

PLAY WITH THIS DOCUMENT

ANNEXATION AGREEMENT

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This Agreement is made and entered into this 19th day of December, 1988, by and between the VILLAGE OF NORTHBROOK, an Illinois municipal corporation (the "Village"), by and through the President and Board of Trustees of the Village (the "Corporate Authorities"), ANNA STAUSS, LOUIS D. FRANCHI and YOLANDA M. FRANCHI (collectively referred to as the "Owners"), and GARY S. FRANCHI (the "Developer").

RECITALS

1. The Village of Northbrook is a Home Rule Unit by virtue of the provisions of the 1970 Constitution of the State of Illinois.
2. Anna Stauss is the record title owner of a certain tract of property consisting of approximately 1.79 acres, commonly known as 2300 Willow Road, and legally described as Parcel 1 in Exhibit "A" attached hereto and, by this reference, made a part hereof. Louis D. Franchi and Yolanda M. Franchi are the record title owners, as joint tenants, of a certain tract of property consisting of approximately 1.79 acres, commonly known as 2310 Willow Road, and legally described as Parcel 2 in Exhibit A. (Parcels 1 and 2 in said Exhibit A are hereinafter collectively referred to as the "Property").
3. The Developer is the contract purchaser of the Property from the Owners pursuant to real estate sale contracts dated February 4, 1988, and December 9, 1988 (the "Sale Contracts").
4. The Property is contiguous to the corporate limits of the Village and not within the limits of any other municipality.
5. It is contemplated that subsequent to the approval of this Agreement by the Corporate Authorities, the Owners will convey the Property to Developer pursuant to the Sale Contracts.
6. The Owners and Developer desire and propose to have the Property annexed to the Village in accordance with the provisions of Section 7-1-8 of the Illinois Municipal Code, Ill. Rev. Stat. ch. 24, § 7-1-8, and with the terms and provisions of this Agreement.

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7. Developer desires and proposes to develop the Property in accordance with the terms and provisions of this Agreement.

8. Pursuant to the provisions of Section 11-15.1-1 et seq. of the Illinois Municipal Code, Ill. Rev. Stat. ch. 24, § 11-15.1-1 et seq., a proposed Annexation Agreement, in substance and form substantially the same as this Agreement, was submitted to the Corporate Authorities and, pursuant to notice published in the Northbrook Star on November 3, 1988, as provided by Statute, a public hearing was convened thereon on November 22, 1988, was duly continued to and held on December 13, 1988, and was duly continued to and held on December 19, 1988.

9. Pursuant to due notice and advertisement in the manner provided by law, the Plan Commission of the Village has held such public hearings as are prescribed by law and has made its recommendations with respect to the requested rezoning, special use for a planned residential development and plat of subdivision for the Property.

10. All petitions and other documents necessary to accomplish the annexation of the Property to the Village have been executed.

11. The Corporate Authorities, after due and careful consideration, have concluded that the annexation of the Property to the Village and its zoning and development pursuant to the terms and conditions herein set forth would further enable the Village to control the development of the area and would serve the best interests of the Village.

AGREEMENT

In consideration of the premises, mutual covenants and agreements herein set forth, and pursuant to the provisions of Ill. Rev. Stat. ch. 24, § 11-15.1-1 et seq., the parties hereto do hereby agree as follows:

1. Premises. The foregoing recitals are hereby made a part of this Agreement.

2. Adoption of Annexation Ordinance. Subsequent to the execution of this Agreement by all parties hereto, the Corporate

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Authorities shall adopt a valid and binding ordinance annexing the unincorporated portion of the Property to the Village ("the Annexation Ordinance").

3. Adoption of Zoning and Development Ordinances. Subsequent to the adoption of the Annexation Ordinance, the Corporate Authorities shall adopt a valid and binding ordinance, containing any and all necessary variations, zoning the Property in the R-7 Multiple Family Residential District of the Northbrook Zoning Code and a valid and binding ordinance granting a special permit for a planned development on the Property (the "Development Ordinance").

