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RESOLUTION NO. 93-E-043

**RESOLUTION AUTHORIZING EXECUTION OF  
ANNEXATION AGREEMENT (HIGHLAND AVENUE)**

WHEREAS, the Corporate Authorities of the Village of Tinley Park, Cook and Will Counties, Illinois, did hold a public hearing to consider an annexation agreement for the annexation of certain property not presently within the corporate limits of any municipality but contiguous to the Village of Tinley Park, a true and correct copy of such Annexation Agreement (the "Annexation Agreement") being attached hereto and made a part hereof as **EXHIBIT 1**; and

WHEREAS, the aforesaid public hearing was held pursuant to legal notice as required by law, and all persons desiring an opportunity to be heard were given such opportunity at said public hearing; and

WHEREAS, the Corporate Authorities of the Village of Tinley Park, Cook and Will Counties, Illinois, have determined that it is in the best interests of said Village of Tinley Park that said Annexation Agreement be entered into by the Village of Tinley Park;

NOW, THEREFORE, Be It Resolved by the President and Board of Trustees of the Village of Tinley Park, Cook and Will Counties, Illinois, as follows:

**Section 1:** The Preambles hereto are hereby made a part of, and operative provisions of, this Resolution as fully as if completely repeated at length herein.

**Section 2:** That this President and Board of Trustees of the Village of Tinley Park hereby find that it is in the best interests of the Village of Tinley Park and its residents that the aforesaid "Annexation Agreement - Highland Avenue" be entered into and executed by said Village of Tinley Park, with said Agreement to be substantially in the form attached hereto and made a part hereof as **EXHIBIT 1**.

**Section 3:** That the President and Clerk of the Village of Tinley Park, Cook and Will Counties, Illinois are hereby authorized

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to execute for and behalf of said Village of Tinley Park the aforesaid Annexation Agreement.

Section 4: That this Resolution shall take effect from and after its passage and approval.

PASSED this 21st day of December, 1993, by the Corporate Authorities of the Village of Tinley Park on a roll call vote as follows:

**AYES:** DIBERNARDO, FULTON, HANNON, REA, SEAMAN

**NAYS:** NONE

**ABSENT:** VANDENBERG

APPROVED this 21st day of December, 1993, by the President of the village of Tinley Park.

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

ATTEST:

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

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## ANNEXATION AGREEMENT - HIGHLAND AVENUE

1. This Agreement entered into this 21st day of December, 1993, by and between the **VILLAGE OF TINLEY PARK**, Cook and Will Counties, Illinois, a Municipal Corporation (hereinafter referred to as the "Village"); and the **P & G CONSTRUCTION CORPORATION**, an Illinois corporation, 17846 South Highland Avenue, Tinley Park, Illinois, **MICHAEL ARENDS**, 17848 South Highland Avenue, Tinley Park, Illinois and **WILLIAM P. BYRNE**, 17853 South Highland Avenue, Tinley Park, Illinois (hereinafter collectively referred to as the "Owner").

2. The real property subject to this Agreement is legally described as follows:

### **P & G Construction Corporation Property**

Lot 24 in Block 5 in Elmore's Ridgeland Avenue Estates, a subdivision of the West 1/2 of the Northwest 1/4 and the Northwest 1/4 of the Southwest 1/4 of Section 32, Township 36 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

### **Michael Arends' Property**

Lot 13 in Block 4 in Elmore's Ridgeland Avenue Estates, a subdivision of the West 1/2 of the Northwest 1/4 and the Northwest 1/4 of the Southwest 1/4 of Section 32, Township 36 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

### **William P. Byrne's Property**

Lots 12 and 13 in Block 3 in Elmore's Ridgeland Avenue Estates, a subdivision of the West 1/2 of the Northwest 1/4 and the Northwest 1/4 of the Southwest 1/4 of Section 32, Township 36 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

Said property is hereinafter referred to as the "Subject Property."

3. The Subject Property is located in the unincorporated portion of Cook County, Illinois, and bounded on the west by a line approximately 300 feet west of and parallel to Highland Avenue, on the east by the Forest Preserve and Highland Avenue, on the north by a line approximately 94 feet north of 179th Street, and on the south by the north side of 179th Street for most of the territory and a line approximately 94 feet south of 179th Street for the remainder. The Subject Property is contiguous with the Village.



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4. The Village of Tinley Park in a Home Rule Unit pursuant to the provisions of the Illinois Constitution, Article VII, Section 6, and the terms, conditions and acts of the Village under this Agreement are entered into and performed pursuant to the Home Rule powers of the Village and the statutes in such cases made and provided.

