

UNOFFICIAL COPY

EXECUTION COPY

91542494

PUBLIC RIGHT-OF-WAY VACATION AGREEMENT

BY, BETWEEN AND AMONG

THE VILLAGE OF NORTHBROOK,

ALIM INTERNATIONAL, INC.,

JEFFERSON STATE BANK,
as Trustee u/t/a No. 1769,

DEPT-09 MISC. \$127.00
T:0003 TRAM 1242 06/21/94 12:46:00
‡1969 ‡EB *-94-542494
COOK COUNTY RECORDER

AND

JOHN KOZIOL, individually and as Trustee
under the John Koziol Declaration of Trust

(SMITH ROAD NORTH OF KOEPKE ROAD)

DATED APRIL 12, 1994

91542494

This Document was Prepared By:

BURKE, WEAVER & PRELL
55 West Monroe Street
Suite 800
Chicago, Illinois 60603

After Recording Return To:

Recorder's Box 337



127⁰⁰
ER

UNOFFICIAL COPY

10/15/2018

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. RECITALS	1
SECTION 2. DEFINITIONS	2
SECTION 3. ADOPTION OF VACATION ORDINANCE	4
SECTION 4. APPROVAL OF PLAT OF CONSOLIDATION	5
SECTION 5. THE RIGHT-OF-WAY.	5
SECTION 6. COMPENSATION	5
SECTION 7. DEVELOPMENT AND SUBDIVISION OF THE PROPERTY	5
SECTION 8. IMPROVEMENTS	7
SECTION 9. CASH DEPOSIT AND LETTER OF CREDIT	9
SECTION 10. PAYMENT OF VILLAGE COSTS	9
SECTION 11. LIABILITY AND INDEMNITY OF VILLAGE	10
SECTION 12. COMPLETION OF CONSTRUCTION	11
SECTION 13. ENFORCEMENT	12
SECTION 14. EXERCISE OF RIGHTS	13
SECTION 15. NATURE AND SURVIVAL OF OBLIGATIONS	13
SECTION 16. SUCCESSORS, TRANSFEREES AND RELEASE OF TRANSFEROR	14
SECTION 17. REPRESENTATIONS AND WARRANTIES	15
SECTION 18. NONSEVERABILITY	18
SECTION 19. TERM	19
SECTION 20. AMENDMENTS	19
SECTION 21. NOTICES	19
SECTION 22. EXHIBITS	21

16000003

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

SECTION 23.	CHANGES IN LAW	21
SECTION 24.	GOVERNING LAW	21
SECTION 25.	HEADINGS	21
SECTION 26.	TIME OF ESSENCE	21

Property of Cook County Clerk's Office

16828215

UNOFFICIAL COPY

Property of Cook County Clerk's Office

PUBLIC RIGHT-OF-WAY VACATION
AGREEMENT FOR
SMITH ROAD NORTH OF KOEPKE ROAD

THIS AGREEMENT is dated as of the 12th day of April, 1994, and is by, between, and among the VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation ("Village"), ALIM INTERNATIONAL, INC., an Illinois corporation ("Alim"), JEFFERSON STATE BANK, an Illinois corporation, as Trustee under that certain Trust Agreement dated October 10, 1991 and known as Trust Number 1769 (the "Bank Trust") and JOHN KOZIOL, individually and as Trustee under the John Koziol Declaration of Trust dated October 19, 1989 ("Koziol").

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

SECTION 1. RECITALS.

A. The Village is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois.

B. Alim is the record title owner of the Alim Parcel.¹

C. The Bank Trust is the record title owner of the Koziol Parcel, and Koziol is the sole owner of the beneficial interest in the Bank Trust.

D. Alim and Koziol desire and propose to develop the Alim Parcel and the Koziol Parcel, respectively, pursuant to and in accordance with this Agreement.

E. Alim and the Bank Trust have previously filed with the Village Clerk a duly executed petition (i) seeking vacation of the

¹All capitalized words and phrases used in this Contract shall have the meanings set forth in Section 2 hereof.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Right-Of-Way and (ii) seeking approval of plats to consolidate portions of the Right-Of-Way with the Alim Parcel and the Koziol Parcel, respectively.

F. Pursuant to Section 3-303 of the Northbrook Subdivision and Development Code (1991), as amended, the Corporate Authorities may act upon a plat of consolidation without review by, or recommendation from, the Plan Commission.

G. The Corporate Authorities, after due and careful consideration, have concluded that the vacation of the Right-Of-Way, the consolidation of the Right-Of-Way with the Alim Parcel and the Koziol Parcel, and the development of the Property pursuant to and in accordance with this Agreement would further enable the Village to control the development of the Property and the surrounding 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:

"Alim Parcel": That certain tract of property consisting of approximately 16,755 square feet, within the corporate limits of the Village of Northbrook, at 2990 Koepke Road, and legally described in Exhibit A.

"Building Code": Chapter 6, entitled "Building and Construction Regulations," of the Northbrook Municipal Code (1988), as the same has been and may, from time to time hereafter, be amended.

16822831

UNOFFICIAL COPY

Property of Cook County Clerk's Office

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

"Improvements": The public and private on-site and off-site improvements described in Section 8 of this Agreement.

"Koziol Parcel": That certain tract of property consisting of approximately 83,770 square feet within the corporate limits of the Village of Northbrook, at 3010, 3020, 3028, 3030 and 3040 Koepke Road, and legally described in Exhibit B.

"Lot": The lots comprising the Alim Parcel and the Koziol Parcel, as modified by the inclusion of the Right-Of-Way in the manner shown on the Plat of Consolidation.

"Owners": Alim, the Bank Trust and Koziol, collectively.

"Plat of Consolidation": Those certain final plats of consolidation prepared by North Shore Survey, Inc., each consisting of one sheet, dated December 13, 1993, copies of which are attached as Exhibits C-1 and C-2.

"Plat of Vacation": That certain plat of vacation prepared by North Shore Survey, consisting of one sheet and dated December 13, 1993, a copy of which is attached as Exhibit D.

"Property": That certain tract of property consisting of the Right-Of-Way, the Alim Parcel and the Koziol Parcel.

"Public Improvement 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.

"Right-Of-Way": That certain portion of dedicated right-of-way under the control and jurisdiction of the Village, as depicted

1661333

UNOFFICIAL COPY

Property of Cook County Clerk's Office

9 4 3 1 1 9

on the Plat of Vacation, commonly known as Smith Road between the properties commonly known as 2990 and 3010 Koepke Road and consisting of approximately 19,400 square feet.

"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. ADOPTION OF VACATION ORDINANCE.

Upon receipt of three original copies of this Agreement executed by the Owners, the Corporate Authorities shall adopt a valid and binding ordinance, substantially the same as Exhibit E (the "Vacation Ordinance"), allowing for the vacation of the Right-Of-Way pursuant to 65 ILCS 5/11-91-1 (1992). The Village shall provide, at the cost and expense of the Owners, the Plat of Vacation for incorporation in the Vacation Ordinance. The Vacation Ordinance shall not become effective until the Vacation Ordinance and the Plat of Vacation are recorded in the Office of the Cook County Recorder of Deeds. The Vacation Ordinance and the Plat of Vacation shall not be so recorded unless and until Alim and Koziol each pays the Village one-half of the Village's costs and expenses in connection with the vacation of the Right-of-Way, as described in Section 10. In the event that the foregoing event does not occur on or before ninety (90) days after the date of this Agreement, the Vacation Ordinance shall, automatically, become null and void and of no force or effect.

10/2/91

UNOFFICIAL COPY

Property of Cook County Clerk's Office

SECTION 4. APPROVAL OF PLAT OF CONSOLIDATION.

Subsequent to the date of this Agreement, the Corporate Authorities shall adopt a valid and binding resolution in substantially the form attached as Exhibit F to this Agreement, which Resolution shall approve the Plat of Consolidation.

SECTION 5. THE RIGHT-OF-WAY.

The Owners acknowledge, and shall not contest, directly or indirectly, that, as of the date of this Agreement, (i) the Right-Of-Way is dedicated to the public, (ii) the Right-Of-Way is under the exclusive jurisdiction and control of the Village, and (iii) the Village has the authority and jurisdiction to cause the vacation of the Right-Of-Way.

