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COOK COUNTY, ILLINOIS  
FILED FOR RECORD

1994 SEP -1 AM 10: 07

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(Space above this line for recording purposes)

**REAL ESTATE MORTGAGE**  
To Secure a Construction Loan  
From STATE BANK OF COUNTRYSIDE

1. DATE AND PARTIES. The date of this Real Estate Mortgage (Mortgage) is August 19, 1994, and the parties and their mailing addresses are the following:

**MORTGAGOR:**  
FERRUCCI BUILDERS  
an ILLINOIS corporation  
8208 WALNUT  
TINLEY PARK, ILLINOIS, 60477

**BANK:**  
STATE BANK OF COUNTRYSIDE  
an ILLINOIS banking corporation  
8734 Joliet Road  
Countryside, Illinois 60525  
Tax I.D. # 36-2814456  
(as Mortgagee)

2900  
*[Signature]*

2. OBLIGATIONS DEFINED. The term "Obligations" is defined as and includes the following:  
A. A promissory note, No. \_\_\_\_\_, (Note) dated August 19, 1994, with a maturity date of August 19, 1995, and executed by FERRUCCI BUILDERS (Borrower) payable to the order of Bank, which evidences a loan (Loan) to Borrower in the amount of \$150,000.00, plus interest, and all extensions, renewals, modifications or substitutions thereof.  
B. All future advances by Bank to Borrower, to Mortgagee, to any one of them or to any one of them and others (and all other obligations referred to in the subparagraph(s) below, whether or not this Mortgage is specifically referred to in the evidence of indebtedness with regard to such future and additional indebtedness).  
C. All additional sums advanced, and expenses incurred, by Bank for the purpose of insuring, preserving or otherwise protecting the Property (as herein defined) and its value, and any other sums advanced, and expenses incurred by Bank pursuant to this Mortgage, plus interest at the same rate provided for in the Note computed on a simple interest method.  
D. All other obligations, now existing or hereafter arising, by Borrower owing to Bank to the extent the taking of the Property (as herein defined) as security therefor is not prohibited by law, including but not limited to liabilities for overdrafts, all advances made by Bank on Borrower's, and/or Mortgagee's, behalf as authorized by this Mortgage and liabilities as guarantor, endorser or surety, of Borrower to Bank, due or to become due, direct or indirect, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several.  
E. Borrower's performance of the terms in the Note or Loan, Mortgagee's performance of any terms in this Mortgage, and Borrower's and Mortgagee's performance of any terms in any deed of trust, any trust deed, any trust indenture, any other mortgage, any deed to secure debt, any security agreement, any assignment, any construction loan agreement, any loan agreement, any assignment of beneficial interest, any guaranty agreement or any other agreement which secures, guarantees or otherwise relates to the Note or Loan.

However, this Mortgage will not secure another debt:  
A. If Bank fails to make any disclosure of the existence of this Mortgage required by law for such other debt.

3. MAXIMUM OBLIGATION LIMIT. The total principal amount of the Obligations secured by this Mortgage, not including, however, any sums advanced for the protection of the Property or Bank's interest therein, nor interest, attorneys' fees, legal fees, costs and other legal expenses, shall not exceed the sum of \$150,000.00, provided, however, that nothing contained herein shall constitute a commitment to make additional or future loans or advances in any amounts.

4. CONVEYANCE. In consideration of the Loan and Obligations, and to secure the Obligations (which includes the Note according to its specific terms and the obligations in this Mortgage), Mortgagee hereby bargains, grants, mortgages, sells, conveys and warrants to Bank, as Mortgagee, the following described property (Property) situated in COOK County, ILLINOIS, to-wit:

LOT 118 IN TIMBERS ESTATES PHASE 1, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 27 AND THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. P.I.N. 27-27-306-014-0000