## RECITALS:

1. The parties hereto, being the Village and Owner desire that the Subject Property be annexed to the Village, subject to the terms and conditions as hereinafter set forth, and that the Subject Property be zoned and developed under the R-2 Single Family Residential District under the provisions of the Tinley Park Zoning Ordinance with a variation to allow homes with a minimum of 2,000 square feet. It is acknowledged and understood that each individual Owner may eventually subdivide his existing lot into two separate lots.

2. Each and every Owner has petitioned the Village for annexation of the Subject Property to the Village and for rezoning of the Subject Property.

3. The parties hereto have fully complied with all relevant statutes of the State of Illinois and ordinances of the Village with respect to annexation, including the filing of a petition by the Owner requesting annexation of the Subject Property, and zoning of the Subject Property to enable development as herein provided. The Village has caused the issuance of proper notice and the conduct of all hearings by all necessary governmental entities to effectuate such annexation and rezoning, including hearings by the Long Range Plan Commission and the Board of Trustees of the Village as are necessary to effectuate the plan of development herein set forth.

4. All reports by all relevant governmental entities have been submitted enabling appropriate action by the Village Board of Trustees to achieve the following:

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- (a) Adoption and execution of this Agreement by resolution;
- (b) Enactment of an annexation ordinance annexing the Subject Property to the Village;
- (c) Adoption of such ordinances as are necessary to effectuate the terms and provisions of this Agreement, including the classification of the Subject Property for purposes of zoning pursuant to the terms and conditions of this Agreement;
- (d) The adoption of such other ordinances, resolutions and actions as may be necessary to fulfill and implement this Agreement pursuant to the terms and conditions herein contained.

5. The Subject Property is not located in any public library district or fire protection district, but there are roads on or adjacent to the Subject Property under the jurisdiction of Bremen Township, and notice as required by law has been given to the Bremen Township Trustees and Highway Commissioner.

6. The parties hereto have determined that it is in the best interests of the Village and Owner and in furtherance of the public health, safety, comfort, morals and welfare of the community to execute and implement this Agreement and that such implementation of this Agreement and development of the Subject Property pursuant to its terms and conditions will constitute an improvement of the tax base of the Village, be in implementation of the comprehensive plan of the Village, and will constitute a preservation of environmental values.

## SECTION ONE: Annexation.

The Owner has filed a petition for annexation of the Subject Property to the Village pursuant to statute in such cases made and provided.

Subject to the provisions of Chapter 65, Act 5, Article 7, of the Illinois Compiled Statutes, and such other statutory provisions as may be relevant and the Home Rule powers of the Village, the Village shall by proper ordinance, cause approval and execution of this Agreement and cause the Subject Property to be annexed to the Village. Also the Village, upon annexation, shall thereafter adopt all ordinances respecting the zoning and use and development of the Subject Property as herein provided. A plat of annexation of the

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Subject Property is attached hereto as EXHIBIT 2. The new boundary of the Village resulting from such annexation shall extend to the far side of any adjacent highway and shall include all of every highway within the area so annexed.

The Owner shall do all things necessary and proper to carry out and perform the terms, conditions and provisions of this Agreement and effectuate the annexation of the Subject Property to the Village, and to aid and assist the Village to do the same.

The Village shall also take all actions necessary to carry out and perform the terms and conditions of this Agreement and to effectuate the annexation of the Subject Property to the Village.

**SECTION TWO: Zoning, Plan Approval and Design Standards.**

**A. Zoning, Subdivision and Variations.**

The Village shall by proper ordinance cause the Subject Property to be rezoned from R-1 to R-2 Single Family Residential District. The Village shall also grant a variation to permit the construction of single-family detached residences on the Subject Property with a minimum size of 2,000 square feet per residence.

**B. Flat Approval - Phasing.**

The Village agrees that individual plats of portions of the Subject Property may be recorded in phases in the Office of the Recorder of Deeds of Cook County, Illinois. In no event shall any plat of a portion or all of the Subject Property be recorded prior to the recording of this Annexation Agreement. At the discretion of each Owner, each phase or combination of phases may be considered a separate subdivision, providing such subdivision as proposed complies with all provisions of this Agreement and the Subdivision Regulations Ordinance of the Village and further provided the Plan Commission of the Village has reviewed any such plat of subdivision, has recommended its approval to the Village Board as being in compliance with this Agreement and the applicable provisions of the Subdivision Regulations Ordinance, and provided that the Village Board approves such plat as being in full

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compliance with the applicable provisions of this Agreement and the Subdivision Regulations Ordinance of the Village. It is further understood that the construction of 179th Street may be phased provided that no less than one-fourth of the street must be constructed at any particular time. The construction of the street may be phased provided that access to each lot is provided at such time as any building on a lot is built. The construction of the street shall extend to the east property line of any such lot on which a building is being built as a part of the phase.

