

UNOFFICIAL COPY

EXECUTION COPY

THIS DOCUMENT
PREPARED BY:

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

AFTER RECORDING
RETURN TO:

Recorder's Box 337

97717037

Page 1 of 61

3062/0205 03 001 1997-09-26 15:24:02

Cook County Recorder

141.00

PLAT WITH THIS DOCUMENT

This space for Recorder's use only

SUBDIVISION AGREEMENT
BY, BETWEEN AND AMONG

THE VILLAGE OF NORTHBROOK

AND

ROBERT W. KING AND JOANN KING

AND

FIRST BANK AND TRUST COMPANY OF ILLINOIS,
AS TRUSTEE UNDER TRUST AGREEMENT DATED
SEPTEMBER 12, 1997 AND KNOWN AS TRUST NO. 10-2147

AND

NHI DEVELOPMENT, INCORPORATED

AND

NORTHSTAR HOMES, INCORPORATED

(KING SUBDIVISION)

DATED AS OF September 15, 1997

F		A
P		P
T		V
I.	FM	M

RECORDING FEE \$

DATE: 9-26-97 COPIES: 6

BOOK: FM

141.⁰⁰

Box 337

7660153, D1LH

(2)

WEST
JWEST

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

TABLE OF CONTENTS

SECTION 1. RECITALS.	1
SECTION 2. DEFINITIONS	2
SECTION 3. APPROVAL OF FINAL SUBDIVISION PLAT	3
SECTION 4. RESTRICTIVE COVENANTS	4
SECTION 5. DEVELOPMENT OF THE PROPERTY	4
SECTION 6. IMPROVEMENTS	5
SECTION 7. DAMAGE TO PUBLIC PROPERTY	8
SECTION 8. RECAPTURE	8
SECTION 9. DEDICATIONS, DONATIONS AND CONTRIBUTIONS.	9
SECTION 10. PAYMENT OF VILLAGE FEES AND COSTS	9
SECTION 11. PERFORMANCE SECURITY	9
SECTION 12. LIABILITY AND INDEMNITY OF VILLAGE	11
SECTION 13. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS	11
SECTION 14. TERM	12
SECTION 15. ENFORCEMENT	12
SECTION 16. GENERAL PROVISIONS	13

97717037 Page 49 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

SUBDIVISION AGREEMENT FOR KING SUBDIVISION

THIS AGREEMENT is made as of the 15th day of September, 1997, and is by, between and among the VILLAGE OF NORTHBROOK, an Illinois municipal corporation (the "Village"), ROBERT W. KING and JOANN KING (collectively, the "Owners"), FIRST BANK AND TRUST COMPANY OF ILLINOIS, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 12, 1997 AND KNOWN AS TRUST NO. 10-2147 (the "Trust"), NHI DEVELOPMENT, INCORPORATED ("NHI"), an Illinois corporation and NORTHSTAR HOMES, INCORPORATED, an Illinois corporation ("Northstar") (the Trust, NHI and Northstar are sometimes hereinafter collectively referred to as the "Developer").

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

SECTION 1. RECITALS.

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

B. The Owners are, as of the Effective Date of this Agreement, the owners of record of the Property.

C. The Trust is the contract purchaser of the Property.

D. NHI is the sole beneficiary of the Trust.

E. The Owners and the Developer desire and propose to have the Property subdivided from one lot into three lots. The Property is located in the R-2 Single Family Residential District.

F. The Developer desires and proposes to develop each such lot with one single family home.

G. The Village, the Owners and the Developer desire that the Property be developed and used only in substantial compliance with this Agreement.

H. A public hearing was held by the Plan Commission on February 4 and March 4, 1997 to consider: (i) amendment of the Zoning Code to establish the availability of certain lot width variations; (ii) approval of a tentative plat for the subdivision of the Property from one lot into three lots; (iii) variations relating to lot width for each of the three proposed lots; (iv) temporary waiver of the requirements of Paragraph 4-102 N1 of the Subdivision Code relating to the installation of public sidewalks; and (v) waiver of the requirements of Subsection 4-104 C of the Subdivision Code relating to the location of stormwater detention and retention facilities (collectively, the "Initial Relief"). On March 18, 1997, the Plan Commission rendered its recommendation in favor of all of the Initial Relief in Resolution No. 97-PC-8.