SECTION 6. COMPENSATION

The Owners acknowledge and agree that:

A. The Village is lawfully entitled to compensation for vacating the Right-Of-Way;

B. The fair, equitable and proper amount of such compensation, for purposes of this Agreement, is the value of the Improvements to be provided by the Owners pursuant to Section 8 hereof.

SECTION 7. DEVELOPMENT AND SUBDIVISION OF THE PROPERTY

The Property shall be developed pursuant to and in accordance with this Agreement and the Final Plat, including, without limitation, the following:

A. **Number and Use of Lots.** The Property shall be developed with no more than six Lots, each of which shall be residential lots.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

9 4 3 7

B. Maintenance Prior to Sale. Alim and Koziol shall maintain each and every one of their respective Lots in a first rate condition, including, without limitation, seeding and mowing, until a single family detached dwelling unit is constructed on an individual Lot and such Lot is sold to a third party.

C. Site Features of the Residential Lots. No Lot shall contain more than one single family detached dwelling unit and permitted accessory structures. Alim and Koziol shall actively work to protect as many existing trees as possible on their respective Lots during the development of the Property.

D. Compliance with All Plans, Codes, and Agreements. 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 strict accordance with the following:

- i. this Agreement;
- ii. the Plat of Consolidation;
- iii. the provisions of the R-4 Single Family Residential District of the Zoning Code;
- iv. all other applicable provisions of the Zoning Code;
- v. the Subdivision Code;
- vi. the Building Code;
- vii. the Public Improvement Standards Manual; and
- viii. all other applicable federal, state, and Village laws, statutes, ordinances, resolutions, rules, and regulations.

In the event of a conflict between or among any of the above plans, documents or regulations, the plan, document or regulation

1682222

that provides the greatest control and protection for the Village, as determined by the Village Manager, shall control. All of the above plans, documents, and regulations shall be interpreted so that duties and requirements imposed by any one of them are cumulative among all of them.

SECTION 8. IMPROVEMENTS.

A. Water Main and Sidewalk Relocation. The Owners shall, at their sole cost and expense with Koziol and Alim each paying one-half of such cost and expense, construct and install the following prior to the issuance of any building permits for any of the Lots:

- i. Remove the existing water main located within the Right-Of-Way and construct and install a new water main of at least equal dimensions and capacity within the easement for water main reserved in the Right-Of-Way pursuant to the Vacation Ordinance; and
- ii. Remove the existing gravel walkway located within the Right-Of-Way and construct and install a new concrete public sidewalk within the easement for public sidewalk reserved in the Right-Of-Way pursuant to the Vacation Ordinance.

B. Storm Water Detention Facilities. The Owners shall both (i) submit and obtain Village approval of a plan for storm water detention and (ii) execute and record a restrictive covenant for stormwater detention area easements and maintenance, in substantially the form of Exhibit G, showing the easements in locations required and approved by the Village, for each of their respective Lots prior to the issuance of a building permit for each such Lot. The owner of any such Lot shall complete the detention facilities in the approved plan for such Lot prior to the completion of construction of the foundation for the new structure on such Lot. Each such owner shall be responsible for the cost and

16222222

UNOFFICIAL COPY

Property of Cook County Clerk's Office

0 0 9 4 3 1 1 0

expense of the detention facilities for each such Lot. In the event that the required detention facilities are not completed within said period, the Owners agree that the Village may stop all further construction or work of any kind on the Lot until the detention facilities are completed.

C. Koepke Road Public Sidewalks. The Owners shall, at their sole cost and expense, construct and install concrete public sidewalks on the Koepke Road frontage of any Lot prior to the issuance of a certificate of occupancy (either temporary or final) for a structure on such Lot. The owner of each Lot shall be responsible for the cost and expense of the sidewalks for each such Lot.

D. Design, Construction, and Completion of Improvements. The Improvements shall be designed and constructed pursuant to and in accordance with the Public Improvement Standards Manual and all other applicable requirements.

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

168222294

UNOFFICIAL COPY

Property of Cook County Clerk's Office

SECTION 9. CASH DEPOSIT AND LETTER OF CREDIT.

As security to the Village for the performance by the Owners of each Owners' obligations to construct and complete the Improvements pursuant to and in accordance with this Agreement, the Owners shall, prior to the recordation of the Plat of Consolidation for the Improvements required by Section 8A and prior to the issuance of a building permit for each Lot for the Improvements required by Sections 8B and 8C, provide a performance guarantee complying with all requirements of the Subdivision Code, and in form and substance substantially conforming with Exhibit H attached and satisfactory to the Village Attorney. The aggregate amount of the letters of credit may be reduced by the Owners from time to time only in accordance with the requirements of the Subdivision Code.

SECTION 10. 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, Alim and Koziol agree that they will each pay to the Village, immediately and upon presentation of a written demand or demands therefor, one-half of all fees, costs, and expenses incurred by the Village in connection with the vacation of the Right-Of-Way and the consolidation of the Right-Of-Way with the Alim Parcel and the Koziol Parcel, including without limitation the negotiation, preparation, consideration, and review of this Agreement, including those fees and expenses that the Village has paid and will pay to its legal counsel, Burke, Weaver & Prell, and its surveyor, North Shore Survey. Further, the Owners agree that they will continue to be liable for and to pay such costs incurred in connection with any applications, documents or proposals.

16822236

UNOFFICIAL COPY

Property of Cook County Clerk's Office

connection with (i) the Village's review and approval of any plans or the Improvements, (ii) the vacation of the Right-Of-Way, (iii) any actions taken by the Village pursuant to or described in Subsection 11B of this Agreement and (iv) the performance by the Owners of their obligations under this Agreement and all related agreements.

D. Defense Expense. The Owners shall, and do hereby agree to, pay all expenses incurred by the Village in defending itself with regard to any and all of the claims mentioned in Subsection 11C of this Agreement. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the Village.

SECTION 12. COMPLETION OF CONSTRUCTION.

If the Owner fails to diligently pursue all construction as required in or permitted by Section 8 of this Agreement to completion within the time period prescribed in the building permit or permits issued by the Village for such construction, and if the building permit or permits are not renewed within three months after the expiration thereof, the Owner shall, within 60 days after notice from the Village, remove any partially constructed or partially completed buildings, structures, and improvements from the Property. In the event that the Owner fails or refuses to remove said buildings, structures, and improvements from the Property 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

16222116

and/or remove any of said buildings, structures, and improvements from the Property, and the Village shall have the right to charge the Owner 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 Owner 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 on the Property, and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien in the same manner as in mortgage foreclosure proceedings.

SECTION 13. ENFORCEMENT.

The parties hereto 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 Owner 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 Village elected or appointed officials, officers, employees, agents, representatives, or attorneys 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 either party to this Agreement against the other party 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.

01/22/2024

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Notwithstanding any other right of the Village provided in this Agreement, upon a finding by the Village that the Owner has failed to develop the Property in accordance with any of the requirements of this Agreement, the Owner will not object to the Village taking all actions necessary to vacate the Final Plat in accordance with the procedures of the Subdivision Code.

SECTION 14. EXERCISE OF RIGHTS.

The Village shall be under no obligation to exercise rights granted to it in this Agreement except as it shall determine to be in its best interest. No failure to exercise at any time any right granted herein to the Village shall be construed as a waiver of that or any other rights.

SECTION 15. NATURE AND SURVIVAL OF OBLIGATIONS.

The parties agree that all charges payable pursuant to this Agreement, together with interest and costs of collection, including attorneys' fees, shall constitute both the personal obligation of the party liable for its payment, and the heirs, successors, and assigns of such party, and also a lien upon the Property, enforceable in the same manner as in mortgage foreclosure proceedings, 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; provided, however, that such subordination shall apply only to charges that have become due and payable prior to a sale or transfer of the Property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the Property

9120210

UNOFFICIAL COPY

Property of Cook County Clerk's Office

from liability for any charges thereafter becoming due, nor from the lien of any subsequent charge.

SECTION 16. SUCCESSORS, TRANSFEREES AND RELEASE OF TRANSFEROR.

A. **Binding Effect.** The Owners acknowledge and agree that the obligations assumed by each of them under this Agreement shall be binding upon each of 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.

