#: 1412634068 Fee: \$110.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 05/06/2014 03:01 PM Pg: 1 of 37

AFTER RECORDING RETURN TO:  
Recorder's Box 337

*This space for recorder's use only*

## SUBDIVISION AND DEVELOPMENT AGREEMENT

BY AND BETWEEN

GREGORY C. HUGHES and BRIDGET B. HUGHES

AND

VILLAGE OF NORTHBROOK

FOR

2315 CATHERINE SUBDIVISION

DATED AS OF MARCH 4, 2014

# UNOFFICIAL COPY

## TABLE OF CONTENTS

	<u>PAGE</u>
SECTION 1. RECITALS .....	1
SECTION 2. DEFINITIONS .....	1
SECTION 3. APPROVAL OF DEVELOPMENT .....	3
SECTION 4. DEVELOPMENT OF THE PROPERTY .....	3
SECTION 5. IMPROVEMENTS .....	4
SECTION 6. DAMAGE TO PUBLIC PROPERTY .....	7
SECTION 7. RECAPTURE .....	7
SECTION 8. CONTRIBUTIONS .....	7
SECTION 9. PAYMENT OF VILLAGE FEES AND COSTS .....	7
SECTION 10. PERFORMANCE SECURITY .....	8
SECTION 11. LIABILITY AND INDEMNITY OF VILLAGE .....	8
SECTION 12. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS .....	9
SECTION 13. TERM .....	10
SECTION 14. ENFORCEMENT .....	10
SECTION 15. GENERAL PROVISIONS .....	10

### INDEX OF EXHIBITS

EXHIBIT A	FINAL ENGINEERING PLANS
EXHIBIT B	FINAL PLAT
EXHIBIT C	LEGAL DESCRIPTIONS
EXHIBIT D	FINAL PLAT RESOLUTION
EXHIBIT E	FORM OF LETTER OF CREDIT
EXHIBIT F	FORM OF TRANSFEREE ASSUMPTION AGREEMENT

# UNOFFICIAL COPY

## SUBDIVISION AND DEVELOPMENT AGREEMENT FOR 2315 CATHERINE SUBDIVISION

**THIS AGREEMENT** is made as of the 4 day of March, 2014 and is by, between, and among the **VILLAGE OF NORTHBROOK**, an Illinois home rule municipal corporation ("**Village**"), and **GREGORY C. HUGHES** and **BRIDGET B. HUGHES**, each an individual (collectively, "**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 legal title owner of the Property.

B. The Property is currently improved with a single family home.

C. The Developer desires and proposes to have the Property, with the consent of the Village, subdivided into two (2) lots of record, each to be developed with one single family detached dwelling, in accordance with the regulations in the R-5 Single Family Residential District.

D. The Village and the Developer desire that the Property be developed and used only in substantial compliance with this Agreement.

E. Pursuant to public notice, public hearings were held by the Plan Commission on November 19, 2013, to consider the Developer's request for: (i) approval of a combined tentative and final plat of subdivision for a two (2) lot subdivision; (ii) a variation to allow a stormwater detention facility to be located within an easement; (iii) a waiver from the requirement to bury overhead utility lines on the Property and (iv) any other zoning and subdivision relief as may be necessary to accomplish the subdivision and development of the Property. The Plan Commission recommended approval of the Developer's requested relief on December 3, 2013, by Plan Commission Resolution No. 13-PC-13.

F. The Corporate Authorities, after due and careful consideration, have concluded that the subdivision and variation for the development and use of the 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.

# UNOFFICIAL COPY

**"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 Bono Consulting, Inc., consisting of seven (7) sheets, having a latest revision date of [November 18, 2013], which plan has been approved by the Village Engineer, a copy of which will be attached to this Agreement as **Exhibit A**.

**"Final Plat"**: That certain subdivision plat prepared by North Shore Survey, Ltd., consisting of one sheet, with a latest revision date of October 25, 2013, attached to this Agreement as **Exhibit B**.

**"Final Landscape Plan"**: That certain landscape plan prepared by [INSERT], consisting of [INSERT] sheets, with latest revision date of [INSERT], 2013.

**"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.

**"Improvements"**: The public and private on-site and off-site improvements to be made in connection with the subdivision and development of the Property, as described or listed on the Final Engineering Plan, the Final Landscape Plan, and as provided in Section 5 of this Agreement, but not including any residential dwelling units to be constructed on the Property.