All capitalized words and phrases throughout this Agreement shall have the meanings set forth in the preamble above and in Section 2 of this Agreement.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

97717037 Page 50 of 61

I. On April 8, 1997, the Corporate Authorities granted the Initial Relief in Ordinance No. 97-10 and Resolution No. 97-R-53.

J. On July 15, 1997, the Plan Commission considered approval of a final plat for the subdivision of the Property from one lot into three lots and rendered its recommendation in favor of final plat approval in Resolution No. 97-PC-14.

K. The Corporate Authorities, after due and careful consideration, have concluded that the subdivision, development and use of the Property pursuant to and in accordance with this Agreement would further enable the Village to control the development of the area and would serve the best interests of the Village.

SECTION 2. DEFINITIONS.

Whenever used in this Agreement, the following terms shall have the following meanings unless a different meaning is required by the context:

"Building Code": Chapter 8, entitled "Building and Construction Regulations", of the Northbrook Municipal Code (1988), as the same has been and may, from time to time hereafter, be amended.

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

"Effective Date": The date of execution of this Agreement by all parties hereto, which date shall be deemed to be the date set forth in the first paragraph of Page 1 of this Agreement.

"Final Engineering Plan": That certain engineering plan prepared by Daniel Creaney Company, consisting of six sheets, with latest revision date of August 12, 1997, which plan has been approved by the Village Engineer, a copy of which is attached hereto as Exhibit A.

"Final Subdivision Plat": That certain subdivision plat prepared by Gremley & Biedermann, Inc., consisting of one sheet, with latest revision date of August 12, 1997, a copy of which is attached hereto as Exhibit B.

"Final Tree Preservation Plan": That certain tree preservation plan prepared by Daniel Creaney Company, consisting of one sheet, with latest revision date of August 12, 1997, a copy of which is attached hereto as Exhibit C.

"Force Majeure": Strikes, lockouts, acts of God or other factors beyond a party's reasonable control and reasonable ability to remedy; provided, however, that Force Majeure shall not include delays caused by weather conditions, unless such weather conditions are unusually severe or abnormal considering the time of year and the particular location involved.

"Improvements": The public and private on-site and off-site improvements to be made in connection with the subdivision and development of the Property, as described or listed on the Final Engineering Plan, and as provided in Section 6 of this Agreement.

"Lot": Lots 1, 2 and 3 of the Property, as depicted on the Final Subdivision Plat.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

"Plan Commission": The Plan Commission of the Village, established by Section 2-451 of the Northbrook Municipal Code (1988), as the same has been and may, from time to time hereafter, be amended.

"Property": That certain tract of land consisting of approximately 2.6 acres, commonly known as 3903 Sunset Lane, Northbrook, Illinois and legally described in Exhibit D attached hereto.

"Public Improvements Standards Manual": Village of Northbrook Standards and Specifications for Public and Private Improvements, dated October, 1990, as the same has been and may, from time to time hereafter, be amended.

"Requirements of Law": All applicable federal, state and Village laws, statutes, codes, ordinances, resolutions, rules and regulations.

"Restrictive Covenant for Compliance with Bulk Standards": The restrictive covenant to be executed and recorded by the Trust in accordance with Section 4 of this Agreement, in substantially the form attached hereto as Exhibit E, providing that the Property shall be developed in compliance with the bulk standards set forth in Resolution No. 97-R-53.