B. **Transferee Assumption.** To assure that such heirs, successors, and assigns have notice of this Agreement and the obligations created by it, the Owner agrees:

- i. that this Agreement shall be recorded with the Cook County Recorder of Deeds;
- ii. to incorporate, by reference, this Agreement into any and all real estate sales contracts said parties enter into for the sale of all or any portion of the Property (other than transfers of individual Lots or portions thereof to persons intending to occupy or lease residences constructed on such Lots or portions thereof) to any party not a party to this Agreement; and
- iii. to require, prior to the transfer of all or any portion of the Property (other than transfers of individual Lots or portions thereof to persons intending to occupy or lease residences constructed on such Lots or portions thereof), the transferee of said portion of the 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 the financial ability of such transferee to meet those obligations as the Village may require. The Village agrees that upon a successor becoming bound to the personal obligation created herein in the manner provided herein and providing the financial assurances required by this Section, the personal liability of the Owners or other

predecessor obligor shall be released to the extent of the transferee's assumption of liability. The Owners agree to notify the Village in writing at least 30 days prior to any date upon which the Owners transfer a legal or beneficial interest in any portion of the Property to a transferee (other than transfers of individual Lots or portions thereof to persons intending to occupy or lease residences constructed on such Lots or portions thereof). The Owners shall, at the same time, provide the Village with a fully executed copy of the hereinabove required agreement by the transferee to be bound by the provisions of this Agreement and the transferee's proposed assurances of financial capability.

C. Transfer Defined. For the purposes of this Section, the term "transfer" shall be deemed to include any assignment, transfer, sale, transfer to a receiver or to a trustee in bankruptcy, transfer in trust, or other disposition of the Property, or any beneficial interest therein, in whole or in part, by voluntary or involuntary sale, foreclosure, merger, sale and leaseback, consolidation, or otherwise. This Agreement shall be binding on all mortgagees of the Property or other secured parties automatically upon such mortgagee assuming title to the Property by a foreclosure or a deed in lieu of foreclosure without the necessity of executing such assumption agreement. Until such time, however, a mortgagee or other secured party shall have no personal liability hereunder.

SECTION 17. REPRESENTATIONS AND WARRANTIES.

A. Alim Representations and Warranties. In order to induce the Village to enter into this Agreement and to adopt the resolutions and grant the rights herein provided for, Alim warrants and represents to the Village that:

PROPERTY

9 4 3 9

- i. Alim has good record and marketable title in fee simple to the Alim Parcel;
- ii. Alim is duly organized, validly existing, and in good standing as a corporation under the laws of the State of Illinois;
- iii. Alim has the authority and the legal right to make, deliver, and perform this Agreement and has taken all necessary corporate actions to authorize the execution, delivery, and performance of this Agreement;
- iv. All necessary consents of any Board of Directors, shareholder, creditors, investors, partners, judicial or administrative bodies, governmental authorities, or other parties regarding the execution and delivery of this Agreement have been obtained;
- v. No consent or authorization of, filing with, or other act by or in respect of any governmental authority (other than the Village) is required in connection with the execution, delivery, performance, validity, or enforceability of this Agreement;
- vi. The individuals executing this Agreement on behalf of Alim have the power and authority to execute and deliver this Agreement on behalf of Alim;
- vii. The execution, delivery, and performance of this Agreement (a) is not prohibited by any requirement of law or under any contractual obligation of Alim, (b) will not result in a breach or default under any agreement to which Alim is a party or to which it or the Alim Parcel are bound, and (c) will not violate any restriction, court order or agreement to which Alim is subject; and
- viii. No mortgagee or any other secured party that has an interest in the Alim Parcel as of the date of this Agreement has an objection to either (a) the execution and performance of this Agreement by Alim or (b) the binding nature of this Agreement with respect to the Alim Parcel. Alim shall deliver to the Village Clerk, prior

110000001

to the recording of the Final Plat, a document acceptable to the Village Attorney and executed by any and all existing mortgagees or secured parties, acknowledging this warranty and confirming the validity thereof.

B. Bank Trust and Koziol Representations and Warranties. In order to induce the Village to enter into this Agreement and to adopt the resolutions and grant the rights herein provided for, the Bank Trust represents and Koziol warrants to the Village that:

- i. The Bank Trust has good record and marketable title in fee simple to the Koziol Parcel;
- ii. The trust agreement under which Koziol's interest in the Koziol Parcel is established is a valid and binding agreement;
- iii. Koziol is duly organized, validly existing, and in good standing as a corporation under the laws of the State of Illinois;
- iv. The Bank Trust and Koziol have the authority and the legal right to make, deliver, and perform this Agreement and have taken all necessary corporate actions to authorize the execution, delivery, and performance of this Agreement;
- v. All necessary consents of any Board of Directors, shareholder, creditors, investors, partners, judicial or administrative bodies, governmental authorities, or other parties regarding the execution and delivery of this Agreement have been obtained;
- vi. No consent or authorization of, filing with, or other act by or in respect of any governmental authority (other than the Village) is required in connection with the execution, delivery,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

performance, validity, or enforceability of this Agreement;

- vii. The individuals executing this Agreement on behalf of the Bank Trust and Koziol have the power and authority to execute and deliver this Agreement on behalf of the Bank Trust and Koziol, respectively;
- viii. The execution, delivery, and performance of this Agreement (a) is not prohibited by any requirement of law or under any contractual obligation of Bank Trust or Koziol, (b) will not result in a breach or default under any agreement to which either the Bank Trust or Koziol is a party or to which it or the Property are bound, and (c) will not violate any restriction, court order or agreement to which the Bank Trust or Koziol are subject; and
- ix. No mortgagee or any other secured party that has an interest in the Property as of the date of this Agreement has an objection to either (a) the execution and performance of this Agreement by the Bank Trust or Koziol or (b) the binding nature of this Agreement with respect to the Property. The Bank Trust or Koziol shall deliver to the Village Clerk, prior to the recording of the Final Plat, a document acceptable to the Village Attorney and executed by any and all existing mortgagees or secured parties, acknowledging this warranty and confirming the validity thereof.

SECTION 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.

10/22/2019

SECTION 19. 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 Owners, 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 and the public Improvements on the Property as required by this Agreement are accepted by the Village. Following such approval and acceptance, the Village agrees, upon written request of the Owner, to execute appropriate and recordable evidence of termination of this Agreement. If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rule imposing time limits, then such provisions shall continue only until 21 years after the death of the survivor of the now living lawful descendants of George Herbert Walker Bush, former President of the United States.

SECTION 20. AMENDMENTS.

All amendments to this Agreement shall be in writing and approved by the Owners and the Village.

SECTION 21. NOTICES.

All notices and other communications in connection with this Agreement shall be in writing, shall be deemed delivered to the addressee thereof when delivered in person at the address set forth below, or three business days after deposit thereof in any main or

62242222

UNOFFICIAL COPY

Property of Cook County Clerk's Office

branch United States post office, and shall be sent certified or registered mail, return receipt requested, postage prepaid, properly addressed to the parties, respectively, as follows:

For notices and communications to Alim:

Alim International, Inc.
380 Brampton Lane
Lake Forest, Illinois 60045
Attention: Ishwar Alimchandani

For notices and communications to the Bank Trust:

Jefferson State Bank,
as Trustee u/t/a No. 1769
5301 West Lawrence Avenue
Chicago, Illinois 60630
Attention: Penelope Jackson

For notices and communications to Koziol:

Kozy Construction, Inc.
6778 North Northwest Hwy.
Chicago, Illinois 60631
Attention: John Koziol

For notices and communications to the Village:

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

with a copy to:

Barbara A. Adams
Burke, Weaver & Prell
55 West Monroe Street
Suite 800
Chicago, Illinois 60603

By notice complying with the foregoing requirements of this Section, each party shall have the right to change the address or addressee or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

015522294

SECTION 22. EXHIBITS.

Exhibits A through H attached to this Agreement are incorporated herein and made a part hereof by this reference.

SECTION 23. CHANGES IN LAW.

Unless otherwise explicitly provided in this Agreement, any reference to laws, ordinances, rules, or regulations shall include such laws, ordinances, rules, or regulations as they may be amended or modified from time to time hereafter.

SECTION 24. GOVERNING LAW.

This Agreement shall be governed by, and construed and interpreted in accordance with, the laws, but not the conflicts of laws rules, of the State of Illinois.

SECTION 25. HEADINGS.

The headings of the sections, paragraphs, and other parts of this Agreement are for convenience and reference only and in no way define, extend, limit or describe the scope or intent of this Agreement or the intent of any provision hereof.

SECTION 26. TIME OF ESSENCE.

Time is of the essence in the performance of all terms and provisions of this Agreement.