**"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.

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

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

**"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.

**"Property"**: That certain parcel of real estate commonly known as 2315 Catherine Street, Northbrook, Illinois which is legally described in **Exhibit C**.

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

**"Storm Water Facilities"**: The following specific Improvements, as depicted on the Final Engineering Plan: the storm water detention basin, storm sewer improvements, soil erosion and sedimentation control measures, related equipment, appurtenances, structures, swales, and storm drainage areas installed and maintained on the Property to ensure adequate storm water drainage and management and to collect and direct storm water into the Village's storm sewer system.

# UNOFFICIAL COPY

**“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.

**“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.** The Village shall adopt a valid and binding resolution granting (i) a variation for the approval of a combined tentative and final plat of subdivision for the Property; (ii) a variation to allow stormwater detention in an easement rather than in an outlet; (iii) a waiver of the requirement to bury overhead utility lines; and (iv) approval of the Final Plat of the Property, which resolution shall be in form and substance substantially conforming to the form attached hereto as **Exhibit D**.

**B. Owner and 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 Property unless and until this Agreement and the Final Plat are approved by the Village in accordance with the Subdivision Code, the Zoning Code, and recorded where necessary or required, as determined by the Village.

**SECTION 4. DEVELOPMENT OF THE PROPERTY.** Notwithstanding any use or development right that may be applicable or available to the Property pursuant to the Zoning Code, the Property shall be developed and used only as follows:

**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 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 Final Plat;
- iii. The Final Engineering Plan;
- iv. The Final Landscape Plan;
- v. The Improvements Standards Manual; and
- vi. The Requirements of Law.

Unless otherwise provided in this Agreement, 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

# UNOFFICIAL COPY

imposed by any one of them are cumulative among all of them, unless otherwise provided in this Agreement.

**C. Tree Preservation and Landscape Plan.** The Developer shall comply with the Final Landscape Plan, and all Requirements of Law, in the preservation and removal of all trees on the Property, including, without limitation, the requirements of Chapter 25 of the Municipal Code and Subsection 4-103 D of the Subdivision Code.

## **SECTION 5. IMPROVEMENTS.**

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

- i. Storm sewer and stormwater detention facility;
- ii. Sanitary and water services for each lot;
- iii. Soil erosion & sedimentation control measures;
- iv. Tree preservation measures;
- v. Landscaping; and
- vi. burial of utilities lines.

**B. Design and Construction of the Improvements.** All Improvements shall be designed and constructed pursuant to and in accordance with the Final Engineering Plan, the Final Landscape Plan, and the Improvements Standards Manual, and to the satisfaction of the Village Engineer. All work performed on the Improvements shall be conducted in a good and workmanlike manner and with due dispatch in accordance with the schedule established in Subsection 5.C of this Agreement. All materials used for construction of the Improvements shall be new and of first quality.

i. **Contract Terms; Prosecution of the Work.** The Developer shall include in every contract for work on the Improvements terms requiring the contractor to prosecute the work diligently, continuously, in full compliance with, and as required by or pursuant to, this Agreement, the Final Engineering Plan, the Final Landscape Plan, and the Requirements of Law, until the work is properly completed, and terms providing that the Developer may take over and prosecute the work if the contractor fails to do so in a timely and proper manner.

ii. **Village Inspections and Approvals.** All work on the Improvements shall be subject to inspection and approval by Village representatives at all times.

iii. **Other Approvals.** Where the construction and installation of any Improvement requires the consent, permission, or approval of any public agency or private party, the Developer shall promptly file all applications, enter into all agreements, post all security, pay all fees and costs, and otherwise take all steps that may be required to obtain the required consent, permission, or approval.



# UNOFFICIAL COPY

C. **Completion of the Improvements.** All Improvements shall be completed and made ready for inspection and approval 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.

D. **Maintenance of the Improvements.**

i. **Final Inspection and Approval of the Improvements.** The Developer shall notify the Village when it believes that any or all of the Improvements have been fully and properly completed and shall request final inspection and approval of the Improvement or 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 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 any portion of the Improvements until all of the Improvements, including all punch list items, have been fully and properly completed.

ii. **Developer's Maintenance of 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 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 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 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.D.ii, 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.