"Restrictive Covenant for Construction of Sidewalks and Cooperation with Street and Street Light Improvement Proceedings": The restrictive covenant to be executed and recorded by the Trust in accordance with Section 4 of this Agreement, in substantially the form attached hereto as Exhibit F, providing that (i) the Trust shall, upon request by the Village, construct public sidewalks along the Sunset Lane frontage of the Property in compliance with all applicable Village standards for public sidewalks and (ii) the Trust, and its successors and assigns, shall cooperate with special assessment, special service area or other special district proceedings instituted by the Village for the purpose of financing street and street light improvements along Sunset Lane.

"Subdivision Code": The Village of Northbrook Subdivision and Development Code (1991), as the same has been and may, from time to time hereafter, be amended.

"Zoning Code": The Northbrook Zoning Code (1988), as the same has been and may, from time to time hereafter, be amended.

SECTION 3. APPROVAL OF FINAL SUBDIVISION PLAT.

The Village shall adopt a valid and binding resolution, in substantially the form attached hereto as Exhibit G, approving the Final Subdivision Plat for the Subject Property, provided that such plat has been prepared and reviewed in accordance with this Agreement, the Tentative Subdivision Plat and the Requirements of Law. After the effective date of the resolution approving the Final Subdivision Plat, the Village shall promptly cause the Final Subdivision Plat to be properly recorded in the office of the Cook County Recorder of Deeds through Owners' escrow.

97717037 Page 52 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

SECTION 4. RESTRICTIVE COVENANTS.

Concurrent with the recordation of the Final Subdivision Plat, the Trust shall execute and record the following restrictive covenants:

1. the Restrictive Covenant for Compliance with Bulk Standards; and
2. the Restrictive Covenant for Construction of Sidewalks and Cooperation with Street and Street Light Improvement Proceedings.

SECTION 5. DEVELOPMENT OF THE PROPERTY.

Notwithstanding any use or development right that may be applicable or available to the Property pursuant to the Zoning Code, the Property shall be developed and used only as follows:

A. Specific Use and Development Restrictions. No more than one single family detached dwelling and authorized accessory structures shall be constructed or located on any Lot.

B. General Use and Development Restrictions. Development of the Property, except for minor alterations due to final engineering and site work approved by the Village Engineer or the Director of Development, as appropriate, shall be pursuant to and in accordance with the following.

- i. this Agreement;
- ii. the Site Plan;
- iii. the Final Subdivision Plat;
- iv. the Final Engineering Plan;
- v. the Final Tree Preservation Plan;
- vi. the Restrictive Covenant for Compliance with Bulk Standards;
- vii. the Restrictive Covenant for Construction of Sidewalks and Cooperation with Street and Street Light Improvement Proceedings;
- viii. all applicable provisions of the Zoning Code;
- ix. the Building Code;
- x. the Public Improvements Standards Manual; and
- xi. the Requirements of Law.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Unless otherwise provided in this Agreement either specifically or in context, in the event of a conflict between or among any of the above plans or documents, the plan or document that provides the greatest control and protection for the Village, as determined by the Village Manager, shall control. All of the above plans and documents shall be interpreted so that the duties and requirements imposed by any one of them are cumulative among all of them, unless otherwise provided in this Agreement either specifically or in context.

SECTION 6. IMPROVEMENTS.

A. Description of Improvements. The Developer shall, at its sole cost and expense, construct and install all of the Improvements on the Property including, without limitation, the following:

- i. stormwater detention facilities, including storm sewer mains, detention basin and related appurtenances, as depicted on the Final Engineering Plan;
- ii. sanitary sewer service lines for each Lot; and
- iii. water service lines for each Lot.

B. Design and Construction of the Improvements.

i. General Standards. All Improvements shall be designed and constructed pursuant to and in accordance with the Final Engineering Plan, the Final Tree Preservation Plan and the Public Improvements Standards Manual, and to the satisfaction of the Village Engineer. All work performed on the Improvements shall be conducted in a good and workmanlike manner and with due dispatch in accordance with the schedule established in Subsection 6.D below. All materials used for construction of the Improvements shall be new and of first quality.