### SECTION THREE: Contributions.

Upon the issuance of a building permit for each Lot or portion of the Subject Property, the applicant for the building permit shall make the following contributions, which are payable to the Village on behalf of the following:

	<u>Per Non-Residential Building</u>
Water Construction Fund	\$300.00
Sewer Construction Fund	\$100.00
Elementary School District	\$200.00
High School District 228	\$100.00
Tinley Park Volunteer Fire Department	\$100.00
Tinley Park Board of Library Directors	\$100.00
Tinley Park Park District	\$125.00
E.S.D.A. Siren System	\$ 15.00

For the above purposes, any structure for which a single building permit is needed for initial construction shall be deemed one building.

At the time of passage, approval and acceptance of this Agreement, the Owner of Lots 12 and 13 in Block 3 shall pay to the Village the amount of \$3,225.00 and the Owners of Lot 13 in Block 4 and Lot 24 in Block 5 shall each pay to the Village the amount of \$9,100.00 for street improvements.

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#### SECTION FOUR: Easements.

The Owner agrees to grant all necessary easements to serve the Subject Property as it is proposed to be developed, with the easements naming as grantee the Village and/or other appropriate entity designated by Village, for the extension of sewer, water, or other utilities, or for other improvements which may serve not only the Subject Property, but other territories in the general area. Such easements shall be granted at the time requested by the Village. It shall be the responsibility of the Owner to obtain all easements, both on site and off site, necessary to serve the Subject Property.

#### SECTION FIVE: Developmental Codes and Ordinances and General Matters.

The development of the Subject Property annexed and of each portion thereof shall be in accordance with the existing building, zoning, subdivision, storm water detention and other developmental codes and ordinances of the Village as they exist on the date each respective permit for development of each lot or portion of the Subject Property is issued. Planning and engineering designs and standards, and public road construction and dedication of public improvements, shall be in accordance with the then existing ordinances of the Village or in accordance with the statutes and regulations of other governmental agencies having jurisdiction thereof if such standards are more stringent than those of the Village at such time. The construction standards for all common driveways, if any, shall be as established in the Village codes and/or in engineering plans approved by the Village Engineer.

No building permits for the construction of any buildings in any phase shall be allowed or issued prior to installation of the bituminous base course for each street in each such phase of the development and otherwise in compliance with the ordinances, rules and regulations of the Village, and no occupancy permit shall be issued for any building prior to the installation of the binder

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course for streets in that phase and completion of the detention pond serving such phase, except for sodding.

## **SECTION SIX: Dedication and Construction of Streets and Sidewalks.**

### **A. Streets.**

If requested by the Village, the Owner of Lots 12 and 13 in Block 3 shall dedicate a street right-of-way of 60 feet for the extension of 62nd Avenue along the entire eastern boundary of the Subject Property, with such dedication to take place at such time as requested by the Village (it being understood that said Owner of Lots 12 and 13 in Block 3 will be able to re-subdivide said lots into four (4) separate lots).

Owner also shall be required to construct and install all public streets to service the Subject Property in accordance with engineering plans approved by the Village. The Owners of Lot 13 in Block 4 and Lot 24 in Block 5 shall not be required to make any improvements to 179th Street west of Highland Avenue. The Owner of Lots 12 and 13 in Block 3 shall construct 179th Street east to the furthestmost eastern portion of Lots 12 and 13. Such street shall be constructed to a rural standard of 18 feet wide with no curbs and gutters provided that the pavement for the street shall meet all Village standards as to construction requirements. The construction of 179th Street may be phased as provided above in Section Two, B of this Agreement.

It is understood that the Village standard for streets is 31 feet back-of-curb to back-of-curb, but the Village is waiving any requirement that the Owner of Lots 12 and 13 construct such 179th Street to such standard. Because of such waiver at this time, the Owner of Lots 12 and 13 in Block 3 hereby waives any right to file either a legal objection or benefit objection to any special assessment that the Village may initiate in the future to widen 179th Street to its normal standard, including installation of curbs and gutter.

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The Village shall accept the construction of the public streets upon the completion by the Owner of said improvements in accordance with the above. The final wearing surface of all streets shall not be installed until a period of not less than ten (10) months has elapsed after installation of the base. Until completion of the streets and approval by the Village, the Owner shall be responsible for keeping the streets free from construction debris and for repair of damages to the streets caused by the Owner's construction traffic.

Also, the Owner shall be required to keep all public streets located on the Subject Property as well as adjoining streets clear from mud and debris generated by construction activity on the Subject Property. Such streets must be cleaned as needed. For each day that the public streets are not cleaned as required hereunder during construction, the Owner shall be subject to a fine of \$250.00 each day. If any such fine is not promptly paid, the Village shall have the right to stop any and all further construction until paid.