10000000

9 4 ;

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: Mal W. Samuel
Village President

ATTEST:

Lene N. Lewis
Village Clerk

ALIM INTERNATIONAL, INC.

Alim G. Arslan (OP. ARSLAN)
President - OF ALIM

ATTEST:

Alim G. Arslan
Secretary

Alim G. Arslan (PRESIDENT)

JEFFERSON STATE BANK, as Trustee
u/t/a No. 1769 - AND NOT PERSONALLY

David Rosenfeld
ASST VICE President

David Rosenfeld
Asst. Vice Pres. / Trust Officer

ATTEST:

Lou-Ann T. Silvestri
Secretary Lou-Ann T. Silvestri
Asst. Trust Officer

JOHN KOZIOL, individually and as
Trustee under the John Koziol
Declaration of Trust dated October
19, 1989

John Koziol

WITNESS:

[Signature]

PROPERTY OF COOK COUNTY CLERK'S OFFICE

68822224

UNOFFICIAL COPY

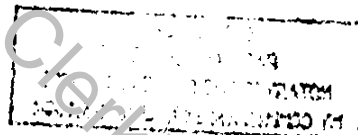
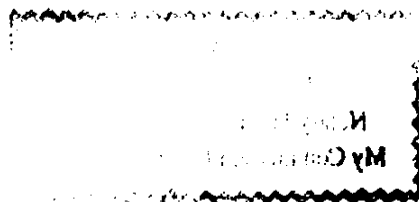
Property of Cook County Clerk's Office

March 1, 2010

March 1, 2010

UNOFFICIAL COPY

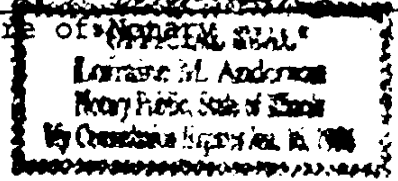
Property of Cook County Clerk's Office



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

This instrument was acknowledged before me on MAY 10, 1994, by DAVID ROSENFELD, ASST VICE President of JEFFERSON STATE BANK, as Trustee u/t/a No. 1769, an Illinois corporation, and by COU-ANN T. SILVESTRI, ASST TRUST OFF Secretary of said corporation.

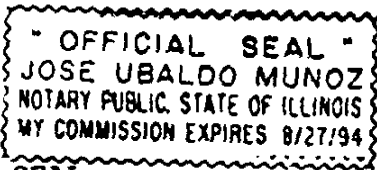
Lorraine M. Anderson
Signature of Notary Public



SEAL

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

This instrument was acknowledged before me on MAY 10th, 1994, by JOHN KOZIOL, individually and as Trustee under the John Koziol Declaration of Trust dated October 19, 1989.



SEAL

[Signature]
Signature of Notary

Property of Cook County Clerk's Office

95742194

UNOFFICIAL COPY

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE
JAN 28 2013 10 22 AM

LIST OF EXHIBITS

- EXHIBIT A Legal Description of Alim Parcel
- EXHIBIT B Legal Description of Koziol Parcel
- EXHIBITS C-1 Plats of Consolidation
AND C-2
- EXHIBIT D Plat of Vacation
- EXHIBIT E Form of Vacation Ordinance
- EXHIBIT F Form of Resolution Approving Plat of Consolidation
- EXHIBIT G Form of Restrictive Covenant for Storm Water
Detention Area Easements and Maintenance
- EXHIBIT H Form of Irrevocable Letter of Credit

Property of Cook County Clerk's Office

98032291

EXHIBIT A

LEGAL DESCRIPTION OF ALIM PARCEL

LOT 27 IN BLOCK 1 IN LEVELVIEW ACRES, A SUBDIVISION OF PART OF THE NORTHEAST ¼ OF SECTION 17 AND PART OF THE SOUTHEAST ¼ OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as 2990 Koepke Road, Northbrook, Illinois 60062

P.R.E.I No.: 04-17-202-017-0000

Property of Cook County Clerk's Office

16882236

EXHIBIT B

LEGAL DESCRIPTION OF KOZIOL PARCEL

LOTS 16, 17, 18, 19 AND 20 IN BLOCK 4 IN LEVELVIEW ACRES, A SUBDIVISION OF PART OF THE NORTHEAST ¼ OF SECTION 17 AND PART OF THE SOUTHEAST ¼ OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as 3010, 3020, 3028, 3030 and 3040 Koepke Road, Northbrook, Illinois 60062

P.R.E.I. No.: 04-17-203-016-0000
04-17-203-017-0000
04-17-203-018-0000
04-17-203-019-0000
04-17-203-020-0000

Property of Cook County Clerk's Office

91742091

NOTICE

Notice is hereby given that the following is a true and correct copy of the original as filed in the office of the Clerk of the Court of Cook County, Illinois, on this 1st day of January, 1998.

The following is a true and correct copy of the original as filed in the office of the Clerk of the Court of Cook County, Illinois, on this 1st day of January, 1998.

Property of Cook County Clerk's Office

1998

UNOFFICIAL COPY

PLAT OF CONSOLIDATION



BQX 337

..OF..Lot 20 in Block 4 in Levelview Acres, a subdivision in the Northeast 1/4 of Section 17 and the Southeast quarter of Section 18, Township 42 North, Range 14 East of the Third Principal Meridian, as per plat of said subdivision recorded April 18, 1924 as Document No. 6373176; together with the West half (31.0 feet) of vacated Smith Road, in Cook County, Illinois.

SEND REAL ESTATE TAX BILL TO:
MR. JOHN KOZIOL
KOZIOL CONSTRUCTION, INC
6778 N. NORTHWEST HIGHWAY
CHICAGO, IL 60631

Jefferson State Bank, a state bank and association, as TRUSTEE under a Trust Agreement dated 12/28/88, and known as Trust Number 1769, as owner of the property shown and described hereon, hereby adopts this Plat of Consolidation, establishes the minimum building restriction lines, dedicates the roads, streets, alleys, walks and other areas, indicated thereon, to the public use, if any, and establishes any other easement shown thereon.

DATED: MAY 12, 1994

BY: David Rosenfeld
 Title: Trust Officer

ATTEST: [Signature]
 Title: [Signature]

I DO HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN MY OFFICE ON THIS DAY OF MAY 12, 1994.

State of Illinois) [Signature]
 County of Cook) 6-10-94

a Notary Public in and for said county in the state aforesaid do hereby certify that **DAVID ROSENFELD, TRUST OFFICER**

LEONARD T. SILVESTRI, ASST. TRUST OFFICER generally known to me to be the same persons whose names are subscribed to the foregoing instrument of ownership did appear before me this day in person and did acknowledge that they as such **TRUST OFFICER & ASST. TRUST OFFICER** did sign said certificate as their own free and voluntary act for the uses and purposes therein set forth and intended

DATED: 5-12-94

[Signature]
OFFICIAL SEAL
 Leon T. Silvestri
 Notary Public, State of Illinois
 My Commission Expires 12/31/95

Approved by the President of the Board of Trustees of the Village of Northbrook, Cook County, Illinois