The Property may be commonly referred to as 17441 CAMBRIDGE, TINLEY PARK, IL

such property not constituting the homestead of Borrower, together with all buildings, improvements, fixtures and equipment now or hereafter attached to the Property, including, but not limited to, all heating, air conditioning, ventilation, plumbing, cooling, electrical and lighting fixtures and equipment; all landscaping; all exterior and interior improvements; all easements, issues, rights, appurtenances, rents, royalties, oil and gas rights, privileges, proceeds, profits, other minerals, water, water rights, and water stock, crops, grass and timber at any time growing upon said land, including replacements and additions thereto, all of which shall be deemed to be and remain a part of the Property. All of the foregoing Property shall be collectively hereinafter referred to as the Property. To have and to hold the Property, together with the rights, privileges and appurtenances thereto belonging, unto Bank forever to secure the Obligations. Mortgagee does hereby warrant and defend the Property unto Bank forever, against any claim or claims, of all persons claiming or to claim the Property or any part thereof. Mortgagee further releases and waives all rights under and by virtue of the homestead laws and exemption laws of the state of ILLINOIS.

5. LIENS AND ENCUMBRANCES. Mortgagee warrants and represents that the Property is free and clear of all liens and encumbrances whatsoever. Mortgagee agrees to pay all claims when due that might result, if unpaid, in the foreclosure, execution or imposition of any lien, claim or encumbrance on or against the Property or any part thereof. Mortgagee may in good faith contest any such lien, claim or encumbrance by posting any bond in an amount necessary to prevent such claim from becoming a lien, claim or encumbrance or to prevent its foreclosure or execution.

6. CONSTRUCTION LOAN. This is a construction loan in that the Obligations secured by this Mortgage are incurred in whole or in part for the construction of an improvement of land. Mortgagee acknowledges and agrees that Bank is not trustee for the benefit of the contractor, subcontractor or materialmen and that such contractor, subcontractor or materialmen do not have equitable liens on the loan proceeds and that they do not have third-party beneficiary status to any of the loan proceeds.

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STATE OF ILLINOIS

CLERK OF COURT

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If an insurer elects to pay a fire or other hazard loss or damage claim rather than to repair, rebuild or replace the Property lost or damaged, Bank shall have the option to apply such insurance proceeds upon the Obligations secured by this Mortgage or to have said Property repaired or rebuilt. Mortgagor shall deliver or cause to deliver evidence of such coverage and copies of all notices and renewals relating thereto. Bank shall be entitled to pursue any claim under the insurance if Mortgagor fails to promptly do so.

Mortgagor shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates. In the event Mortgagor fails to pay such premiums, Bank may, at its option, pay such premiums. Any such payment by Bank shall be repayable upon demand of Bank or if no demand is made, in accordance with the paragraph below titled "BANK MAY PAY".