## **B. Sidewalks.**

It is understood and agreed that the Owner normally would be required to construct and install sidewalks under the ordinances of the Village. The Village agrees to waive the requirement to construct the sidewalks at this time; provided, however, such waiver is expressly conditioned on and the Owner agrees that if the Village ever decides to construct sidewalks on or along any portion or all of the Subject Property, the Owner (and each of them) hereby waives any right to file either a legal objection or benefit objection to any special assessment that the Village may initiate in the future to install any such sidewalks.

## **C. Recapture for Streets.**

The Owner shall be entitled to recapture one-half of the cost of the construction of 179th Street east of Highland Avenue with the service area to be those properties fronting on the south side of 179th Street east of Highland Avenue and with such recapture to

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be due and payable by the owners and/or developers of said properties at the time of their development in the Village, or annexation to the Village, whichever first occurs.

The Village agrees in order to provide for reimbursement to the Developer of such cost of construction of proposed 179th Street, to the extent the same is permitted by authority contained under the provisions of Section 9-5-1, et. seq., of the Illinois Municipal Code, as amended, to require that as a condition to the Village's approval of any plat of subdivision, or to the Village's permitting any use of 179th Street relating to or benefitting said undeveloped property adjacent thereto, the owner or owners of said properties shall pay to the Village, which shall in turn reimburse to the Owner, a recapture fee when and as collected. The amount to be paid as such recapture fee shall be as determined by the Village in its sole discretion by separate ordinance. The properties or area to be subject to the special recapture fee hereunder shall be those properties fronting on the south side of 179th Street east of Highland Avenue.

The amount of reimbursement to be paid to Owner by Village from the recapture fees, when and as collected, shall be an amount of money as determined by the Village Engineer.

The cost of construction for 179th Street, sometimes hereinafter called the construction cost, shall be evidenced to Village by a sworn statement of the Owner as to the amount of such construction cost for such street and may be confirmed by the Village, at its option, from documents designated from time to time by Village and relevant to determining the construction cost, certified under oath by the Owner as true and correct; such documents shall be provided by Owner to Village in a form and substance satisfactory to Village on demand made by Village.

The Village shall have no liability or other obligation to pay or cause the payment of any sum of money to Owner on account of such recapture other than out of such funds as the Village shall collect pursuant to such separate recapture fee ordinances. The

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Village shall provide the appropriate ordinances to accomplish this, and use any reasonable means to enforce said ordinances, but shall not be required to (but may in its discretion) pursue litigation to collect any such amounts. The principal amount of such recapture (reimbursement) shall be increased by the application of simple interest to the amount from time to time outstanding based at the rate per annum equal to the average (based on a 12 month calendar basis) interest rate paid on investments in the Public Treasurer's Investment Pool created under Section 505/17 of Chapter 15 of the Illinois Compiled Statutes. All such interest to be paid shall be due and payable only for a period no greater than a maximum of five years from the date of this Annexation Agreement.

**SECTION SEVEN: Water Supply.**

Owner shall be required to construct and install at its expense all necessary water mains to service the Subject Property, which shall specifically include a fully looped system, including the extension of the Village's 6-inch water main located on Highland Avenue by installing a 12-inch water main south from 179th Street along Highland Avenue to the existing water main. The Village shall extend the existing water main along 179th Street from Ridgeland Avenue by installing an 8-inch water main east to the west property line of Lot 24 in Block 5 and the Owner shall extend such water line from the west property line of Lot 24 in Block 5 by installing an 8-inch water main east to the Forest Preserve from that point. The Village recognizes the water main extension may be phased in accordance with Section Two. All such water mains shall be constructed and installed in accordance with the Subdivision Regulations Ordinance of the Village and final engineering plans approved by the Village.

**SECTION EIGHT: Sanitary Sewers.**

Owner shall be required to construct and install all necessary on-site sanitary sewer mains in accordance with final engineering plans approved by the Village and the Water Reclamation District of

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Greater Chicago, and in accordance with the Subdivision Regulations Ordinance of the Village, specifically including the extension of the 8-inch sanitary sewer main along 179th Street from the east end of the property to the west property line of Lot 13 in Block 4 in Elmore's Ridgeland Avenue Estates.

The Village agrees, to the extent the same as permitted by law, to charge a special connection fee for any connections (other than by the Subject Property) to the sewer main being constructed by Owner. Such special connection fees for any connections to the sewer main improvement shall be imposed against all properties fronting on such improvements on a per lot basis in accordance with a cost allocation between such properties and the Subject Property to be determined by the Village Engineer based on actual construction costs. To the extent the same is permitted by law, the Village will require that as a condition to the Village's approval of any plat of subdivision, or to the Village's permitting any connection to and/or use of the sewer main relating to or benefitting any properties other than the Subject Property, the owner or owners of said properties shall pay to the Village, which shall in turn reimburse to the Owner, the connection fee when and as collected. The amount to be paid as such connection fee shall be as determined by the Village in its sole discretion by separate ordinance. The properties or area to be subject to the special connection fee hereunder shall be determined by the Village Engineer and such determination shall be filed with the Village. The recapture amount shall be paid on a per lot basis for those lots fronting on Highland Avenue and 179th Street, and such recapture amount shall be paid to P & G Construction Corporation to be distributed among all the Owners on whatever basis they determine by separate agreement.