[Signature] Date: 5-12-94
 President

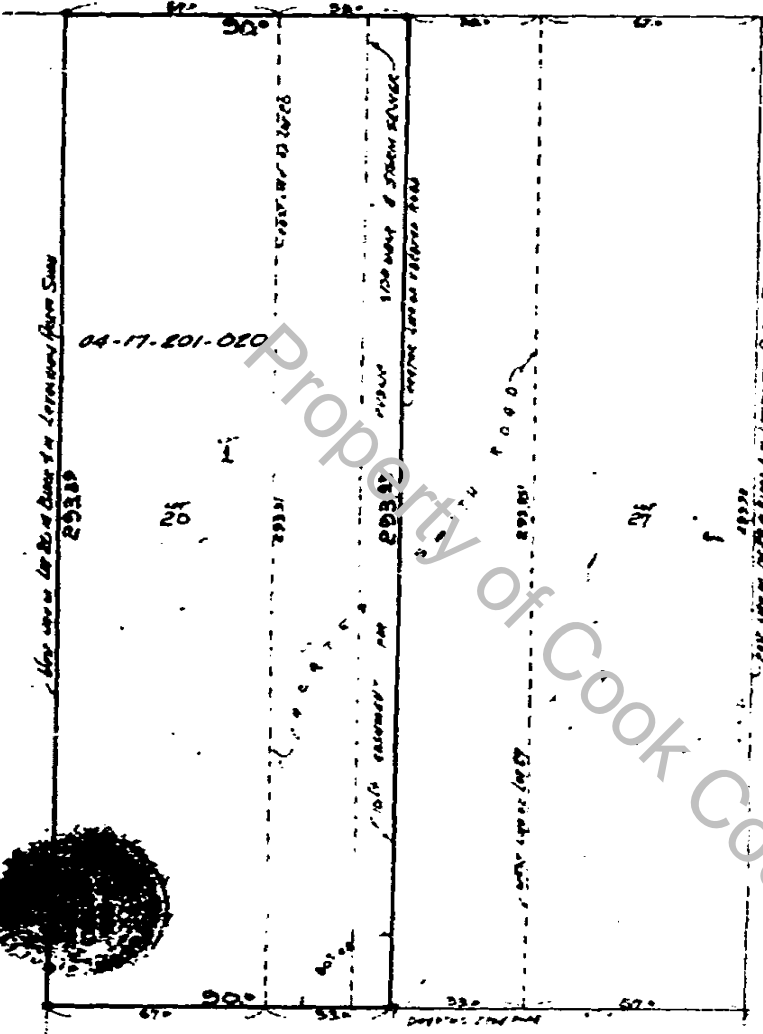
Approved by the Village Engineer of the Village of Northbrook, Cook County, Illinois on this day of May, 1994

I certify that there are no delinquent or current unpaid special assessments on the property shown.

BY: [Signature] Date: 05-21-94
 Village Collector

I HEREBY CERTIFY THIS TO BE A TRUE & EXACT COPY OF THE ORIGINAL
[Signature] 6-10-94
 VILLAGE OF NORTHBROOK
 COOK COUNTY, ILLINOIS

OFFICIAL SEAL
 Robert N. Ungarlicker
 Notary Public, State of Illinois
 My Commission Expires 12/31/95



KOEPKE ROAD

We, NORTH SHORE SURVEY, LTD. hereby certify that we have prepared the plat shown hereon and that it is correct. The iron pipes have been placed in the ground as indicated hereon in accordance with the Northbrook Subdivision and Development Code (1991); that the property is within the corporate limits of the Village of Northbrook, which has adopted an official comprehensive plan; that the property is not within a Special Flood Hazard Area, as identified by the Federal Emergency Management Agency on the most recent Flood Insurance Map Panel F of 1, Community Panel No. 178132 101 C

Dated: DECEMBER 19, 1993
[Signature]
 Registered Illinois Land Surveyor-#35-2232

State of Illinois) County of Cook)
 I, **ROBERT N. UNGARLICKER**, Notary Public in and for said county in the state aforesaid, do hereby certify that **ROBERT N. UNGARLICKER**, personally known to me, to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth and intended

UNOFFICIAL COPY

Property of Cook County Clerk's Office

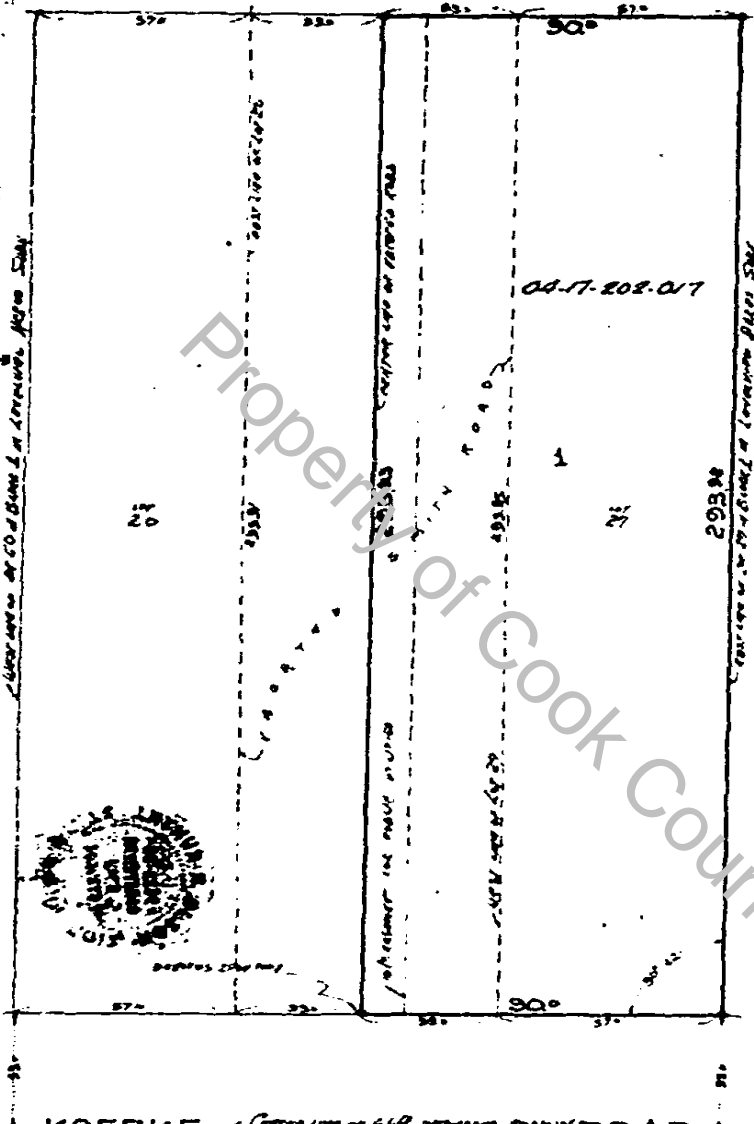
UNOFFICIAL COPY

PLAT OF CONSOLIDATION



..OF..lot 27 in Block 1 in Leveeview Acres, a subdivision in the Northeast quarter of Section 17 and the Southwest quarter of Section 6, in Township 32 North, Range 12 East of the Third Principal Meridian, as per plat of said subdivision recorded April 18, 1974, as Document No. 8373176, together with the East half (33.0 feet) of vacated Smith Road, in Cook County, Illinois.

BOX 337



ALIM INTERNATIONAL, INC., a corporation, as owner of the property shown and described hereon, hereby adopts this plat of consolidation, establishes the minimum building restriction lines, dedicates the roads, streets, alleys, walks, and other areas indicated hereon to the public use; and establishes any other easements shown hereon.
 DATED: 4-30-94

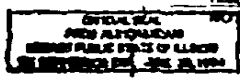
BY: [Signature] Title, President
 ATTEST: [Signature] Title, CPA

State of Illinois)
 County of Cook)
 I, [Signature] Notary Public in and for said county in the state aforesaid do hereby certify that both

[Signature] and [Signature] as OWNER for ALIM INTERNATIONAL, INC. personally known to me to hold the positions indicated hereon and to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they did sign and deliver said instrument as their free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth

Given under my hand and Notarial

and this 30 day of April, 1994



Approved by the President and the Board of Trustees of the Village of Northbrook, Cook County, Illinois

BY: [Signature] President
[Signature] Village Clerk

Approved by the Village Engineer of the Village of Northbrook, Cook County, Illinois.

BY: [Signature] Village Engineer

I certify that there are no delinquent or current unpaid special assessments on the property shown.

BY: [Signature] Collector

KOEPKE ROAD

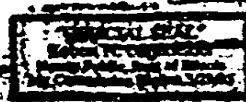
We, NORTH SHORE SURVEY, LTD. hereby certify that we have located the iron pipes in the ground as indicated hereon in accordance with the Northbrook Subdivision and Development Code (1991); that the property is within the corporate limits of the Village of Northbrook, which has adopted an official comprehensive plan, that the property is not within a Special Flood Hazard Area as identified by the Federal Emergency Management Agency on the most recent Flood Insurance Map, Panel 1 of 1, Community Panel No. 170132 201 C

DATED: December 15, 1993
[Signature]
 Registered Illinois Land Surveyor-035-2232

State of Illinois)
 County of Cook)
 I, [Signature], a Notary Public, in and for said county in the state aforesaid do hereby certify that [Signature] personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth

SEND REAL ESTATE TAX BILL TO:
 MR. ISHVAR A. INCHANDANI
 ALIM INTERNATIONAL, INC.
 380 BRAMPTON LANE
 LAKE FOREST, IL 60065

IF YOU FIND ANY DELINQUENT GENERAL TAXES, UNPAID SPECIAL ASSESSMENTS, UNPAID CURRENT SPECIAL ASSESSMENTS OR UNPAID CURRENT SPECIAL ASSESSMENTS AGAINST THE SUBJECT OF LAND IN THE ABOVE PLAT.



