

# UNOFFICIAL COPY

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**RECORDATION REQUESTED BY:**

Parkway Bank & Trust Company  
4800 North Harlem Avenue  
Harwood Heights, IL 60656

**WHEN RECORDED MAIL TO:**

Parkway Bank & Trust Company  
4800 North Harlem Avenue  
Harwood Heights, IL 60656

DEPT-01 RECORDING \$35.00  
750012 TRAN 6075 08/24/95 11:36:00  
47370 JM \*-95-562057  
COOK COUNTY RECORDER

**SEND TAX NOTICES TO:**

Parkway Bank & Trust Company  
4800 North Harlem Avenue  
Harwood Heights, IL 60656

FOR RECORDER'S USE ONLY

This Subordination Agreement prepared by: Lea Baldassano  
& mail to: 4800 N. Harlem Avenue  
Harwood Heights, IL 60656

## SUBORDINATION AGREEMENT - MORTGAGE

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT dated August 17, 1995 is entered into among Emerald Hills Development Inc. ("Borrower"), John J. Kennelly, Trustee ("Mortgagee") and Parkway Bank & Trust Company ("Lender").

**SUBORDINATED INDEBTEDNESS.** Mortgagee has extended the following described financial accommodations (the "Subordinated Indebtedness") to Parkway Bank and Trust Co. a/t/w/t/n 10928 ("Mortgagor"):

Trust Deed for Second Mortgage dated November 14, 1994 to secure a Note for \$1,300,000.00 in favor of John J. Kennelly, trustee.

**SUBORDINATED MORTGAGE.** The Subordinated Indebtedness is secured by a mortgage dated 11-14-1994 from Mortgagor to Mortgagee (the "Subordinated Mortgage") recorded in Cook County, State of Illinois as follows:

Recorded November 23, 1994 as document number 94993071 in Cook County, Illinois

**REAL PROPERTY DESCRIPTION.** The Subordinated Mortgage covers the following described real property (the "Real Property") located in Cook County, State of Illinois:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

The Real Property or its address is commonly known as 90 IMPROVED/58 UNIMPROVED LOTS IN EMERALD HILLS, Streamwood, IL 60107. The Real Property tax identification number is 06-22-100-015-0000;06-22-100-016-0000 (affects land and other property).

**REQUESTED FINANCIAL ACCOMMODATIONS.** Borrower, who may or may not be the same entity as Mortgagor, and Mortgagee each want Lender to provide financial accommodations to Borrower (the "Superior Indebtedness") in the form of (a) new credit or loan advances, (b) an extension of time to pay or other compromises regarding all or part of Borrower's present indebtedness to Lender, or (c) other benefits to Borrower. Now, therefore, Borrower and Now, therefore, Borrower and Mortgagee each represent and acknowledge to Lender that Mortgagee will

DWA 900-611

75-68-517 B. D. Kennedy 12/15/95-89-57

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Attorneys' Fees; Expenses. Mortgagee and Borrower agree to pay upon demand all of Lender's costs and expenses, including attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may pay someone else to help enforce this Agreement, and Mortgagee and

Amendments. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration or amendment to this Agreement shall be effective unless made in writing and signed by Lender, Borrower, and Mortgagee.

Applicable Law. This Agreement has been delivered to Lender and accepted by Lender in the State of Illinois. If there is a lawsuit, Mortgagee and Borrower agree upon Lender's request to submit to the jurisdiction of the courts of Cook County, State of Illinois. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. No provision contained in this Agreement shall be construed

(a) as requiring Lender to grant to Borrower or to Mortgagee any financial assistance or other accommodations, or (b) as limiting or precluding Lender from the exercise of Lender's own judgment and discretion about amounts and times of payment in making loans or extending accommodations to Borrower.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

**DEFAULT BY BORROWER.** If Borrower becomes insolvent or bankrupt, this Agreement shall remain in full force and effect. In the event of a corporate reorganization or corporate arrangement of Borrower under the provisions of the Bankruptcy Code, as amended, this Agreement shall remain in full force and effect, and the court having jurisdiction over the reorganization or arrangement is hereby authorized to preserve such priority and subordination in approving any such plan of reorganization or arrangement. Any default by Borrower under the terms of the Subordinated Indebtedness also shall be a default under the terms of the Superior Indebtedness to Lender.