ii. Contract Terms; Prosecution of the Work. The Developer shall include in every contract for work on the Improvements terms requiring the contractor to prosecute the work diligently and continuously, in full compliance with, and as required by or pursuant to, this Agreement, the Final Engineering Plan and the Requirements of Law, until such work is properly completed, and providing that the Developer may take over and prosecute the work if the contractor fails to do so in a timely and proper manner.

iii. Engineering Services. The Developer shall provide, at its sole expense, all engineering services for the design and construction of the Improvements, including full inspection services of a professional resident engineer responsible for overseeing the construction of the Improvements. The Developer shall promptly provide the Village with the name of such resident engineer and a telephone number or numbers at which such resident engineer can be reached at all times.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

iv. Village Inspections and Approvals. All work on the Improvements shall be subject to inspection and approval by Village representatives at all times.

v. Other Approvals. Where the construction and installation of any Improvement requires the consent, permission or approval of any public agency or private party, the Developer shall promptly file all applications, enter into all agreements, post all security, pay all fees and costs, and otherwise take all steps that may be required to obtain such consent, permission or approval.

C. Construction Traffic. At all times during the construction of the Improvements, the Developer shall keep all routes used for construction traffic free and clear of mud, dirt, debris, obstructions and hazards and shall repair any damage caused by such construction traffic.

D. Completion of the Improvements. All Improvements shall be completed and made ready for inspection, approval and, where appropriate, acceptance by the Village pursuant to the construction schedule approved by the Village Engineer as part of the Final Engineering Plan. The Developer shall be allowed extensions of time beyond the completion dates set forth in such construction schedule only for unavoidable delay caused by Force Majeure.

E. Dedication and Maintenance of the Improvements.

i. Final Inspection and Approval of the Improvements. The Developer shall notify the Village when it believes that any or all of the Improvements have been fully and properly completed and shall request final inspection, approval and, where appropriate, acceptance of the Improvement or Improvements by the Village. Such notice and request shall comply with, and include, all requirements of Section 3-506 of the Subdivision Code and shall be given far enough in advance to allow the Village time to inspect the Improvements and to prepare a punch list of items requiring repair or correction and to allow the Developer time to make all required repairs and corrections prior to the scheduled completion date. The Developer shall promptly make all necessary repairs and corrections as specified on the punch list. The Village shall not be required to approve or accept any portion of the Improvements until all of the Improvements, including all punch list items, have been fully and properly completed.

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

iii. Developer's Maintenance of Improvements. For a period of at least two years following Village approval, the Developer shall, at its sole cost and expense, maintain without any modification except as specifically approved in writing by the Village Engineer, in a first rate condition at all times,

97717037 Page 3 of 51

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

the Improvements. In the event the Village Engineer determines, in his sole and absolute discretion, that the Developer is not adequately maintaining, or has not adequately maintained, any Improvement, the Village may, after 10 days' prior written notice to the Developer, but shall not be obligated to, enter upon any or all of the Property for the purpose of performing maintenance work on and to any such Improvement. In the event that the Village shall cause to be performed any work pursuant to this Subsection, the Village shall have the right to draw from the performance securities deposited pursuant to Section 11 of this Agreement, or the right to demand payment directly from the Developer, based on costs actually incurred or on the Village's reasonable estimates of costs to be incurred; an amount of money sufficient to defray the entire costs of such work, including legal fees and administrative expenses. The Developer shall, upon demand by the Village, pay such amount to the Village.

F. Transfer of Ownership of the Improvements and Easements to the Village. Upon the approval of, and prior to acceptance of, the Improvements to be accepted by the Village pursuant to Subsection 6.E above, the Developer shall execute, or cause to be executed, such documents as the Village shall request to transfer ownership of such Improvements to, and to evidence ownership of such Improvements by, the Village, free and clear of all liens, claims, encumbrances and restrictions unless otherwise approved by the Village in writing. The Developer shall, at the same time, grant, or cause to be granted, to the Village all such insured easements or other property rights as the Village may require to install, operate, maintain, service, repair and replace the Improvements that have not previously been granted to the Village, free and clear of all liens, claims, encumbrances and restrictions unless otherwise approved by the Village in writing.