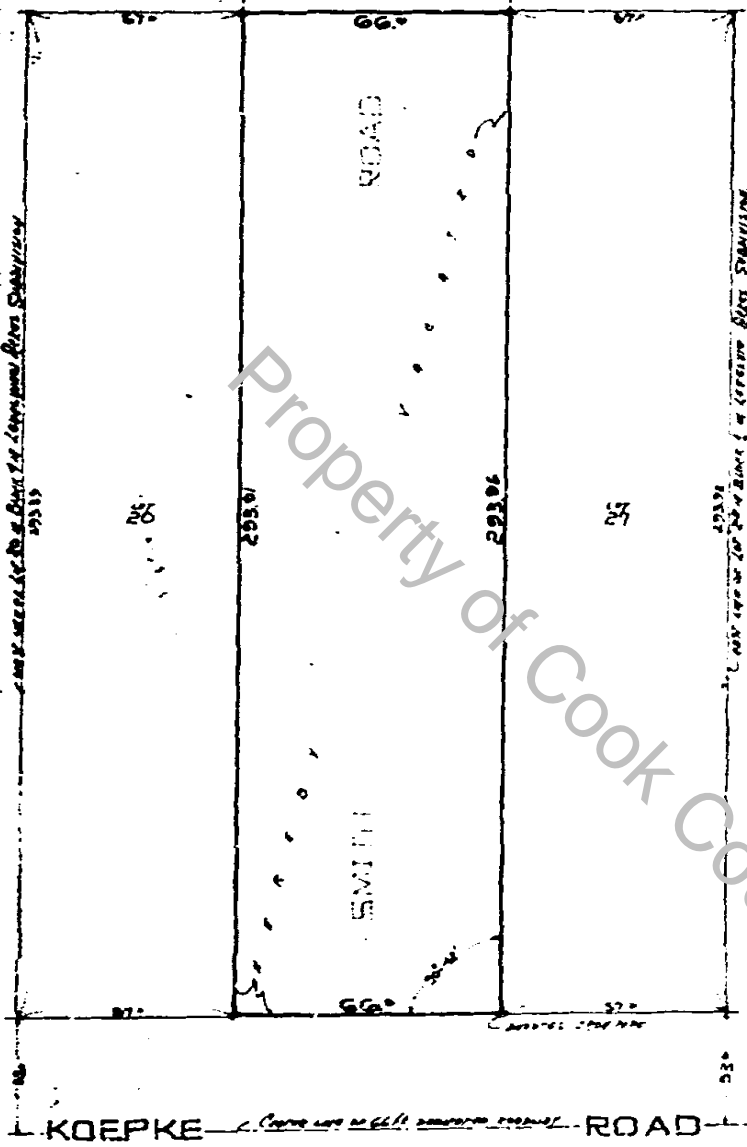
UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

BOX-337

...that part of SMITH ROAD, being a 66 foot right of way being East of and adjoining Lot 20 in Block 4 and adjoining Lot 21 in Block 4 in the Village of Northbrook, a subdivision in the Northeast quarter of Section 17 and the Southeast quarter of Section 8, Township 42 North, Range 12 East of the 2d 2d Principal Meridian, as per plat of said subdivision recorded April 28, 1928 as Document No. 8373176, in Cook County, Illinois.



State of Illinois)
County of Cook)

We, North Shore Survey do hereby certify that we have prepared the plat as hereon shown and that it is correct.

The iron pipes noted hereon have been placed in the ground as indicated, in accordance with the Northbrook Subdivision and Development Code (1971)

The property is within the corporate limits of the Village of Northbrook, which has adopted an official comprehensive plan.

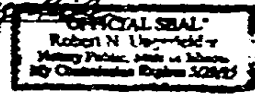
The property is not within a special flood hazard area, as such is identified by the Federal Emergency Management Agency on the most recent Flood Insurance Rate Map as No. 170132 201 C

Arthur P. Olsen Dated: December 13, 1994
Registered Illinois Land Surveyor-#35-2212

State of Illinois)
County of Cook)

I, ROBERT UNGERLIDER, a Notary Public in and for said county in the state aforesaid do hereby certify that ARTHUR S. OLSON, generally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument to his own free and voluntary use for the uses and purposes therein set forth and intended. Given under my hand and Notarial Seal this 13 day of December 1994

BY: *Robert A. Ungersider*
Notary Public



Approved by the Village Engineer of the Village of Northbrook, Cook County, Illinois, this 13 day of December, 1994

BY: *[Signature]*
Village Engineer

I certify that there are no delinquent or current unpaid special assessments on the property shown on this plat.

Dated: 12/24/94
[Signature]
Village Collector

Approved by the President and the Board of Trustees of the Village of Northbrook, Cook County, Illinois, this 13 day of December, 1994

BY: *[Signature]*
President

I OR MY FIELD REPRESENTATIVE HEREBY CERTIFY THAT WE HAVE CURRENT GENERAL PROPERTY TAX SPECIAL ASSESSMENTS BY VARIOUS COUNTY LOCAL AGENCIES AGAINST THE STREETS AND ALLEYS INCLUDED IN THE ABOVE PLAT.

David D. Ory
COUNTY CLERK
DATE 6-2-94

I HEREBY CERTIFY THIS TO BE A TRUE & EXACT COPY OF THE ORIGINAL.

[Signature] 6-17-94
VILLAGE OF NORTHBROOK
COOK COUNTY, ILLINOIS

North Shore Survey, Ltd.
51 Williamsburg Road
Evanston, Illinois-40263

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT E

ORDINANCE NO. 94-_____

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

AN ORDINANCE VACATING A PORTION OF
SMITH ROAD RIGHT-OF-WAY
ADJACENT TO 2990 AND 3010 KOEPKE ROAD

be and is hereby adopted as follows:

Section 1. BACKGROUND.

A recent review of public streets in the Village revealed that there are a number of public streets that have never been developed as streets and do not connect, or do not have the potential to be connected in the future, to other public streets in the Village street system. Most of these street stubs are not paved or otherwise improved for street purposes, but may contain public walkways and public utilities.

Upon review of these stubs, it was determined that owners of residential properties adjacent to the stubs might find it desirable to acquire title to a portion of the street stub adjacent to their property. A survey of such owners has identified those owners that are interested in taking title to a portion of the adjacent stub. The Village has the power to vacate these street stubs pursuant to Section 11-91-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-91-1 et seq. (1992), and its home rule powers.

Alim International, Inc., Jefferson State Bank, as Trustee under a Trust Agreement dated October 10, 1991 and known as Trust Number 1769, and John Koziol, individually and as beneficiary of the aforesaid trust in his capacity as Trustee of the John Koziol Declaration of Trust dated October 19, 1989 (collectively the "Owners") have petitioned for the vacation of a portion of Smith Road between 2990 and 3010 Koepke Road. In consideration for the vacation of said right-of-way, the Owners have entered into a Public Right-of-Way Vacation Agreement with the Village. Pursuant to that Agreement, the Owners have agreed to construct certain improvements, including sidewalks, a new water main and storm water detention facilities.

Section 2. VACATION RECOMMENDED.

The Village Board of Trustees does hereby determine that there is no public benefit to be obtained by the Village's continued ownership of the street stub adjacent to the properties

commonly known as 2990 and 3010 Koepke Road described in this Ordinance. The Village Board of Trustees further determines that it would be in the best interests of the public to vacate this previously dedicated street stub.

Section 3. CERTIFICATION.

The Village Board of Trustees does hereby certify that the right-of-way described in Section 4 below is located entirely within the corporate limits of the Village of Northbrook and is subject to the jurisdiction of the Village of Northbrook.

Section 4. VACATION.

Subject to and contingent on the prior satisfaction of the conditions stated in Section 6 of this Ordinance, the portion of public street legally described on the Plat of Vacation, prepared by North Shore Survey, Ltd., dated December 13, 1993, consisting of one sheet, attached to and made a part of this Ordinance as Exhibit A (the "Vacated Street"), is hereby vacated and closed to the public use, with title to the Vacated Street transferring equally to the owners of the residential lots adjacent thereto.

Section 5. EASEMENTS RESERVED.