E. **Two-Year Guaranty of the Improvements.** The Developer hereby guarantees the prompt and satisfactory correction of all defects and deficiencies in the 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 of the 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.E shall be extended, as to such repair or replacement, for two full years from the date of such repair or replacement.

# UNOFFICIAL COPY

## 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 that the Developer is in violation of, or is not in full compliance with, the terms of this Agreement.

ii. Payment of Fee-in-Lieu of Burial of Utility Lines. The Village shall have no obligation to issue any grading, building, or other permits for work to be performed on any one or more of the Lots until the Developer pays to the Village the fee-in-lieu of burying 235 lineal feet of utility lines on the Property in the amount of \$23,500.

iii. Demolition of Existing Single Family Detached Dwellings and Accessory Uses. The Village shall have no obligation to issue any grading, building, or other permits for work to be performed on any one or more of the Lots until the existing single family detached dwelling located on the Property has been demolished and all debris resulting from such demolition has been removed from the Property in accordance with the Final Tree Preservation/Demolition Plan included in the Final Engineering Plan to the satisfaction of the Director of Development and Planning Services.

iv. 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 Property until the Storm Water Facilities are completed to the satisfaction of the Village Engineer.

v. Completion of Improvements. The Village shall issue no certificates of occupancy for any building or structure located on the Property until the Improvements are completed by the Developer in accordance with the schedule established pursuant to Subsection 5.C 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 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.

I. 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, then the Developer shall, within 60 days after notice from the Village, remove any partially constructed or partially completed buildings, structures, or Improvements from the Property. In the event the Developer fails or refuses to remove said buildings, structures, and 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 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 or Lots on which the work was performed, and the Village shall have the right to collect such charge, with



# UNOFFICIAL COPY

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 Property and all streets, sidewalks and other public property in and adjacent to the Property in a good and clean condition at all times during development of the Property and construction of the 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 Property by the 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 parties do hereby agree that the Developer is not required to pay any recapture amounts for any prior water, storm, and sanitary sewer improvements that have been developed in the area surrounding the Property and that benefit the Property.

**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 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. 27.

The fees required pursuant to this Section 8 shall be paid in the manner provided in Subsection 4-101 G1(d) of the Subdivision Code upon the issuance of a certificate of occupancy for a single family detached dwelling on Lot 1. The parties acknowledge that there is one single family detached dwelling unit existing on the Property as of the Effective Date which is intended to be demolished and replaced with a new single family detached dwelling on Lot 2. No contribution will be required for the dwelling to be constructed on Lot 2.

## **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, fees-in-lieu of burial of utility lines, charges and contributions, and all other fees, charges, and contributions required by applicable Village codes, ordinances, resolutions, rules, or regulations.

# UNOFFICIAL COPY

**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 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 they 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 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.

## **SECTION 10. PERFORMANCE SECURITY.**

As security to the Village for the performance by the Developer of its obligations to construct and complete the Improvements pursuant to and in accordance with this Agreement, the Developer hereby irrevocably elects to 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 form and substance substantially conforming with **Exhibit E** 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 Property or the Improvements, or the issuance of any approvals, permits, certificates, or acceptances, for the development or use of the Property or the Improvements, and that the Village's review and approval of any such plans and the 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 their 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 agrees not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

**C. Indemnity.** The Developer 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 Property or the Improvements; (ii)

# UNOFFICIAL COPY

the issuance of any approval, permit, certificate or acceptance for the Property or the Improvements; and (iii) the development, construction, maintenance or use of any portion of the Property or the Improvements.

**D. Expense.** The Developer shall, and does 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 the Developer, upon any and all of the Developer'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 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:

i. 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

ii. 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 Property to any party not a party to this Agreement; and

iii. 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 Property to any party not a party to this Agreement; and

iv. Require, prior to the transfer of all or any portion of the 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 Property to execute an enforceable written agreement, in substantially the form attached to this Agreement as **Exhibit F**, agreeing to be bound by the provisions of this Agreement ("**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 Lots for which all Improvements have been completed and approved pursuant to Section 5 of this Agreement.