15. **WASTE.** Mortgagor shall not alienate or encumber the Property to the prejudice of Bank, or commit, permit or suffer any waste, impairment or deterioration of the Property, and regardless of natural depreciation, shall keep the Property and all its improvements at all times in good condition and repair. Mortgagor shall comply with and not violate any and all laws and regulations regarding the use, ownership and occupancy of the Property. Mortgagor shall perform and abide by all obligations and restrictions under any declarations, covenants and other documents governing the use, ownership and occupancy of the Property.
16. **CONDITION OF PROPERTY.** As to the Property, Mortgagor shall:
  - A. keep all buildings occupied and keep all buildings, structures and improvements in good repair.
  - B. refrain from the commission or allowance of any acts of waste or impairment of the value of the Property or improvements thereon.
  - C. not cut or remove, or permit to be cut or removed, any wood or timber from the Property, which cutting or removal would adversely affect the value of the Property.
  - D. prevent the spread of noxious or damaging weeds, preserve and prevent the erosion of the soil and continuously practice approved methods of farming on the Property if used for agricultural purposes.
17. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.**
  - A. As used in this paragraph:
    - (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA", 42 U.S.C. 9601 et seq.), all federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a Hazardous Substance (as defined herein).
    - (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristic which render the substance dangerous or potentially dangerous to the public health, safety, welfare or the environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.
  - B. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
    - (1) No Hazardous Substance has been, is or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
    - (2) Mortgagor has not and shall not cause, contribute to or permit the release of any Hazardous Substance on the Property.
    - (3) Mortgagor shall immediately notify Bank if: (a) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (b) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.
    - (4) Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (a) any Hazardous Substance located on, under or about the Property or (b) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor shall immediately notify Bank in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Bank has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
    - (5) Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
    - (6) There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well shall be added unless Bank first agrees in writing.
    - (7) Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
    - (8) Mortgagor will permit, or cause any tenant to permit, Bank or Bank's agent to enter and inspect the Property and review all records at any reasonable time to determine: (a) the existence, location and nature of any Hazardous Substance on, under or about the Property; (b) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; (c) whether or not Mortgagor and any tenant are in compliance with any applicable Environmental Law.
    - (9) Upon Bank's request, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Bank. The choice of the environmental engineer who will perform such audit is subject to the approval of Bank.
    - (10) Bank has the right, but not the obligation, to perform any of Mortgagor's obligations under this paragraph at Mortgagor's expense.
    - (11) As a consequence of any breach of any representation, warranty or promise made in this paragraph, (a) Mortgagor shall indemnify and hold Bank and Bank's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and reasonable attorneys' fees, which Bank and Bank's successors or assigns may sustain; and (b) at Bank's discretion, Bank may release this Mortgage and in return Mortgagor will provide Bank with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Bank's rights under this Mortgage.
    - (12) Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this paragraph shall survive foreclosure or satisfaction of any deed of trust, mortgage or any obligation regardless of any passage of title to Bank or any disposition by Bank of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
18. **INSPECTION BY BANK.** Bank or its agents may make or cause to be made reasonable entries upon the Property and the Property provided that Bank shall make reasonable efforts to give Mortgagor prior notice of any such inspection.
19. **PROTECTION OF BANK'S SECURITY.** If Mortgagor fails to perform any covenant, obligation or agreement contained in the Note, this Mortgage or any loan documents or if any action or proceeding is commenced which materially affects Bank's interest in the Property, including, but not limited to, foreclosure, eminent domain, insolvency, housing or Environmental Law or law enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Bank, at Bank's sole option, may make such appearances, disburse such sums, and take such action as is necessary to protect Bank's interest. Mortgagor hereby assigns to Bank any right Mortgagor may have by reason of any prior encumbrance on the Property or by law or otherwise to cure any default under said prior encumbrance. Without Bank's prior written consent, Mortgagor will not partition or subdivide the Property.
20. **COLLECTION EXPENSES.** In the event of any default or action by Bank for collection of the Obligations, for protection of the Property or for foreclosure, Mortgagor agrees to pay all fees and expenses incurred by Bank. Such fees and expenses include but are not limited to filing fees, stenographer fees, witness fees, costs of publication, foreclosure minutes, and other expenses of collecting and enforcing the Obligations and protecting the Property. Any such collection expenses shall be added to the principal amount of the Obligations, shall accrue interest at the same rate as the Obligations and shall be secured by this Mortgage.
21. **ATTORNEYS' FEES.** In the event of any default or action by Bank for collection of the Obligations, for protection of the Property or for foreclosure, Mortgagor agrees to pay reasonable attorneys' fees, paralegal fees and other legal expenses incurred by Bank. Any such reasonable attorneys' fees shall be added to the principal amount of the Obligations, shall accrue interest at the same rate as the Obligations and shall be secured by this Mortgage.
22. **CONDEMNATION.** In the event all or any part of the Property (including but not limited to any easement therein) is sought to be taken by private taking or by virtue of the law of eminent domain, Mortgagor will promptly give written notice to Bank of the institution of such proceedings. Mortgagor further agrees to notify Bank of any attempt to purchase or appropriate the Property or any easement therein, by any public authority or by any other person or corporation claiming or having the right of eminent domain or appropriation. Mortgagor further agrees and directs that all condemnation proceeds or purchase money which may be agreed upon or which may be found to be due shall be paid to Bank as a prepayment under the Note. Mortgagor also agrees to notify the Bank of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part thereof. All awards payable for the taking of title to, or

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possession of, or damage to all or any portion of the Property by reason of any private taking, condemnation, eminent domain, change of grade, or other proceeding shall, at the option of Bank, be paid to Bank. Such awards or compensation are hereby assigned to Bank, and judgment therefor shall be entered in favor of Bank.