4. Approval of Final Plat of Subdivision. Subsequent to the adoption of the Annexation Ordinance, the Corporate Authorities shall adopt a valid and binding resolution approving the Final Plat of Subdivision of the Property, prepared by Dean R. Crouse & Associates, Inc., with latest revision date of December 12, 1988 and consisting of two (2) pages (the "Final Plat"), and granting a variation from Section VI-B-1(a) of the Northbrook Subdivision Ordinance to permit a private road to provide access from Willow Road to the Property.

5. Development of the Property. The development of the Property shall consist of a residential planned development on one (1) zoning lot, which shall be one (1) subdivided lot containing twenty-one (21) sublots, with no more than twenty (20) attached single-family units (each of which units are collectively referred to as "Townhome" or "Townhomes") one per subplot (sublots containing a Townhome are hereinafter collectively referred to as "Townhome Lots"); and one subplot (Sublot X of Lot 1) containing all common elements of the development, including but not limited to storm water detention areas (the "Detention Areas"); and a private internal roadway (the "Road"). Further, the development of the Property shall, except for minor alterations due to final engineering and site work approved by the Village Engineer, be in strict accordance with the following:

- a. the provisions of this Annexation Agreement;
- b. the provisions of the Development Ordinance;

- c. the Architectural Site Plan of the Property prepared by The Cawn Group, P.C., with latest revision date of December 15, 1988, and consisting of two pages numbered A.0 and A.1, and initialed by the Village President and the Developer, a copy of which is attached hereto and, by this reference, incorporated herein as Exhibit "B" (the "Site Plan");
- d. the Final Plat;
- e. the Final Engineering Plan prepared by Gewalt-Hamilton Associates, Inc. with latest revision date of December 16, 1988, and consisting of 11 pages and initialed by the Village President and the Developer, a copy of which is attached hereto and, by this reference, incorporated herein as Exhibit "C" (the "Final Engineering Plan");
- f. the Landscape Plan for the Property, prepared by The Cawn Group, P.C., with latest revision date of December 15, 1988, and consisting of one page numbered L-1, and initialed by the Village President and the Developer, a copy of which is attached hereto and, by this reference, incorporated herein as Exhibit "D" (the "Landscape Plan");
- g. the elevation and floor plans, prepared by The Cawn Group, P.C., dated December 15, 1988, and consisting of seven pages numbered A.2 through A.8 both inclusive, and initialed by the Village President and the Developer, a copy of which is attached hereto and, by this reference, incorporated herein as Exhibit "E";
- h. the provisions as they now exist and as they may from time to time be amended of the R-7 Multiple Family Residential District of the Northbrook Zoning Code;
- i. all other applicable provisions of the Northbrook Zoning Code;
- j. any and all other applicable federal, state and Village laws, statutes, ordinances and regulations.

6. Donations and Contributions. Developer hereby acknowledges and represents that it has entered into binding agreements with each of the following entities pursuant to which impact donations will be made to each in accordance with the terms and conditions of this agreement:

a. Northbrook Park District: Developer shall cause a total of \$9,100.00 to be paid to the Northbrook Park District upon approval of the Final Plat by the Corporate Authorities.

b. Board of Education of School District 30, Cook County, Illinois ("School District 30"): Developer shall cause \$1,800.00 per Townhome to be paid to School District 30 prior to or

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simultaneously with the issuance of the certificate of occupancy for each Townhome.

No donations were requested by any other School District or any other governmental or quasi-governmental agency or body except as described in this Agreement.

7. Annexation Fee. In consideration of the impact of the development of the Property on the Village and the resulting increase in the level of municipal services and administrative costs required thereby, Developer agrees that it shall pay to the Village in addition to other specific sums required by other paragraphs of this Agreement, the sum of TEN THOUSAND DOLLARS (\$10,000.00) (\$500.00 per Townhome) to be deposited into the Village's general fund and used at the discretion of the Village for the general purposes of the Village. Said sum shall be paid by a certified or cashier's check prior to the issuance of any building permit for any construction or development on the Property.

8. Building and Construction Regulations. All buildings on the Property, including all Townhomes and all buildings and structures permitted pursuant to Paragraph 8 of this Agreement, shall be constructed in accordance with Chapter 6 entitled "Building and Construction Regulations," of the Northbrook Municipal Code (1988), as amended, and all other applicable codes, ordinances and regulations existing on the effective date of this Agreement, or as later amended.