**B. Limited Release of the Developer.** Subject to the terms and conditions of this Agreement, the Village agrees that this Agreement is transferable and assignable and 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 the Developer remaining

# UNOFFICIAL COPY

fully liable for all of the Developer's obligations under this Agreement but shall not relieve the transferee of its liability for all such obligations as a successor to the Developer.

## **SECTION 13. TERM.**

The provisions of this Agreement shall run with and bind the 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 Improvements are approved by the Village. Following such approval the Village agrees, upon written request of the Developer, to execute appropriate and recordable evidence of the termination of this Agreement. Notwithstanding anything to the contrary in this Section 13, the Developer's indemnity and defense obligations as set forth in Section 11 of this Agreement shall survive 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 agrees that it will not seek, and does 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 Property at any time when the Developer has failed or refused to meet fully any of their obligations under this Agreement. In the event of a judicial proceeding brought by one party to this Agreement against another 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 15, 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:

# UNOFFICIAL COPY

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

With a copy to:

Holland & Knight LLP  
131 South Dearborn Street  
30th Floor  
Chicago, IL 60603  
Attention: Stewart J. Weiss

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

Gregory C. Hughes and Bridget B. Hughes  
2315 Catherine Street  
Northbrook, Illinois 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 supersedes 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 F 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. Governing Law.** This Agreement shall be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois.

**G. 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.

**H. Non-Waiver.** The Village shall be under no obligation to exercise any of the rights granted to it in this Agreement. The failure of the Village to exercise at any time any right granted to the Village shall not be deemed or construed to be a waiver of that right, nor shall the failure void or affect the Village's right to enforce that right or any other right.



# UNOFFICIAL COPY

I. **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 the Developer is the owner of fee simple title to the 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 Property; (iii) that the Developer 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 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 Property is bound or (b) violate any statute, law, restriction, court order, or agreement to which the Developer or the Property are subject.

J. **Non Severability.** If any provision, covenant, agreement, or portion of this Agreement or its application to any person, entity, or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any person, entity, or property shall be null and void and of no further force and effect, it being the intent of the parties that all of the provisions of this Agreement be treated as an individual whole.

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

L. **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, the Owners, or the Developer.



# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the date and year first above written.

**VILLAGE OF NORTHBROOK**, an Illinois home rule municipal corporation

**DEVELOPER:**

**Gregory C. Hughes**

By: Andrea C. Pium  
Its: Village President

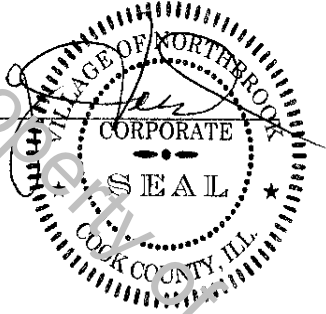
Gregory C. Hughes

ATTEST:

**Bridget B. Hughes**

By: [Signature]  
Its: Village Clerk

Bridget B. Hughes



#26758024\_v2

PROPERTY OF Cook County Clerk's Office



# UNOFFICIAL COPY

## EXHIBIT A

### FINAL ENGINEERING PLANS

The plans and specifications that comprise the Final Engineering Plans for the Property, consisting of seven sheets (labeled C-0 through C-6) prepared by Bono Consulting, Inc. with a latest revision date of November 18, 2013 are on file and available for public inspection in the office of the Village Clerk of the Village of Northbrook, 1225 Cedar, Northbrook, Illinois.

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT B

## FINAL PLAT

The Final Plat of Resubdivision for the Property, consisting of one sheet prepared by North Shore Survey, Ltd. with a latest revision date of April 22, 2014 are on file and available for public inspection in the office of the Village Clerk of the Village of Northbrook, 1225 Cedar, Northbrook, Illinois.

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT C

### LEGAL DESCRIPTION

Lots 1 and 2 in Hughes Resubdivision Number Two being a resubdivision of Lot 1 in Hughes Resubdivision in the North half of the Southeast quarter of Section 9, Township 42 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois, according to the plat of said Hughes Resubdivision thereof recorded on April 24, 2013 in the office of the Cook County Recorder as Document Number 1311429069.