The amount of reimbursement to be paid to Owner by Village from the connection fees, when and as collected, shall be an amount of money as determined by the Village Engineer.

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The total construction cost for the sewer main, sometimes hereinafter called the construction cost, shall be evidenced to Village by a sworn statement of the Owner as to the amount of such construction cost and may be confirmed by the Village, at its option, from documents designated from time to time by the Village and relevant to determining the construction cost, certified under oath by the Owner as true and correct; such documents shall be provided by Owner to Village in a form and substance satisfactory to Village on demand made by Village.

The Village shall have no liability or other obligation to pay or cause the payment of any sum of money to Owner on account of such recapture other than out of such funds as the Village shall collect pursuant to such separate special connection fee ordinances. The Village shall provide the appropriate ordinances to accomplish this, and use any reasonable means to enforce said ordinances. Recaptures shall include computation of the recognized interest factor for a period of five years commencing at the time of completion of the water main and its acceptance by the Village for the one-year maintenance period.

## SECTION NINE: Utilities.

All new electricity, telephone, cable television and gas lines installed to service the Subject Property shall be installed underground by the Owner at its expense, the location of which underground utilities shall be at the Owner; provided, however, the first lot of Lot 13 in Block 4 and Lot 24 in Block 5 (once they are divided), fronting on Highland Avenue can be served with utilities constructed overhead, it being understood that the remaining divided lots of the original Lots 13 and 24 shall be served with underground utilities.

## SECTION TEN: Binding Effect and Term and Covenants Running with the Land.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, successor owners of record of the Subject

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Property, assignees, lessees, including specifically the Owner, and also upon any successor municipal authorities of said Village and successor municipalities, for a period of twenty (20) years from the date of execution hereof and any extended time that may be agreed to by amendment.

This Agreement shall be recorded in the office of the Recorder of Deeds of Cook County, Illinois, at Owner's expense.

The terms and conditions of this Agreement relative to the payment of monies to the various Village recapture funds, contributions to the Village, granting of easements to the Village, consent to assessments, dedication of rights-of-way to the Village and the developmental standards established herein shall constitute covenants which shall run with the land.

## SECTION ELEVEN: Notices.

Unless otherwise notified in writing, all notices, requests and demands shall be in writing and shall be personally delivered to or mailed by United States Certified mail, postage prepaid and return receipt requested, as follows:

### For the Village:

1. Village President  
Village Hall  
16250 South Oak Park Avenue  
Tinley Park, Illinois 60477
2. Village Clerk  
Village Hall  
16250 South Oak Park Avenue  
Tinley Park, Illinois 60477
3. Klein, Thorpe and Jenkins, Ltd.  
180 North La Salle Street  
Suite 1600  
Chicago, Illinois 60601  
Attention: Terrence M. Barnicle

### For the Owner:

1. P & G Construction Corporation  
17846 South Highland Avenue  
Tinley Park, Illinois 60477  
Attention: Robert R. Zacek, Secretary
2. Michael Arends  
17848 South Highland Avenue  
Tinley Park, Illinois 60477

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3. William P. Byrne  
17853 South Highland Avenue  
Tinley Park, Illinois 60477

or such other addresses that any party hereto may designate in writing to the other parties pursuant to the provisions of this Section.

## **SECTION TWELVE: Permits and Letter of Credit.**

The Owner shall not be entitled to obtain any building permits, nor any sign permits, and shall not be entitled to construct any signs, sales and/or rental offices or any other appurtenant facilities unless and until the proper letter of credit or cash deposit has been made to the Village in accordance with the Subdivision Regulations Ordinance of the Village. The letter of credit or cash deposit shall specifically include an amount to cover the looped water mains, the cost of street trees, sidewalks and pathways as required by the Subdivision Regulations Ordinance and this Agreement, but shall not include the road impact fees provided for in Section Three hereof.

The Owner agrees that any dirt stock piles resulting from the development of the Subject Property shall be located in places as designated and approved by the Village, and for reasonable time periods not to exceed the earlier of either five years or the date on which 85 percent of the buildings to be built on the applicable portion of the Subject Property have been substantially completed, unless an extension is agreed to by the Village. In addition, the Village, after providing the Owner with thirty (30) days advance written notice, shall have the right to draw upon the letter of credit provided for in this agreement to relocate or remove any dirt stock pile which results from the development should they not be placed in an approved location or if the pile is causing a storm water drainage problem, or should it not be permitted to remain beyond the time period specified by the Village; provided, however, that the Village will not draw upon the letter of credit if the Owner relocates or removes the stock piles as directed by the Village within the thirty (30) day notice period.