Perpetual easements are hereby reserved as follows:

- a. in the Vacated Street, for those public utility facilities existing on the date of adoption of this Ordinance, including without limitation any water, sanitary sewer, storm sewer, electric, natural gas, cable television and telephone, including only the right to survey, operate, use, maintain, own, test, inspect, and repair such existing public utility facilities; and
- b. in a ten (10) foot wide strip of land, the west line of which is the center line of the Vacated Street, for public water main purposes, and including the right to survey, construct, operate, use, maintain, own, test, inspect, repair, renew, alter, remove, replace or abandon in place such public water mains and appurtenances thereto across, through and under such portion of the Vacated Street; and
- c. in a ten (10) foot wide strip of land, the east line of which is the center line of the Vacated Street, for public sidewalk and storm sewer purposes; and including the right to survey, construct, operate, use, maintain, own, test,

1620216

inspect, repair, renew, alter, remove, replace or abandon in place such sidewalks and storm sewers and appurtenances thereto across, through and under such portion of the Vacated Street; and

- d. in a ten (10) foot wide strip of land, the center line of which is the center line of the Vacated Street, for public utility purposes, including without limitation water, sanitary sewer, storm sewer, electric, natural gas, cable television and telephone and including the right to survey, construct, operate, use, maintain, own, test, inspect, repair, renew, alter, remove, replace or abandon in place such public utilities and appurtenances thereto across, through and under such portion of the Vacated Street.

However, no public utility may exercise any rights under this reservation of easement rights without the express prior written consent of the Village of Northbrook Village Engineer.

Section 6. CONDITION OF VACATION.

The vacation of the Vacated Street provided for in Section 4 of this Ordinance is expressly made subject to and contingent upon payment by each adjacent owner of one-half of the costs and expenses related to the vacation of the Vacated Street.

Section 7. RECORDATION.

The Village Manager is hereby authorized and directed to cause a certified copy of this Ordinance, together with the Plat of Vacation, to be recorded with the Cook County Recorder of Deeds upon compliance with all the conditions and requirements of this Ordinance.

Section 8. EFFECTIVE DATE.

This Ordinance shall be in full force and effect only upon, and not before:

- a. passage and approval by three-fourths of the Trustees now holding office;
- b. publication in pamphlet form;
- c. recordation of this Ordinance; and
- d. satisfaction of the conditions set forth in Section 6 above.

9452291

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT F

RESOLUTION NO. 94-R-

Pursuant to the Village of Northbrook's plan to dispose of certain public street stubs that have never been developed as streets and that are no longer necessary to the operation, maintenance or extension of the Village street system, the Village has authorized the vacation of those street stubs and their subsequent consolidation with the properties adjacent thereto.

Palim International, Inc., Jefferson State Bank, as Trustee under a Trust Agreement dated October 10, 1991 and known as Trust Number 1769, and John Koziol, individually and as beneficiary of the aforesaid trust in his capacity as Trustee of the John Koziol Declaration of Trust dated October 19, 1989 (collectively the "Owners") have petitioned for the vacation of a portion of Smith Road between 2990 and 3010 Koepke Road. In consideration for the vacation of said right-of-way, the Owners have entered into a Public Right-of-Way Vacation Agreement with the Village. Pursuant to that Agreement, the Owners have agreed to construct certain improvements, including sidewalks, a new water main and storm water detention facilities.

Pursuant to that agreement, the Village has agreed to vacate the street stub adjacent to their properties, and consolidate their share of the vacated street with their adjacent properties as a condition of the vacation. That vacation was approved by the Village as Ordinance No. 94-_____.

Consolidation of land is considered a minor subdivision procedure under the Northbrook Subdivision and Development Code. Staff has reviewed the proposed Plat of Consolidation and recommends approval by the Board of Trustees pursuant to Section 3-303 of that 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 Plat of Consolidation, prepared by North Shore Survey, Ltd., dated December 13, 1993, consisting of one sheet, is hereby approved.

Section 2.

This Resolution shall be effective only upon the effective date of Ordinance No. 94-_____.

16522391

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 3.

The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, the Plat of Consolidation, contingent upon certification on the plat by proper County officials as to the absence of property tax delinquency and all other certifications as necessary.

Section 4.

The Village Manager is authorized and directed to record the Plat of Consolidation with the Cook County Recorder of Deeds following the effective date of this Resolution and the completion of all related necessary administrative details.

PASSED: This ____ day of _____, 1994.

AYES: ()

NAYS: ()

Village President

ATTEST:

Village Clerk

Property of Cook County Clerk's Office

EXHIBIT G

FORM OF RESTRICTIVE COVENANT FOR STORM WATER DETENTION AREA EASEMENTS AND MAINTENANCE

THIS RESTRICTIVE COVENANT is made this ____ day of _____, 199__, by [FULL NAME OF PROPERTY OWNER], [TYPE OF ENTITY] ("Owner"), the owner of record title to the parcel of real estate located in the Village of Northbrook, Cook County, Illinois commonly known as [STREET ADDRESS], and legally described in Exhibit A attached to and made a part of this Restrictive Covenant by this reference (the "Subject Property").

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

1. Background.

A. Pursuant to a Public Right-of-Way Vacation Agreement with the Village of Northbrook (the "Village"), Owner was required to establish storm water detention easements and standards for the maintenance of those areas to ensure proper management of storm water for the Subject Property.

B. Owner desires to formalize the necessary storm water easements and the agreement regarding the maintenance and use of the Storm Water Detention Area.

2. Grant of Easements.

A. Owner hereby establishes, for the use and benefit of the Subject Property and lands adjacent to the Subject Property or any part thereof, a perpetual easement and right of use appurtenant to and for the benefit of the Subject Property and adjacent lands on, under, over, and across that portion of the Subject Property legally described on Exhibit B attached to and made a part of this Restrictive Covenant by this reference (the "Storm Water Detention Area"), for the sole purpose of storm water detention and drainage.

Prepared by:
Burke, Weaver & Prell
55 W. Monroe, Suite 800
Chicago, Illinois 60603
(312) 263-3600

After recording, return to:
Recorder's Box 337

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

3. Maintenance of Storm Water Detention Area.

A. No change shall be made in the finished grade of the land within the Storm Water Detention Area, and no construction of any kind whatsoever shall be erected or permitted to exist within the Storm Water Detention Area that might materially impede storm water drainage therein or materially reduce the storm water detention capacity thereof. Trees, shrubs, fences and normal landscape planting shall be permitted within the Storm Water Detention Area only with the prior written approval of the Village Manager of the Village.

B. The Owners, at their sole cost and expense, shall cooperatively supervise, operate, manage, maintain and keep in good repair the Storm Water Detention Area and shall keep such Facilities clear and reasonably free of obstructions of every nature, and shall provide adequate drainage therefor. Operation and maintenance of the Storm Water Detention Area shall include, but not be limited to, the furnishing of and/or payment of or for electricity, water, gas, sewer use fees if any, labor, cleaning, policing, maintenance equipment and tools, insurance, and all other things reasonably necessary for the everyday maintenance of the Storm Water Detention Area. All such costs shall be paid by the Owner. No obstructions may be erected or permitted upon the Storm Water Detention Area or the Subject Property that will in any way unreasonably interfere with any rights created by this Agreement.

C. If the Owner fails to operate, maintain, and keep in good repair the Storm Water Detention Area, then the Village may so operate, maintain, or repair such premises and thereafter submit to the Owner the costs and expenses thereby incurred, along with copies of all bills and invoices to evidence such written demand. Payment of sums so demanded must be made within thirty (30) days after receipt of such demand.

D. In the event of a failure by the Owner to pay sums properly due and payable hereunder within thirty (30) days after receipt of written demand for payment thereof, then, in addition to any other remedies or rights available to it at law or in equity, the Village shall have a lien against the lot or parcel owned by the defaulting party to secure payment of all amounts as properly due hereunder. Such lien shall arise immediately upon recording of a notice of lien in the Office of the Recorder of Deeds of Cook County, Illinois, identifying this Agreement, the parties hereto, the date of recording this Agreement, the document number of such recording, the legal description of the lot or parcel owned by the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

defaulting party, the name of the defaulting party and the amounts then due and payable hereunder. Such lien shall remain in full force and effect until such amounts are paid in full. Said lien may be foreclosed by proceeding at law or in equity. Notwithstanding the foregoing, any first mortgage encumbrance owned or held by a bank or insurance company, savings and loan association, or other such person or entity engaged in the business of making real estate loans, recorded against the lot or parcel of the defaulting party prior to the date any lien authorized hereunder is recorded, which by law would be a lien having priority over the lien authorized hereunder, shall have priority, except as to any amounts which may properly become due and payable from and after the date on which the said first mortgage encumbrance is foreclosed and the holder thereof takes possession of the lot or parcel or accepts a conveyance of interest therein (other than as security). The holder of a first mortgage encumbrance shall not be personally liable for any sums due and payable hereunder accrued before the date on which the first mortgage encumbrance is foreclosed and the holder thereof takes possession of the lot or parcel and accepts a conveyance of any interest therein (other than as security).