Commonly known as 2315 Catherine Street, Northbrook, Illinois 60062

P.I.N.s: 04-09-405-005-0000 (Partial)  
04-09-405-020-0000

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT D

### FORM OF FINAL PLAT RESOLUTION

#### RESOLUTION NO. 13-R-

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

A RESOLUTION APPROVING A FINAL PLAT, VARIATIONS, AND WAIVERS FOR  
2315 CATHERINE STREET

is hereby adopted, as follows:

#### Section 1. Recitals.

Greg C. Hughes and Bridget B. Hughes, (collectively, "*Applicant*") are the owners of the property commonly known as 2315 Catherine Street ("*Property*") and propose to develop a two (2) lot single-family subdivision on the Property. The Property is located in the R-5 Single Family Residential District. The Applicant has requested relief under the Northbrook Subdivision and Development Code, as amended, ("*Subdivision Code*") including (i) a variation for the approval of a combined tentative and final plat of subdivision ("*Final Plat*") for the Property; (ii) a variation to allow stormwater detention in an easement rather than in an outlot; and (iii) a waiver of the requirement to bury overhead utility lines; and (iv) approval of any such other zoning and subdivision relief as may be necessary.

The Plan Commission held a public hearing, pursuant to public notice, on the requested on November 17, 2013, and rendered its recommendation of approval of Docket No. 13-11 in Resolution No. 13-PC-13 on December 3, 2013. The Property is to be developed pursuant to a subdivision and development agreement that was approved by the Village in Resolution No. 13-R-\_\_.

The President and Board of Trustees have considered the Applicant's requested relief and determined that it is in the best interests of the Village and the public to grant the requested relief.

#### Section 2. Approval of Subdivision Variations and Waivers.

A. Variation Granting Approval of Combined Tentative and Final Plat. A variation to allow for the approval of a combined tentative and final plat of subdivision for the Property shall be, and is hereby, granted to the Applicant 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 Detention in an Easement. A waiver of the requirement to locate a storm water detention facility in an outlot, as required by Subsection 4-104 C of the Subdivision Code, and allowing for the location of the storm water detention facility in an easement shall be, and is hereby, granted to the Applicant in accordance with and pursuant to Section 2-102 of the Subdivision Code and the home rule powers of the Village of Northbrook.

C. Waiver of the Requirement to Bury Utility Lines. The Applicant shall be, and is hereby granted a waiver from the requirements of Subparagraph 4-104 F2(d) of the Subdivision Code to bury all utilities along the southern boundary of the Property for a distance of approximately 235 lineal feet, *in exchange for payment of the fee in lieu required by Subparagraph 4-104 F2(d) of the*



# UNOFFICIAL COPY

*Subdivision Code. The fee in lieu provided for in this Section 2.B shall be due and payable at the time the Owner applies for a building permit from the Village for the Property.]*

[D. Waiver of the Requirement to Pay a Fee-in-Lieu of Burial of Utility Lines. *The Applicant shall be, and is hereby granted a waiver from the requirements of Subparagraph 4-104F2 (d) of the Subdivision Code to pay a fee-in-lieu of burial of the overhead utility lines located on the southern boundary of the Property for a distance of 235 lineal feet.]*

Section 3. Approval, Execution, and Recordation of Plat of Subdivision.

A. Approval of Final Plat. The Final Plat of Hughes Resubdivision Number Two, prepared by North Shore Survey, Ltd., consisting of one (1) sheet, last revision dated October 25, 2013, 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 4. Effective Date.

The approval of the variation and waivers in Section 2 and the approval of the Final Plat in Section 3 of this Resolution shall be, and are hereby, expressly conditioned upon the following:

- A. passage of this Resolution in the manner required by law;
- B. execution of the subdivision and development agreement approved by Resolution No. 13-R-\_\_ by all necessary parties.

PASSED: This \_\_ day of December, 2013.

AYES: 0

NAYS: 0

ABSENT: 0

ABSTAIN: 0

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

# UNOFFICIAL COPY

## EXHIBIT E

### 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, Illinois 60062  
Attention: Village Manager

WE HEREBY AUTHORIZE YOU TO DRAW AT SIGHT on this Irrevocable Standby Letter of Credit No. \_\_\_\_\_ 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: \_\_\_\_\_"

Drafts may be for all or any portion of the amount of this Letter of Credit, 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 or an individual designated as acting Village Manager:

(a) A written statement on the form attached hereto as Exhibit "B" stating that, conditioned upon proper notice to the Village Manager, Letter of Credit No. \_\_\_\_\_ will expire within 35 days or less and that the Customer has failed to deliver to the 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 improvements required to be constructed pursuant to the Subdivision and Development Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village of Northbrook and Gregory C. Hughes and Bridget B. Hughes (the "Agreement") have not been constructed in accordance with the 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 Agreement have not been paid in accordance with the Agreement; or

# UNOFFICIAL COPY

(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 the Agreement has not been performed in accordance with the 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 Agreement have not been performed in accordance with the Agreement.