**LENDER'S RIGHTS.** Lender may take or omit any and all actions with respect to Lender's Lien without affecting whatsoever any of Lender's rights under this Agreement. In particular, without limitation, Lender may, without notice of any kind to Mortgagee, (a) make one or more additional secured or unsecured loans to Borrower; (b) repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Superior Indebtedness or any part thereof, including increases and decreases of the rate of interest on the Superior Indebtedness; extensions may be repeated and may be for longer than the original loan term; (c) take and hold collateral for the payment of the Superior Indebtedness, and exchange, enforce, waive, and release any such collateral, with or without the substitution of new collateral; (d) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or guarantors on any terms or manner Lender chooses; (e) determine how, when and what application of payments and credits shall be made on the Superior Indebtedness; (f) apply such security and direct the order or manner of sale thereof, as Lender in its discretion may determine; and (g) assign this Agreement in whole or in part.

**MORTGAGEE'S WAIVERS.** Mortgagee waives any right to require Lender: (a) to make, extend, renew, or modify any loan to Borrower or to grant any other financial accommodations to Borrower whatsoever; (b) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of any Superior Indebtedness secured by Lender's Lien, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Superior Indebtedness, or in connection with the creation of new or additional Indebtedness; (c) to resort for payment or to proceed directly or at once against any person, including Borrower; (d) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (e) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (f) to pursue any other remedy within Lender's power; or (g) to commit any act or omission of any kind, at any time, with respect to any matter whatsoever.

**MORTGAGEE'S REPRESENTATIONS AND WARRANTIES.** Mortgagee represents and warrants to Lender that: (a) no representations or agreements of any kind have been made to Mortgagee which would limit or qualify in any way the terms of this Agreement; (b) this Agreement is executed at Borrower's request and not at the request of Lender; (c) Lender has made no representation to Mortgagee as to the creditworthiness of Borrower; and (d) Mortgagee has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Mortgagee agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Mortgagee's risks under this Agreement, and Mortgagee further agrees that Lender shall have no obligation to disclose to Mortgagee information or material acquired by Lender in the course of its relationship with Borrower.

**LENDER'S LIEN.** As a condition to the granting of the requested financial accommodations, Lender has required that its mortgage or other lien on the Real Property ("Lender's Lien") be and remain superior to the Subordinated

benefit as a result of these financial accommodations from Lender to Borrower, and Mortgagee acknowledges receipt of valuable consideration for entering into this Agreement.

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08-17-1995  
Loan No 10

## SUBORDINATION AGREEMENT - MORTGAGE (Continued)

Page 3

Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. ~~Mortgagee and Borrower~~ also shall pay all court costs and such additional fees as may be directed by the court. *etc.*

**Successors.** This Agreement shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Agreement, and the covenants of Borrower and Mortgagee herein in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any or all of the Superior Indebtedness.

**Waiver.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Mortgagee, shall constitute a waiver of any of Lender's rights or of any of Mortgagee's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**NOTICE:** THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

EACH PARTY TO THIS SUBORDINATION AGREEMENT - MORTGAGE ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND EACH PARTY AGREES TO ITS TERMS.

**BORROWER:**

Emerald Hills Development Inc.

By: Carl G. Bongiovanni

Carl G. Bongiovanni, President

**MORTGAGEE:**

John J. Kennelly, Trustee

By: John J. Kennelly

John J. Kennelly  
*IN ATTORNEY IN FACT*

**LENDER:**

Parkway Bank & Trust Company

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

Authorized Officer

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CORPORATE ACKNOWLEDGMENT

STATE OF Illinois

( ss )

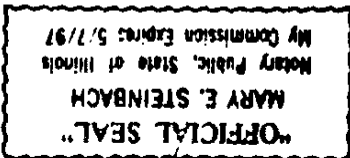
COUNTY OF McHenry

On this 15<sup>th</sup> day of August, 19 95, before me, the undersigned Notary Public, personally appeared Carl G. Bongiovanni, President of Emerald Hills Development Inc., and known to me to be an authorized agent of the corporation that executed the Subordination Agreement and acknowledged the Agreement to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Agreement and in fact executed the Agreement on behalf of the corporation.

By Mary E. Steinbach Residing at Chicago, Ill.