9. Development Restrictions. No portion of Sublot X of Lot 1 shall be used for the construction or maintenance of any structure or improvement except such structures or improvements as may be depicted on the Site Plan.

10. Declaration of Covenants. A declaration of covenants, easements, restrictions, and a homeowners' agreement, acceptable in form and substance to the Village Attorney, shall be recorded against the Property prior to the execution of a contract for the sale of any Townhome Lot. Such declaration and homeowners' agreement shall provide for the creation of a homeowners' association (the "Homeowners' Association") and shall, without

limitation, codify the following provisions, conditions and restrictions of this Annexation Agreement:

a. Homeowners' Association.

- (i) The membership in the Homeowners' Association must be mandatory for each and every owner, and successive owner, of each and every Townhome Lot.
- (ii) The By-laws of the Homeowners' Association must be established and must be approved by the Corporate Authorities prior to becoming effective. Further, said By-laws shall not be amended without approval by the Corporate Authorities.
- (iii) The Homeowners' Association shall be responsible for the continuity, care, conservation, maintenance, including removal of snow on the Road and operation in a first rate condition and in accordance with predetermined standards, of the Road, Detention Areas and all other portions of Sublot X of Lot 1.
- (iv) The Homeowners' Association shall be responsible for casualty and liability insurance and real estate taxes for Sublot X of Lot 1.
- (v) The owners of every Townhome shall pay their pro rata share of all costs and expenses incurred by the Homeowners' Association by means of an assessment to be levied by the Homeowners' Association which meets the requirements for becoming a lien on the property in accordance with statutes of the State of Illinois.
- (vi) The Homeowners' Association shall have the right to adjust the assessment to meet changed needs. The membership vote required to authorize such adjustment shall not be fixed at more than two-thirds (2/3) of the members voting on the issue.

b. Creation of Easements.

- (i) An easement shall be created providing access over, on and above Sublot X of Lot 1 to and from all Townhome Lots and Willow Road for the exclusive benefit of the Homeowners' Association and its members and for the benefit of the Village, for emergency, utility, enforcement and governmental services purposes only.
- (ii) Utility and enforcement easements shall be granted to the Village and other governmental bodies and utility services over, on, and across the Property and the Townhome Lots, for the purposes of enforcing applicable laws, making repairs, installing and servicing utilities, and providing public and emergency services.

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c. General Provisions.

- (i) The Development Restrictions in Paragraph 10 of this Agreement shall be incorporated into the declaration and homeowners' agreement.
- (ii) The Village, as well as the owner of each Townhome, shall have the right to enforce the declaration and homeowners' agreement.
- (iii) The Village shall have the right, but not the obligation, after ten (10) days' written notice to the Homeowners' Association, to perform any maintenance or repair work which, in the sole opinion of the Village, the Homeowners' Association has neglected to perform on Sublot X of Lot 1, to assess the membership for such work and to file a lien against the property of the Homeowners' Association or the property of any member failing to pay the assessment.
- (iv) The declaration and the homeowners' agreement shall run with and bind the Property, and all portions thereof, and shall be binding on the Developer, and its successors in interest, to all portions of the Property.
- (v) The declaration and the homeowners' agreement shall contain an express acknowledgement that the Road is a private road, is not built in accordance with applicable Village standards for dedicated rights-of-way and is to be maintained by the Homeowners' Association. The declaration and homeowners' agreement shall further provide that the Village shall be under no obligation to accept dedication of the Road at any time unless and until the Homeowners' Association, at its sole cost and expense, causes the Road to be in complete compliance with all the applicable Village standards.

11. Common Areas. Upon the creation of the Homeowners' Association referred to in Paragraph 10 above, Developer shall deed, or cause to be conveyed, the fee simple title to Sublot X of Lot 1 to said Homeowners' Association. Prior to the creation of said Homeowners' Association, the Developer shall be responsible for all of the duties and obligations of the Homeowners' Association with respect to Sublot X of Lot 1.