WE HEREBY AGREE with the beneficiary that:

1. Drafts drawn under and in compliance with this Letter of Credit shall be duly honored immediately upon presentation to us 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. Further, one or more drafts may be presented at our office on or before the Expiration Date.

2. If, within three banking 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 in enforcing the terms hereof.

3. This Letter of Credit shall expire on \_\_\_\_\_, 20\_\_\_\_, as stated hereinabove; provided, however, that we shall send notice to the Village Manager by certified mail, return receipt requested, or hand-delivered courier at least 35 days prior to said Expiration Date, that this Letter of Credit is about to expire.

4. 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.

5. 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.

6. The aggregate amount of this Letter of Credit may be reduced only upon receipt by us of a document executed by the Village Manager stating that such aggregate amount shall be reduced in an amount permitted by the Village's subdivision regulations because of the satisfactory completion of all or part of the improvements required to be constructed pursuant to the Agreement dated \_\_\_\_\_, 20\_\_\_\_ by and between the Village of Northbrook and \_\_\_\_\_.

7. This Letter of Credit is irrevocable.

This Letter of Credit shall be governed by and construed in accordance with the Uniform Customs and Practices for ISP 98 of the International Chamber of Commerce (the "Uniform Customs"). In the event of a conflict between this Letter of Credit and the Uniform Customs, this Letter of Credit shall control. This Letter of Credit shall be deemed to be a contract made under the laws of the State of Illinois, including, without limitation, Article 5 of the Uniform Commercial Code as in effect in the State of Illinois, and shall, as to matters not governed by the Uniform

# UNOFFICIAL COPY

Customs, be governed by and construed in accordance with the laws of the State of Illinois, without regard to principles of conflicts of law.

AS USED HEREIN, THE TERM "BANKING DAY" MEANS ANY DAY OTHER THAN A SATURDAY, SUNDAY, OR A DAY ON WHICH BANKS IN THE STATE OF ILLINOIS ARE AUTHORIZED OR REQUIRED TO BE CLOSED, AND A DAY ON WHICH PAYMENTS CAN BE EFFECTED ON THE FEDWIRE SYSTEM.

\_\_\_\_\_  
[Signature of Bank Officer]

\_\_\_\_\_  
[Signature of Bank Officer]

\_\_\_\_\_  
[Officer's Title]

\_\_\_\_\_  
[Officer's Title]