Notary Public in and for the State of Illinois

My commission expires 5/7/97



CORPORATE ACKNOWLEDGMENT

STATE OF Illinois

( ss )

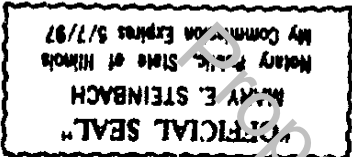
COUNTY OF McHenry

On this 18<sup>th</sup> day of August, 19 95, before me, the undersigned Notary Public, personally appeared John J. Kennelly of John J. Kennelly, Trustee, and known to me to be authorized agents of the corporation that executed the Subordination Agreement and acknowledged the Agreement to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this Agreement and in fact executed the Agreement on behalf of the corporation.

By John J. Kennelly Residing at Chicago, Ill.

Notary Public in and for the State of Illinois

My commission expires 5/7/97



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5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

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**PARCEL 1:**

THE SOUTH 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

**ALSO**

THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST 1/2 OF SAID NORTHWEST 1/4; THENCE RUNNING SOUTH ALONG THE EAST LINE THEREOF TO A POINT 34.34 CHAINS SOUTH OF SAID NORTHEAST CORNER; THENCE NORTH 82 1/2 DEGREES WEST 7.01 CHAINS; THENCE NORTH 13.96 CHAINS MORE OR LESS TO A POINT 19.05 CHAINS SOUTH OF THE NORTH LINE OF SAID NORTHWEST 1/4; THENCE WEST TO A POINT 13.13 CHAINS WEST OF THE EAST LINE OF THE WEST 1/2 OF SAID NORTHWEST 1/4; THENCE NORTH PARALLEL WITH THE EAST LINE OF THE WEST 1/2 OF SAID NORTHWEST 1/4, 19.05 CHAINS; THENCE EAST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 12.13 CHAINS TO THE PLACE OF BEGINNING IN COOK COUNTY,

ILLINOIS (EXCEPT THE NORTH 50 FEET OF SAID TRACT TAKEN FOR SCHAUMBURG ROAD AND EXCEPT THAT PART OF SAID TRACT DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE SOUTH ALONG THE EAST LINE OF SAID WEST 1/2 566.5 FEET; THENCE SOUTH 89 DEGREES 32 MINUTES WEST 421.1 FEET; THENCE NORTH 1 DEGREE 49 MINUTES WEST 667.5 FEET TO A POINT IN THE NORTH LINE OF SAID NORTHWEST 1/4 THAT IS 442.1 FEET WEST OF THE PLACE OF BEGINNING; THENCE NORTH 89 DEGREES 37 MINUTES EAST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4, 442.1 FEET TO THE POINT OF BEGINNING)

**ALSO**

THE SOUTH EAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

**ALSO**

THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A STAKE IN THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22; THENCE RUNNING NORTH 1 CHAIN; THENCE SOUTH 89 DEGREES WEST 7.12 CHAINS TO A STAKE FOR A PLACE OF BEGINNING; THENCE SOUTH PARALLEL WITH THE DIVISION LINE 5.90 CHAINS TO A STAKE; THENCE SOUTH 89 DEGREES WEST 7.65 CHAINS TO A STAKE; THENCE NORTH PARALLEL WITH THE DIVISION LINE 5.90 CHAINS TO A STAKE; THENCE NORTH 89 DEGREES EAST PARALLEL WITH THE DIVISION LINE 7.65 CHAINS TO THE PLACE OF BEGINNING,

(EXCEPTING THEREFROM THAT PART THEREOF FALLING IN THE FOLLOWING DESCRIBED PARCEL OF LAND:

THAT PART OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SCHAUMBURG ROAD WITH THE EAST LINE OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE SOUTHERLY ALONG SAID EAST LINE, A DISTANCE OF 617.05 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 22 FOR A POINT OF BEGINNING; THENCE EASTERLY ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 22, A DISTANCE OF 662.25 FEET TO NORTHEAST CORNER THEREOF BEING A POINT ON THE WEST LINE OF FAIR OAKS UNIT #4, BEING A SUBDIVISION OF LOT A IN FAIR OAK UNIT #3, BEING A