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**SECTION THIRTEEN: Conveyance, Dedication and Donation of Real Estate and Certain Personal Property.**

Any conveyance, dedication or donation of real estate required of Owner (hereinafter referred to as "Grantor" in this Section) to the Village or other governmental authority under this Agreement shall be made in conformance with the following requirements and any other applicable provisions of this Agreement.

A. Fee Simple Title. The conveyance, dedication or donation shall be of a fee simple title.

B. Merchantable Title. Title to the real estate shall be good and marketable.

C. Form and Contents of Deed. The conveyance, dedication or donation shall be by delivery of a good, sufficient and recordable deed, plat of dedication, or appropriate dedication on a recorded plat of subdivision. The deed, conveyance or dedication may be subject only to:

- (1) covenants, restrictions and easements of record, provided the same do not render the real estate materially unsuitable for the purposes for which it is being conveyed, dedicated or donated;
- (2) terms of this Agreement;
- (3) general taxes for the year in which the deed, conveyance or dedication is delivered or made and for the prior year if the amount of prior year's taxes is not determinable at the time of delivery, conveyance or dedication; and
- (4) such other exceptions acceptable to the grantee.

D. Title Insurance. Grantor, shall provide to grantee, not less than ten (10) days prior to the time for delivery of the deed, conveyance or dedication, a commitment for title insurance from Chicago Title Insurance Company or such other title insurance company acceptable to the grantee. The commitment for title insurance shall be in usual and customary form subject only to:

- (1) the usual and customary standard exceptions contained therein;
- (2) taxes for the year in which the deed is delivered and for the prior year if the amount of such prior year's taxes is not determinable at the time of delivery of the deed, conveyance or dedication;
- (3) subparagraphs 1 and 2 of paragraph C above; and



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(4) such other exceptions as are acceptable to the grantee.

The commitment for title insurance shall be in the amount of the fair market value of the real estate and any improvements thereon or to be constructed thereon by Owner, and shall be dated not less than twenty (20) days prior to the time for delivery of the deed, conveyance or dedication. Grantor shall further cause to be issued within thirty (30) days after delivery of the deed, conveyance or dedication a title insurance policy in such amount from the company issuing the commitment for title insurance, subject only to the exceptions stated above.

All title insurance charges herein provided shall be borne by Grantor.

**E. Taxes, Liens, Assessments, Etc.** General taxes and all other taxes, assessments, liens and charges of whatever nature affecting the real estate shall be paid and removed prior to delivery of the deed, conveyance or dedication. To the extent that any such item cannot be removed prior to delivery of the deed, conveyance or dedication because the amount of the same cannot then be determined, Owner hereby covenants that it will promptly pay the same upon determination of such amount and that it will indemnify, hold harmless and defend the Village against any loss or expense, including but not limited to attorneys' fees and expenses of litigation, arising as a result of a breach of the foregoing covenant.

**F. Delivery of Deed, Conveyance or Dedication.** To the extent not provided in this Agreement, delivery of the deed, conveyance or dedication shall occur at a date, time and place mutually agreeable to Grantor and Village, otherwise at a date, time and place set by Village not more than thirty (30) days after notice thereof is given by Village to Grantor.

**G. Environmental Assessment.** Not less than thirty (30) days prior to any conveyance, dedication or donation of real estate required under this Agreement, any Village ordinance or other requirement, the Grantor, at its sole cost and expense, shall have

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caused to be prepared and submitted to the Village a written report of a site assessment and environmental audit (the "Environmental Audit"), in scope, form and substance, and prepared by an independent, competent and qualified environmental engineer ("Engineer") satisfactory to the Village, and dated not more than sixty (60) days prior to the transfer date, showing the Engineer made all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial and customary practice in an effort to minimize liability, which takes into account and satisfies the "innocent landowner" provision set forth at 42 U.S.C. 9601(35), such that consistent with generally accepted environmental engineering practice and procedure and any applicable governmental rules, guidelines or regulations, no evidence or indication came to light which would suggest there was a release of substances on the property which could necessitate an environmental response action, and which demonstrates that the property and the facility complies with, and does not deviate from, all applicable federal, state, county, regional and local environmental statutes, laws, ordinances, rules and regulations ("Environmental Laws"), including the provision of any licenses, permits or certificates required thereunder.