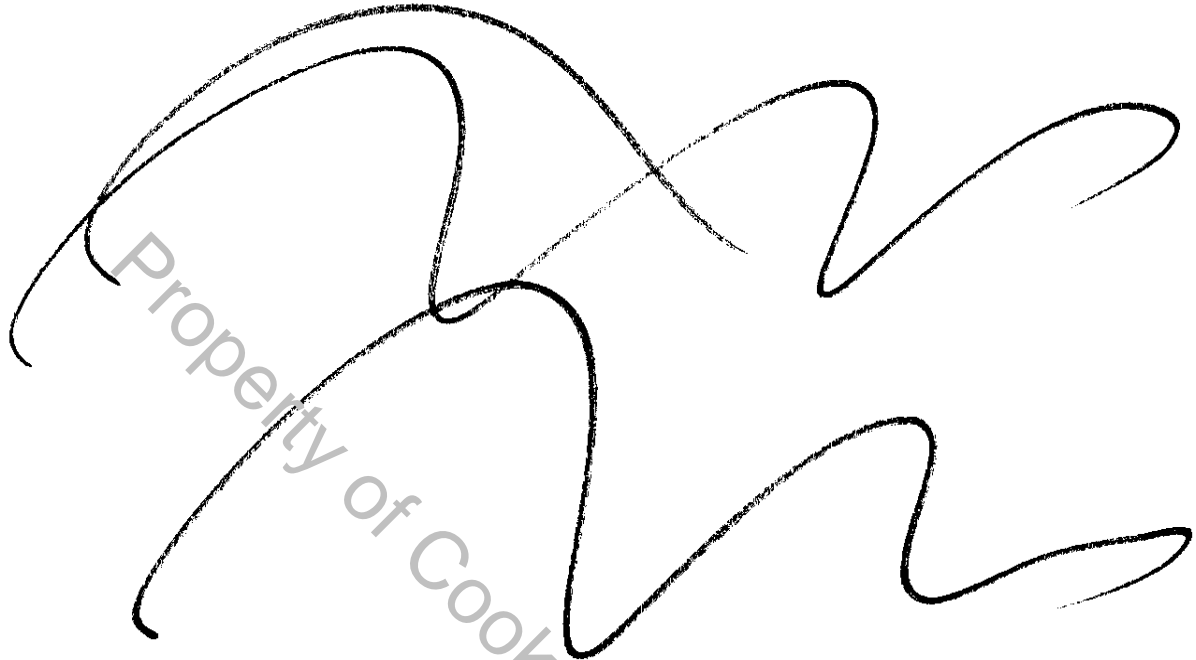
Property of Cook County Clerk's Office

# UNOFFICIAL COPY

EXHIBIT "A" TO FORM OF IRREVOCABLE STANDBY LETTER OF CREDIT

FORM OF DRAFT

[To Be Supplied By Issuing Bank]

A large, stylized handwritten signature or scribble in black ink, consisting of several overlapping loops and curves.

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT "B" TO FORM OF IRREVOCABLE STANDBY LETTER OF CREDIT

To:  
Attn:

Re: Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

This is to advise you that Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_ in the amount of \$\_\_\_\_\_ will expire within 35 days or less and that \_\_\_\_\_ has failed to deliver to the Village Manager evidence of a renewal of Letter of Credit No. \_\_\_\_\_.

Very truly yours,

\_\_\_\_\_  
Village Manager

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

## EXHIBIT "C" TO FORM OF IRREVOCABLE STANDBY 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 improvements required to be constructed pursuant to the Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village and \_\_\_\_\_, have not been constructed in accordance with said Agreement.

Very truly yours,

\_\_\_\_\_  
Village Manager

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT "D" TO FORM OF IRREVOCABLE STANDBY 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 to the Subdivision and Development Agreement dated \_\_\_\_\_, 20\_\_\_\_ by and between the Village of Northbrook and Gregory C. Hughes and Bridget B. Hughes, have not been paid in accordance with said Agreement.

Very truly yours,

\_\_\_\_\_  
Village Manager

# UNOFFICIAL COPY

## EXHIBIT "E" TO FORM OF IRREVOCABLE STANDBY 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 maintenance, repair or restoration required to be performed pursuant to the Subdivision and Development Agreement dated \_\_\_\_\_ 20\_\_ by and between the Village of Northbrook and Gregory C. Hughes and Bridget B. Hughes have not been performed in accordance with said Agreement.

Very truly yours,

\_\_\_\_\_  
Village Manager

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT "F" TO FORM OF IRREVOCABLE STANDBY 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 undertakings of the Customer (as that term is defined in the above-referenced Letter of Credit) pursuant to the Subdivision and Development Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village of Northbrook and Gregory C. Hughes and Bridget B. Hughes, have not been performed in accordance with said Agreement.

Very truly yours,

\_\_\_\_\_  
Village Manager

# UNOFFICIAL COPY

## EXHIBIT F

### FORM OF TRANSFEREE ASSUMPTION AGREEMENT

**THIS AGREEMENT**, made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by, between and among [OWNER] ("*Owner*"), [TRANSFEREE] ("*Transferee*") and the Village of Northbrook, Illinois, an Illinois home rule municipal corporation ("*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 ("*Property*"); and

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

**WHEREAS**, as a condition to the conveyance of the 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 and Development Agreement dated \_\_\_\_\_, 20\_\_\_\_ by and between the Village of Northbrook and Gregory C. Hughes and Bridget B. Hughes, and recorded in the Office of the Cook County Recorder on \_\_\_\_\_ 200\_\_\_\_, as Document No. \_\_\_\_\_, as amended from time to time ("*Subdivision Agreement*");

**NOW, THEREFORE**, in consideration of the agreement of the Owner and Developer to convey the 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, the Developer and the Transferee as follows:

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

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 Property.