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DIVISION OF PART OF THE NORTH 1/2 OF SAID SECTION 22; THENCE SOUTHERLY ALONG SAID WEST LINE, A DISTANCE OF 670.51 FEET TO THE SOUTHWESTERLY CORNER OF SAID FAIR OAKS #4; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID FAIR OAKS UNIT #4, A DISTANCE OF 646.82 FEET TO THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE SOUTHERLY ALONG SAID EAST LINE, A DISTANCE OF 646.99 FEET; THENCE WESTERLY ALONG A LINE THAT FORMS AN ANGLE OF 88 DEGREES, 49 MINUTES, 57 SECONDS TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 1599.35 FEET TO A POINT ON A LINE THAT IS 300.00 FEET WESTERLY OF AND PARALLEL WITH THE EAST LINE OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 22; THENCE NORTHERLY ALONG SAID PARALLEL LINE, TO ITS POINT OF INTERSECTION WITH A STRAIGHT LINE EXTENDING SOUTH 89 DEGREES 32 MINUTES WEST FROM THE POINT OF BEGINNING; THENCE EASTERLY ALONG SAID STRAIGHT LINE, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING) ALSO EXCEPTING FROM SAID PARCEL 1, THAT PART THEREOF CONDEMNED AND TAKEN FOR ROAD BY 92L50584

## PARCEL 2:

THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 5.95 CHAINS NORTH FROM THE SOUTHWEST CORNER THEREOF; THENCE NORTH 61 DEGREES EAST, 3.40 CHAINS; THENCE NORTH 84 1/2 DEGREES EAST, 2.04 CHAINS; THENCE NORTH TO A POINT DISTANT 5 CHAINS EAST FROM THE WEST LINE AND 19.23 CHAINS, SOUTH FROM THE NORTH LINE OF SAID NORTHWEST 1/4; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST 1/4, 1.73 CHAINS; THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID NORTHWEST 1/4 TO THE NORTH LINE OF SAID NORTHWEST 1/4; THENCE WEST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4, 6.73 CHAINS TO THE WEST LINE OF SAID NORTHWEST 1/4; THENCE SOUTH ALONG SAID WEST LINE TO THE POINT OF BEGINNING (EXCEPT THE NORTH 50 FEET OF THAT PART OF SAID TRACT LYING EAST OF SUTTON ROAD; ALSO EXCEPT THAT PART THEREOF CONVEYED TO COUNTY OF COOK FOR HIGHWAY PURPOSES, BY DEED DOCUMENT NUMBER 1348597) ALSO EXCEPT THAT PART OF STATE ROUTE 59, DEDICATED FOR HIGHWAY PURPOSES, AS RATIFIED IN DOCUMENT NUMBER 2736682, ALSO EXCEPT THAT PART OF THE AFORESAID PROPERTY LYING WEST OF THE WESTERLY RIGHT OF WAY LINE OF STATE ROUTE 59, ALSO EXCEPTING FROM SAID PARCEL 2, THAT PART THEREOF CONDEMNED AND TAKEN FOR ROAD PURPOSES BY 92L50619, IN COOK COUNTY, ILLINOIS

## PARCEL 3:

A PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 22; THENCE SOUTH ALONG THE EAST LINE OF SAID WEST 1/2 666.5 FEET; THENCE SOUTH 89 DEGREES 32 MINUTES WEST 421.1 FEET, THENCE NORTH 1 DEGREE 49 MINUTES WEST, 667.5 FEET TO A POINT IN THE NORTH LINE OF SAID NORTHWEST 1/4 THAT IS 442.1 FEET WEST OF THE PLACE OF BEGINNING, THENCE NORTH 99 DEGREES 37 MINUTES EAST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 442.1 FEET, TO THE PLACE OF BEGINNING, ALL SITUATED IN THE COUNTY OF COOK IN THE STATE OF ILLINOIS, EXCEPT THE NORTH 50 FEET OF SAID TRACT TAKEN FOR SCHAUMBURG ROAD AND EXCEPT THE EAST 300 FEET THEREOF, ALSO EXCEPTING FROM SAID PARCEL 2 THAT PART THEREOF CONDEMNED AND TAKEN FOR ROAD PURPOSES BY 92L50584, IN COOK COUNTY, ILLINOIS

EXCEPTING FROM THE AFORESAID PARCELS 1 AND 2 THAT PART THEREOF FALLING IN THE

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