The Environmental Audit shall also demonstrate that the property and the improvements located thereon, if any, do not contain:

- (i) asbestos in any form;
- (ii) urea formaldehyde;
- (iii) transformers or other equipment that contain fluid containing polychlorinated biphenyls;
- (iv) underground storage tanks; or
- (v) any other chemical, material or substance, the exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority (the "Authorities") or which poses a hazard to the health and safety of the occupants of the property or the facility, or the occupants of adjacent property.

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The Environmental Audit shall also demonstrate that the property and facility are not, and have not been, the subject of any past, existing or threatened investigation, inquiry or proceeding concerning environmental matters by the Authorities, and that no notice or submission concerning environmental matters has been given or should be given with regard to the property and the facility to the Authorities. The Environmental Audit shall demonstrate that the property and facility are not subject to, or covered by, the requirements of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. 11001, et seq., and that the property is not now being used and has never been used for any activities involving directly or indirectly the use, treatment, storage or disposal of any hazardous or toxic chemical, material, substance or waste as defined in any Environmental Laws.

The Grantor of the property and facility acknowledges and agrees that the Village shall not be obligated to take title to any land if, in its sole and exclusive judgment (including, without limitation, information revealed by the Environmental Audit), that the use or condition of the property, or any part thereof, poses a material health, safety or environmental hazard. If such property does, then the Grantor must convey suitable substitute land at a location(s) approved by the Village.

**SECTION FOURTEEN: Impact Requirements.**

Owner agrees that any and all recaptures, contributions, dedications, donations and easements provided for in this Agreement substantially advance legitimate governmental interests of the Village, including, but not limited to, providing its residents, and in particular the future residents of the Subject Property with access to and use of public utilities, streets, libraries, schools, parks and recreational facilities, fire protection, and emergency services. Owner further agrees that the recaptures, contributions, dedications, donations and easements required by this Agreement are uniquely attributable to, reasonably related to and made necessary by the development of the Subject Property.

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The Owner by purchasing all or any part of the Subject Property shall by such purchase automatically acknowledge agreement with all of the provisions of this Section and shall be deemed to have done so without any other confirming documentation.

**SECTION FIFTEEN: Reimbursement of Village for Legal and Other Fees and Expenses.**

A. To Effective Date of Agreement. The Owner concurrently with annexation and zoning of the Subject Property or so much thereof as required, shall reimburse the Village for the following expenses of outside contractors and professionals incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject Property:

- (1) the costs incurred by the Village for engineering services; and
- (2) the costs incurred by the Village for financial advisory services; and
- (3) all attorneys' fees incurred by the Village; and
- (4) miscellaneous out-of-pocket Village expenses, such as legal publication costs, recording fees and copying expense.

B. From and After Effective Date of Agreement. Upon demand by Village made by and through its Manager, Owner, or the Owner when the Owner obtains ownership of the Subject Property, from time to time shall promptly reimburse Village for all enumerated expenses and costs incurred by Village in the administration of the Agreement, including and limited to engineering fees, attorneys' fees and out of pocket expenses involving various and sundry matters such as, but not limited to, preparation and publication, if any, of all notices, resolutions, ordinances and other documents required hereunder, and the negotiation and preparation of letters of credit and escrow agreements to be entered into as security for the completion of land improvements.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Owner or the Owner, whichever is applicable, upon its request, by a sworn



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statement of the Village; and such costs and expenses may be further confirmed by the Owner at its option from additional documents relevant to determining such costs and expenses designated from time to time by the Owner.

Notwithstanding the immediately preceding paragraph, the Owner shall in any event not be required to reimburse Village or pay for any expenses or costs of Village as aforesaid more than once, whether such are reimbursed or paid through special assessment proceedings, through fees established by Village ordinances or otherwise.

In the event that any third party or parties institute any legal proceedings against the Owner and/or the Village, which relate to the terms of this Agreement, then, in that event, the Owner on notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:

1. Owner shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village.
2. If the Village, in its sole discretion, determines there is, or may probably be, a conflict of interest between Village and the Owner, on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Owner shall reimburse the Village from time to time on written demand from the President of Village and notice of the amount due for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other expenses of litigation, incurred by the Village in connection therewith.

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In the event the Village institutes legal proceedings against the Owner for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against Owner all expenses of such legal proceedings incurred by Village, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred by the Village in connection therewith. Owner may, in its sole discretion, appeal any such judgment rendered in favor of the Village against either.

**SECTION SIXTEEN: Warranties and Representations.**

The Owner represents and warrants to the Village that the Owner owns the Subject Property and that other than the entities and persons hereinbefore described on page 1 of this Agreement, no other entity or person currently has any interest in the Subject Property; that the sole beneficiaries of Owner are as stated on page 1; and that Owner has provided the legal description of the Subject Property set forth in this Agreement and that said legal description is accurate and correct. The Owner further represents that the Owner intends and proposes to sell the Subject Property to another for ultimate development in the manner provided in this Agreement and governed by the terms of this Agreement.