When paid, such awards shall be used, at Bank's option, toward the payment of the Obligations or payment of taxes, assessments, repairs or other items provided for in this Mortgage, whether due or not, all in such order and manner as Bank may determine. Such application or release shall not cure or waive any default. In the event Bank deems it necessary to appear or answer in any condemnation action, hearing or proceeding, Mortgagor shall hold Bank harmless from and pay all legal expenses, including but not limited to reasonable attorneys' fees and paralegal fees, court costs and other expenses.

23. **OTHER PROCEEDINGS.** If any action or proceeding is commenced to which Bank is made or chooses to become a party by reason of the execution of the Note, this Mortgage, any loan documents or the existence of any Obligations or in which Bank deems it necessary to appear or answer in order to protect its interests, Mortgagor agrees to pay and to hold Bank harmless for all liabilities, costs and expenses paid or incurred by Bank in such action or proceedings, including but not limited to reasonable attorneys' fees, paralegal fees, court costs and all other damages and expenses.

24. **WAIVER BY MORTGAGOR.** To the extent not specifically prohibited by law, Mortgagor hereby waives and releases any and all rights and remedies Mortgagor may now have or acquire in the future relating to:

- A. homestead;
- B. exemptions as to the Property;
- C. redemption;
- D. right of reinstatement;
- E. appraisal;
- F. marshalling of liens and assets; and
- G. statutes of limitations.

In addition, redemption by Mortgagor after foreclosure sale is expressly waived to the extent not prohibited by law.

25. **PARTIAL FORECLOSURE.** In case of default in the payment of the Obligations or in case of payment by Bank of any tax, insurance premium, cost or expense or the filing, imposition or attachment of any lien, judgment or encumbrance, Bank shall have the right, without declaring the whole indebtedness due and payable, to foreclose against the Property or any part thereof on account of such specific default. This Mortgage shall continue as a lien on any of the property not sold on foreclosure for such unpaid balance of the Obligations.

26. **BANK MAY PAY.** If Mortgagor fails to pay when due any of the items it is obligated to pay or fails to perform when obligated to perform, Bank may, at its option:

- A. pay, when due, installment of principal, interest or other obligations, in accordance with the terms of any mortgage or assignment of beneficial interest senior to that of Bank's lien interest;
- B. pay, when due, installments of any real estate tax imposed on the Property; or
- C. pay or perform any other obligation relating to the Property which affects, at Bank's sole discretion, the interest of Bank in the Property.

Mortgagor agrees to indemnify Bank and hold Bank harmless for all the amounts so paid and for Bank's costs and expenses, including reasonable attorneys' fees and paralegal fees.

Such payments when made by Bank shall be added to the principal balance of the Obligations and shall bear interest at the rate provided for by the Note as of the date of such payment. Such payments shall be a part of this lien and shall be secured by this Mortgage, having the benefit of the lien and its priority. Mortgagor agrees to pay and to reimburse Bank for all such payments.