12. Utility Recapture. Developer does hereby unconditionally agree to pay, upon request by the Village, a fair and equitable share of prior sanitary sewer and storm sewer improvements that have been developed on Willow Road and which benefit the Property. Computation of such recapture benefit has been

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determined by the Village, based on the applicable recapture ordinance and resolution to be as follows:

Sanitary Sewer	Ordinance No. 70-2 (\$100.00/acre x 3.22 acres)	\$322.00
Storm Sewer	Resolution No. 61-R-4 (\$250.00/1st acre + \$100.00/acre thereafter)	472.00
	TOTAL	\$794.00

13. Letter of Credit. Developer agrees that, prior to the recordation of the Final Plat, it will deposit with the Village Clerk, in cash and a Letter of Credit, in a form satisfactory to the Village Attorney, an amount equivalent to: (a) the total amount, plus ten percent (10%), of the actual, executed contracts for the site improvements, including landscaping, for the proposed development on the Property; or (b) the total amount plus twenty-five percent (25%) of an estimate of all such site improvement costs, including landscaping, in the event that actual, executed contracts for the site improvements are not available. All such contracts and estimates shall be subject to review and approval by the Village Engineer. The cash portion of the deposit shall be not less than ten percent (10%) of the total deposit required by this paragraph. Both the cash deposit and the letter of credit deposit shall be held by the Village in escrow until completion of the development on the Property and shall be drawn on and retained by the Village in the event that the Developer fails to install, in a good and workmanlike manner, and in compliance with all the provisions of this Agreement and all applicable codes and regulations, all site improvements, including landscaping, required pursuant to the ordinances of the Village or any of the provisions of this Agreement.

14. Payment of Village Costs. In addition to any other costs, payments, permit fees or other fees required by this Agreement or by applicable Village ordinances and codes, Developer agrees that it will pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and planning fees incurred in connection with the review of plans for the development of the Property and in connection with the negotiation, preparation, consideration and review of this Agreement; including those fees and expenses that

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the Village has paid and will pay to its legal counsel, Burke, Bosselman & Weaver. Further, Developer agrees that it will continue to be liable for and to pay such costs incurred in connection with any applications, documents or proposals, whether formal or informal, of whatever kind submitted by them during the term of this Agreement in connection with the use and development of the Property. Further, Developer agrees that it shall be liable for and will pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

15. Enforcement. It is agreed that the parties hereto may, in law or in equity, by suit, action, mandamus or any other proceeding including specific performance, enforce or compel the performance of this Agreement; provided however, that the Owners and Developer agree that they will not seek and do not have the right to seek to disconnect the Property or to recover a judgment for monetary damages against the Village or any elected or appointed officials, agents, representatives, attorneys or employees thereof on account of the negotiation, execution or breach of any of the terms and conditions of this Agreement. In the event of a judicial proceeding brought by any party to this Agreement for enforcement or for breach of any provision of 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.

16. Nature and Survival of Obligations. The parties agree that all charges payable pursuant to this Agreement, together with interest and costs of collection, shall constitute both the personal obligation of the party liable for its payment, and the successors of such party, and also a lien upon the land of such party until paid. The lien of the charges provided for herein shall be subordinate to the lien of any first mortgage now or hereinafter placed upon the Property subject to such charge; provided, however, that such subordination shall apply only to charges which have become due and payable prior to a sale or

transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any charges thereafter becoming due, nor from the lien of any subsequent charge.

17. Notice to Transferee and Release of Transferor. The Owners and the Developer specifically understand and agree that the obligations assumed by each of them under this Agreement shall be binding upon them and any and all of their heirs, successors, and assigns and the successor owners of record of all or any portion of the Property. To assure that heirs, successors, and assigns have notice of this Agreement and the obligation created by it, the Owners and the Developer agree:

- a. that this Agreement shall be recorded with the Cook County Recorder of Deeds;
- b. to incorporate this Agreement into any and all real estate sales contracts (other than contracts for the sale of Townhomes after the covenants required under Paragraph 12 hereof have been placed of record) said parties enter into for the sale of all or any portion of the Property to any party not a party to this Agreement; and
- c. to require, prior to the transfer of all or any portion of the Property (other than transfers of Townhome Lots to persons intending to occupy such Townhome Lots after the covenants required under Paragraph 12 hereof have been placed on record), the transferee of said Property to execute an enforceable written agreement agreeing to be bound by the provisions of this Agreement and to provide the Village with such reasonable assurance of financial ability to meet those obligations as the Village may require. The Village agrees that upon a successor becoming bound to the personal obligation herein created in the manner herein provided and providing the financial assurances required by this Section, the personal liability of Developer or other predecessor obligor shall be released to the extent of the transferee's assumption of liability. Developer agrees to notify the Village in writing at least thirty (30) days prior to any date upon which Developer transfers a legal or beneficial interest in any portion of the Property to a transferee (other than transfers of Townhome Lots to persons intending to occupy such Townhome Lots after the covenants required under Paragraph 12 hereof have been placed of record). Developer shall, at the same time, provide the Village with a fully