# UNOFFICIAL COPY

3. **Assurances of Financial Ability.** Contemporaneously with the Transferee's execution of this Agreement, the Transferee shall deposit with the Village Manager the performance security required by Section 12 of the Subdivision Agreement. Upon execution of this Agreement by the Village and deposit with the Village Manager 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 and Developer 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.]

[THE BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURES APPEAR ON THE NEXT PAGE]

# UNOFFICIAL COPY

**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: \_\_\_\_\_

ATTEST:

**[DEVELOPER]**

\_\_\_\_\_

By: \_\_\_\_\_

ATTEST:

**[TRANSFeree]**

\_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Property of Cook County Clerk's Office







# UNOFFICIAL COPY

## Resolution 2013-142

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

### A Resolution Approving a Subdivision and Development Agreement for 2315 Catherine Street

is hereby adopted, as follows:

Section 1. Recitals.

Greg C. Hughes and Bridget B. Hughes, (collectively, "**Developer**") are the owners of the property commonly known as 2315 Catherine Street ("**Property**") and propose to develop a two (2) lot single-family subdivision on the Property. The Property is located in the R-5 Single Family Residential District.

The Developer has requested relief under the Northbrook Subdivision and Development Code, as amended, ("**Subdivision Code**") including (i) a variation for the approval of a combined tentative and final plat of subdivision ("**Final Plat**") for the Property; (ii) a variation to allow stormwater detention in an easement rather than in an outlot; and (iii) a waiver of the requirement to bury overhead utility lines; and (iv) approval of any such other zoning and subdivision relief as may be necessary.

The Plan Commission held a public hearing, pursuant to public notice, on the requested relief on November 17, 2013, and rendered its recommendation of approval of Docket No. 13-11 in Resolution No. 13-PC-13 on December 3, 2013.

# UNOFFICIAL COPY

The Village has negotiated a Subdivision and Development Agreement ("*Subdivision Agreement*") with the Developer pursuant to which the Property is to be developed. The Developer has consented to the execution of the Subdivision Agreement. The President and Board of Trustees have considered the Subdivision Agreement and find and determine that it is in the best interest of the Village and the public to approve the Subdivision Agreement. These matters pertain to the Village's government and affairs and are approved pursuant to the Village's home rule powers under the Illinois Constitution of 1970.

Section 2. Approval of Subdivision Agreement.

The Subdivision Agreement by and between the Village and the Developer shall be, and is hereby, approved in substantially the form attached hereto as *Exhibit A*.

Section 3. Execution of Subdivision Agreement.

The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, the Subdivision Agreement upon receipt of at least three copies fully executed by the Developer; provided, however, that if such executed copies of the Subdivision Agreement are not received by the Village Clerk within 10 days after the date of adoption of this Resolution, then this authority to execute and seal shall, at the option of the President and Board of Trustees, be null and void.

Section 4. Recordation of Subdivision Agreement.

The Village Manager is hereby directed to record the Subdivision Agreement with the Office of the Cook County Recorder upon satisfactory completion of all administrative details relating thereto.

Section 5. EFFECTIVE DATE.

The approval of this Resolution shall be effective following approval by a majority of the corporate authorities in the manner required by law.

Adopted: 12/10/2013

**RESULT:** ADOPTED [6 TO 0]  
**MOVER:** James Karagianis, Trustee  
**SECONDER:** Todd Heller, Trustee  
**AYES:** Karagianis, Scolaro, Heller, Israel, Frum, Buehler  
**RECUSED:** Kathryn Ciesla

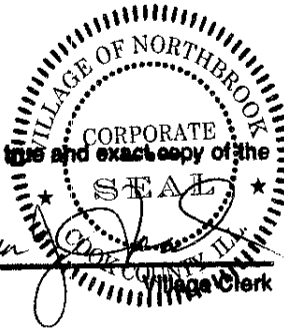
ATTEST:

/s/ Debra J. Ford  
 Village Clerk

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

3-6-14  
 Date

Sandra E. Frum  
 Village Clerk



/s/ Sandra E. Frum  
 Village President