**SECTION SEVENTEEN: Continuity of Obligations.**

Notwithstanding any provision of this Agreement to the contrary, excluding the obligations relating to any portion of the Subject Property which are subsequently sold or conveyed to a third party, the Owner shall at all times during the term of this Agreement remain liable to Village for the faithful performance of all obligations imposed upon Owner by this Agreement until such time as the Subject Property has been conveyed to the Owner or until the obligations have been fully performed or until Village, at its sole option, has otherwise released Owner from any or all of such obligations.

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**SECTION EIGHTEEN: No Waiver or Relinquishment of Right to Enforce Agreement.**

Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**SECTION NINETEEN: Village Approval or Direction.**

Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided or required by law or this Agreement, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

**SECTION TWENTY: Singular and Plural.**

Wherever appropriate in this Agreement, the singular shall include the plural, and the plural shall include the singular.

**SECTION TWENTY-ONE: Section Headings and Subheadings.**

All section headings or other headings in this Agreement are for general aid of the reader and shall not limit the plain meaning or application of any of the provisions thereunder whether covered or relevant to such heading or not.

**SECTION TWENTY-TWO: Recording.**

A copy of this Agreement and any amendment thereto shall be recorded by the Village at the expense of the Owner.

**SECTION TWENTY-THREE: Authorization to Execute.**

The officers of the Trustee Owner executing this Agreement warrant that they have been lawfully authorized by the Board of Directors to execute this Agreement on behalf of said Owner. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to

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execute this Agreement. The Owner and Village shall, upon request, deliver to each other at the respective time such entities cause their authorized agents to affix their signatures hereto copies of all bylaws, resolutions, letters of direction, ordinances or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective entities.

## **SECTION TWENTY-FOUR: Amendment.**

This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the parties hereto relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced to writing and signed by them.

## **SECTION TWENTY-FIVE: Counterparts.**

This Agreement may be executed in two or more counterparts, each of which taken together, shall constitute one and the same instrument.

## **SECTION TWENTY-SIX: Curing Default.**

The parties to this Agreement reserve a right to cure any default hereunder within thirty (30) days from written notice of such default.

## **SECTION TWENTY-SEVEN: Conflict Between the Text and Exhibits.**

In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

## **SECTION TWENTY-EIGHT: Severability.**

If any provision of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that the Village does not have the power to perform any such provision, such provision shall be deemed to be excised



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herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment or decree shall relieve Village from performance under such invalid provision of this Agreement.

## SECTION TWENTY-NINE: Definition of Village.

When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.

## SECTION THIRTY: Execution of Agreement.

This Agreement shall be signed last by the Village and the President (Mayor) of the Village shall affix the date on which he signs this Agreement on page 1 hereof which date shall be the effective date of this Agreement.

ATTEST:

By: Frank W. Luman Jr.  
Village Clerk

VILLAGE OF TINLEY PARK, an  
Illinois Municipal Corporation

By: [Signature]  
Village President

P & S CONSTRUCTION CORPORATION,  
an Illinois Corporation

By: [Signature]  
its President

ATTEST:

By: Robert R. Zank  
its Secretary

MICHAEL ARENDS, 17848 South  
Highland Avenue, Tinley Park,  
Illinois

[Signature]

WILLIAM P. BYRNE, 17853 South  
Highland Avenue, Tinley Park,  
Illinois

William P. Byrne

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My Commission Expires 03/28/2018  
Notary Public, State of Illinois  
SHIRLEY M. SCHWARTZ  
"OFFICIAL SEAL"

My Commission Expires 03/28/2018  
Notary Public, State of Illinois  
SHIRLEY M. SCHWARTZ  
"OFFICIAL SEAL"

My Commission Expires 03/28/2018  
Notary Public, State of Illinois  
SHIRLEY M. SCHWARTZ  
"OFFICIAL SEAL"

**ACKNOWLEDGEMENTS**

STATE OF ILLINOIS    )  
                                  )  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Joseph E. Shourek and Robert R. Zacek personally known to me to be the President and Secretary of the P & G Construction Corporation, Inc., an Illinois corporation, and also personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth; and the said Secretary then and there acknowledged that said Secretary, as custodian of the corporate seal of said corporation caused the corporate seal of said corporation to be affixed to said instrument as said Secretary's own 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 Notary Seal this 21st day of December, 1993.

Commission expires September 7, 1996

*Shirley M. Schwartz*  
NOTARY PUBLIC



Cook County Clerk's Office

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NOTARY PUBLIC STATE OF ILLINOIS  
SHIRLEY M. SCHWABER  
My Commission Expires 07/09  
"OFFICIAL SEAL"