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executed copy of the hereinabove required Agreement by the transferee to be bound by the provisions of this Agreement and the transferee's proposed assurance of financial capability.

18. Nonseverability. It is hereby expressed to be the intent of the parties hereto that should 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, then this entire Agreement shall thereupon be held invalid and of no force or effect, it being the intent of the parties that all of the provisions be treated as an individual whole.

19. Term. This Agreement shall be in full force and effect from and after the date of its execution for a period of twenty (20) years.

20. Amendments. This Agreement may be amended by the same procedure as required by Illinois statutes for its original execution and approval.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals on the date first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

VILLAGE OF NORTHBROOK

BY Albert T. Juliano
Village President

ATTEST:

Lena N. Louis
Village Clerk

X Anna Stauss
Anna Stauss

WITNESS:

[Signature]

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Louis D. Franchi

Louis D. Franchi

WITNESS:

[Signature]

Yolanda M. Franchi

Yolanda M. Franchi

WITNESS:

[Signature]

Gary S. Franchi

Gary S. Franchi

WITNESS:

[Signature]

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LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Legal Description of Property
B	Architectural Site Plan, prepared by The Cawn Group, P.C., with latest revision date of December 15, 1988.
C	Final Engineering Plan, prepared by Gewalt-Hamilton Associates, Inc., with latest revision date of December 16, 1988.
D	Landscape Plan, prepared by The Cawn Group, P.C., with latest revision date of December 15, 1988.
E	Elevation and Floor Plans, prepared by The Cawn Group, P.C., with latest revision date of December 15, 1988.

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RESOLUTION NO. 88-R-180

Anna Stauss, Louis D. Franchi and Yolanda M. Franchi, as owners, and Gary S. Franchi, as developer and contract purchaser, of the property commonly known as 2300-2310 Willow Road (the "Property"), petitioned the Village of Northbrook for annexation and development, pursuant to an annexation agreement for the approximately 3.2 acre Property.

A public hearing on the proposed annexation agreement was held on December 13 and December 19, 1988, pursuant to public notice and continuances and the provisions of Section 11-15.1-1 et seq. of the Illinois Municipal Code.

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

Section 1.

The Annexation Agreement for the Property between the Owners, the Developer and the Village, in substantially the form attached hereto, is hereby approved and the Village President and Village Clerk are hereby authorized and directed to execute said Annexation Agreement on behalf of the Village of Northbrook.

Section 2.

Upon full execution as described in Section 1 above, the Village Manager is hereby instructed to cause a copy of said Annexation Agreement to be recorded with the Cook County Recorder of Deeds.

PASSED: This 19th day of December, 1988.

AYES: (5)

NAYS: (0)

/s/ Richard T. Falcone

Village President

ATTEST:

/s/ Lona N. Louis

Village Clerk

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COOK COUNTY RECORDER
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EXHIBIT A

Parcel 1

The South 475.50 feet of the East 1/2 of the East 329.21 feet of the West 2304.81 feet of the Northeast 1/4 of the Northwest 1/4 and of the Northwest 1/4 of the Northeast 1/4 of Section 21, Township 42 North, Range 12, East of the Third Principal Meridian all in Cook County, Illinois (commonly known as 2300 Willow Road), and also

Parcel 2

The East 329.31 feet (except therefrom the East 1/2 thereof) of the West 2304.81 feet of the Northeast 1/4 of the Northwest 1/4 and the Northwest 1/4 of the Northeast 1/4 (taken as a tract) (except the North 312 acres of said property) of Section 21, Township 42 North, Range 12, East of the Third Principal Meridian all in Cook County, Illinois (commonly known as 2310 Willow Road).

P.I.N. Nos.:

04-21-200-010-0000

04-21-200-050-0000

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