4. Retained Rights. The Owner retains the right to use the Storm Water Detention Area in any manner that will not prevent or interfere with the exercise of the mutual rights granted hereunder.

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

6. Covenants Running with the Land. The easements hereby granted, the restrictions hereby imposed and the agreements herein contained shall be easements, restrictions and agreements running with the land and shall be binding upon and inure to the benefit of the Owner of the Subject Property and its respective heirs, executors, administrators, successors, assigns and legal representatives, including, without limitation, all subsequent Owners of the Subject Property or any portion thereof, and all persons claiming under them.

11-11-11

UNOFFICIAL COPY

EXECUTION COPY

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

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

9. Enforcement. The parties hereto do hereby recognize and agree that the Village of Northbrook has a valid interest in ensuring that the covenants are properly performed and therefore do hereby grant unto the Village of Northbrook the right to enforce these covenants, by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction contained herein, either to restrain violation, to compel affirmative action or to recover damages, and against the land to enforce any lien created by the covenants. These covenants may also be enforced in said manner by the Owner. In addition, the Village may exercise any of the rights granted to the parties in Section 3 of the Agreement. The Village shall be under no obligation to exercise the rights granted in this covenant except as it shall determine to be in its best interest. No failure to exercise at any time any right herein granted to the Village shall be construed as a waiver of that or any other rights.

10. Amendment of Agreement. This instrument may be modified, amended or annulled only by written agreement of the parties and only upon the express, prior written approval of the Village Manager of the Village of Northbrook.

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

12. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be deemed one original document notwithstanding that one or more parties may not have executed any one counterpart.

UNOFFICIAL COPY

EXECUTION COPY

ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

This instrument was acknowledged before me on _____,
1994, by _____, President of _____,
and by _____, Secretary of said corporation.

Signature of Notary

SEAL

Property of Cook County Clerk's Office

10000000

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT A TO RESTRICTIVE COVENANT
FOR STORM WATER DETENTION AREA
EASEMENTS AND MAINTENANCE

[INSERT LEGAL DESCRIPTION]

Commonly known as _____, Northbrook,
Illinois 60062

Permanent Real Estate Index No. _____

Property of Cook County Clerk's Office

4488288

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT B TO RESTRICTIVE COVENANT
FOR STORM WATER DETENTION AREA
EASEMENTS AND MAINTENANCE

[INSERT LEGAL DESCRIPTION]

Commonly known as _____, Northbrook, Illinois
60062

Permanent Real Estate Index No. _____

Property of Cook County Clerk's Office

16222726

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT H

FORM OF IRREVOCABLE LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT NO. _____ AMOUNT: _____

EXPIRATION DATE: _____ DATE OF ISSUE: _____

[Name of Bank]

[Address]

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

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

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

Drawn under _____

Credit No. _____ Dated: _____

and shall be in a form substantially similar to the form attached hereto as Exhibit "A" and shall be accompanied by one of the following documents executed by the Village Manager, or the successor to his responsibilities:

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

(b) A written statement on a form substantially similar to the form attached hereto as Exhibit "C" stating that all or any part of the improvements required to be constructed pursuant to

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

Section 8 of the Public Right-of-Way Vacation Agreement dated _____ by, between and among the Village of Northbrook, Alim International, Inc., Jefferson State Bank, as Trustee u/t/a No. 1769 and John Koziol, individually and as Trustee under the John Koziol Declaration of Trust (the "Agreement") have not been constructed in accordance with the Agreement; or

(c) A written statement on a form substantially similar to 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.

EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS LETTER OF CREDIT, THIS LETTER OF CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 1983 REVISION, INTERNATIONAL CHAMBER OF COMMERCE BROCHURE NO. 400" (THE "UNIFORM RULES"). IN THE EVENT OF A CONFLICT BETWEEN THIS LETTER OF CREDIT AND THE UNIFORM RULES, THIS LETTER OF CREDIT SHALL CONTROL.

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

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

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

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

4. This Letter of Credit shall expire on _____, 19____, as stated hereinabove; provided, however, that we shall notify the Northbrook Village Manager by certified mail, return receipt requested, at least 35 days prior to said expiration date, that this Letter of Credit is about to expire.

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

16622155

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

9 4 EXECUTION COPY

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

7. The aggregate amount of this Letter of Credit may be reduced by the Customer only upon receipt by us of a document executed by the Northbrook Village Manager stating that such aggregate amount shall be reduced in the amount specified by the Village Engineer because of the satisfactory completion of all or part of the improvements required to be constructed pursuant to Section 8 of the Agreement.

8. This Letter of Credit is irrevocable.

[Signature of Bank Officer]

[Signature of Bank Officer]

[Officer's Title]

[Officer's Title]

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "A" TO FORM OF IRREVOCABLE LETTER OF CREDIT

FORM OF DRAFT

[To Be Supplied By Issuing Bank]

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "B" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

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

Very truly yours,

Northbrook Village Manager

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

9 4 2 0 0 1 . EXECUTION COPY

EXHIBIT "C" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the improvements required to be constructed pursuant to Section _____ of the Public Right-of-Way Vacation Agreement dated _____ by and between the Village of Northbrook and _____ have not been constructed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "D" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re. Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the costs, payments, permit fees or other fees required to be paid pursuant the Public Right-of-Way Vacation Agreement dated _____ by and between the Village of Northbrook and _____ have not been paid in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

10000000

5 0 0 9 4 3 1 2 7 9
UNOFFICIAL COPY

Property of Cook County Clerk's Office

915122491

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY BOX 337

RESOLUTION NO. 94-R-58

Pursuant to the Village of Northbrook's plan to dispose of certain public street stubs that have never been developed as streets and that are no longer necessary to the operation, maintenance or extension of the Village street system, the Village has authorized the vacation of those street stubs and their subsequent consolidation with the properties adjacent thereto so long as certain requirements appropriate to the individual properties are met.

Alim International, Inc., Jefferson State Bank, as Trustee under a Trust Agreement dated October 10, 1991 and known as Trust Number 1769, and John Koziol, individually and as beneficiary of the aforesaid trust in his capacity as Trustee of the John Koziol Declaration of Trust dated October 19, 1989 (collectively the "Owners") have petitioned for the vacation of a portion of Smith Road between 2990 and 3010 Koepke Road.

The Owners have proposed to enter into a Public Right-of-Way Vacation Agreement with the Village, pursuant to which the Owners have agreed to construct certain improvements, including sidewalks, a new water main and storm water detention facilities in a coordinated fashion. That agreement provides that the Village will vacate the street stub of Smith Road between the Owners' properties to create consolidated lots including the vacated street.

The Village Attorney has prepared, and Staff has reviewed, the proposed Public Right-of-Way Vacation Agreement. Based on that process, approval by Board of Trustees is recommended.

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 Public Right-of-Way Vacation Agreement by, between and among Alim International, Inc., Jefferson State Bank, as Trustee under a Trust Agreement dated October 10, 1991 and known as Trust Number 1769, and John Koziol, individually and as beneficiary of the aforesaid trust in his capacity as Trustee of the John Koziol Declaration of Trust dated October 19, 1989, and the Village is hereby approved.

Section 2.

The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, the Public Right-of-Way Vacation Agreement upon receipt of at least four copies fully executed by the Owners.

Section 3.

The Village Manager is authorized and directed to record the Public Right-of-Way Vacation Agreement with the Cook County Recorder of Deeds following the completion of all related necessary administrative details.

PASSED: This 12th day of April, 1994.

AYES: (5)

NAYS: (0)

/s/ Mark W. Damisch

Village President

ATTEST: /s/ Lona N. Louis

Village Clerk

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

4/12/94
Date

Lona N. Louis

Village Clerk

4682200

Property of Cook County Clerk's Office

91542194