**27. GENERAL PROVISIONS.**

- A. **TIME IS OF THE ESSENCE.** Time is of the essence in Mortgagor's performance of all duties and obligations imposed by this Mortgage.
- B. **NO WAIVER BY BANK.** Bank's course of dealing, or Bank's forbearance from, or delay in, the exercise of any of Bank's rights, remedies, privileges or right to insist upon Mortgagor's strict performance of any provisions contained in this Mortgage, or other loan documents, shall not be construed as a waiver by Bank, unless any such waiver is in writing and is signed by Bank. The acceptance by Bank of any sum in payment or partial payment on the Obligations after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Bank's right to require full and complete cure of any existing default for which such actions by Bank were taken or its right to require prompt payment when due of all other remaining sums due under the Obligations, nor will it cure or waive any default not completely cured or any other defaults, or operate as a defense to any foreclosure proceedings or deprive Bank of any rights, remedies and privileges due Bank under the Note, this Mortgage, other loan documents, the law or equity.
- C. **AMENDMENT.** The provisions contained in this Mortgage may not be amended, except through a written amendment which is signed by Mortgagor and Bank.
- D. **INTEGRATION CLAUSE.** This written Mortgage and all documents executed concurrently herewith, represent the entire understanding between the parties as to the Obligations and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.
- E. **FURTHER ASSURANCES.** Mortgagor, upon request of Bank, agrees to execute, acknowledge, deliver and record or file such further instruments or documents as may be required by Bank to secure the Note or confirm any lien.
- F. **GOVERNING LAW.** This Mortgage shall be governed by the laws of the State of ILLINOIS, provided that such laws are not otherwise preempted by federal laws and regulations.
- G. **FORUM AND VENUE.** In the event of litigation pertaining to this Mortgage, the exclusive forum, venue and place of jurisdiction shall be the State of ILLINOIS, unless otherwise designated in writing by Bank or otherwise required by law.
- H. **SUCCESSORS.** This Mortgage shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the parties; provided however, that Mortgagor may not assign, transfer or delegate any of the rights or obligations under this Mortgage.
- I. **NUMBER AND GENDER.** Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.
- J. **DEFINITIONS.** The terms used in this Mortgage, if not defined herein, shall have their meanings as defined in the other documents executed contemporaneously, or in conjunction, with this Mortgage.
- K. **PARAGRAPH HEADINGS.** The headings at the beginning of any paragraph, or any subparagraph, in this Mortgage are for convenience only and shall not be dispositive in interpreting or construing this Mortgage.
- L. **IF HELD UNENFORCEABLE.** If any provision of this Mortgage shall be held unenforceable or void, then such provision shall be severable from the remaining provisions and shall in no way affect the enforceability of the remaining provisions nor the validity of this Mortgage.
- M. **CHANGE IN APPLICATION.** Mortgagor will notify Bank in writing prior to any change in Mortgagor's name, address, or other application information.
- N. **NOTICE.** All notices under this Mortgage must be in writing. Any notice given by Bank to Mortgagor hereunder will be effective upon personal delivery or 24 hours after mailing by first class United States mail, postage prepaid, addressed to Mortgagor at the address indicated below Mortgagor's name on page one of this Mortgage. Any notice given by Mortgagor to Bank hereunder will be effective upon receipt by Bank at the address indicated below Bank's name on page one of this Mortgage. Such addresses may be changed by written notice to the other party.
- O. **FILING AS FINANCING STATEMENT.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the ILLINOIS Uniform Commercial Code. A carbon, photographic or other reproduction of this Mortgage is sufficient as a financing statement.

28. **ACKNOWLEDGMENT.** By the signature(s) below, Mortgagor acknowledges that this Mortgage has been read and agreed to and that a copy of this Mortgage has been received by the Mortgagor.

**MORTGAGOR:**

**FERRUCCI BUILDERS**  
an ILLINOIS corporation

By: *Andrew C. Ferrucci*  
**ANDREW FERRUCCI**

[Corporate Seal\*]

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SUSAN FERRUCCI

Attest

(Corporate seal may be affixed, but failure to affix shall not affect validity or reliance.)

STATE OF Illinois

COUNTY OF Cook

On this 25 day of Aug, 1994, the undersigned, a notary public, certify that ANDREW FERRUCCI and SUSAN FERRUCCI of FERRUCCI BUILDERS, an ILLINOIS corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the instrument as their free and voluntary act, for the uses and purposes set forth.  
My commission expires:

Maureen J. Brocken  
NOTARY PUBLIC

This document was prepared by STATE BANK OF COUNTRYSIDE, 6734 Joliet Road, Countryside, Illinois 60525.

Please return this document after recording to STATE BANK OF COUNTRYSIDE, 6734 Joliet Road, Countryside, Illinois 60525.

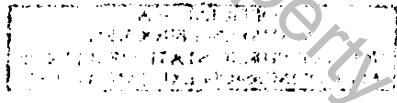
THIS IS THE LAST PAGE OF A 5 PAGE DOCUMENT. EXHIBITS AND/OR ADDENDA MAY FOLLOW.

OFFICIAL SEAL  
MAUREEN J BROCKEN  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. JAN. 11, 1997

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