G. Two-Year Guaranty of the Improvements. The Developer hereby guarantees the prompt and satisfactory correction of all defects and deficiencies in the Improvements, including, without limitation, landscaping installed by the Developer on public lands or within public rights-of-way or easements, that occur or become evident within two years after approval and, where appropriate, acceptance of the Improvements by the Village pursuant to this Agreement. If any such defect or deficiency occurs or becomes evident during such period, then the Developer shall, after 10 days' prior written notice from the Village (subject to Force Majeure), correct it or cause it to be corrected. In the event any Improvement is repaired or replaced pursuant to such a demand, the Guaranty provided by this Subsection 6.G shall be extended, as to such repair or replacement, for two full years from the date of such repair or replacement.

H. Issuance of Permits and Certificates.

i. Right to Withhold Permits and Certificates. The Village shall have the absolute right to withhold any building permit or certificate of occupancy at any time the Developer is in violation of, or is not in full compliance with, the terms of this Agreement.

ii. Demolition of Existing Home. The Village shall have no obligation to issue any building permits or other permits for work to be performed on either of Lots 1 or 2 until the existing home located on Lots 1 and 2 has been demolished and all debris resulting from such demolition removed from the Property.

97717037

Page 4 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

iii. Completion of Stormwater Detention Facilities. The Village shall have no obligation to issue any building permits or other permits for work to be performed on the Property until the stormwater detention facilities, as depicted on the Final Engineering Plan, are completed to the satisfaction of the Village Engineer.

iv. Completion of Improvements. The Village shall issue no certificates of occupancy for any building or structure located on the Property until the Improvements are completed by the Developer in accordance with the schedule established pursuant to Subsection 6.D above or until other arrangements satisfactory to the Village Engineer, in his sole and absolute discretion, shall have been made. The issuance of any building permit or certificate of occupancy by the Village at any time prior to completion of all the Improvements and approval and, where appropriate, acceptance thereof by the Village shall not confer on the Developer any right or entitlement to any other building permit or certificate of occupancy.

i. Completion of Construction. If the Developer fails to diligently pursue all construction as required in, or permitted by, Sections 5 and 6 of this Agreement to completion within the time period prescribed in the building permit or permits issued by the Village for such construction, and if the building permit or permits are not renewed within three months after the expiration thereof, the Developer shall, within 60 days after notice from the Village, remove any partially constructed or partially completed buildings, structures or improvements from the Property. In the event the Developer fails or refuses to remove said buildings, structures and improvements, as required, the Village shall have, and is hereby granted, in addition to all other rights afforded to the Village in this Agreement and by law, the right, at its option, to demolish and/or remove any of said buildings, structures and improvements, and the Village shall have the right to charge the Developer an amount sufficient to defray the entire cost of such work, including legal and administrative costs, if the amount so charged is not paid by the Developer within 30 days following a demand in writing by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien against the Lot on which the work was performed, and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien in the same manner as mortgage foreclosure proceedings.

SECTION 7. DAMAGE TO PUBLIC PROPERTY.

The Developer shall maintain the Property and all streets, sidewalks and other public property in and adjacent to the Property in a good and clean condition at all times during development of the Property and construction of the Improvements. Further, the Developer shall promptly clean all mud, dirt or debris deposited on any street, sidewalk or other public property in or adjacent to the Property by the Developer or any agent of or contractor hired by, or on behalf of, the Developer; and shall repair any damage that may be caused by the activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

SECTION 8. RECAPTURE.

A. Paid by Developer. The Developer does hereby unconditionally agree to pay to the Village, prior to the recordation of the Final Plat of Subdivision, a fair and equitable share of the cost of the Sunset Lane water and sanitary sewer facilities

97717037

Page 5 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

previously constructed, and which were financed by Village of Northbrook Special Assessment 90. The Developer's fair and equitable share of said cost, as determined by the Village and acknowledged by the Developer, is \$9,734.33.

B. Paid to Developer. The parties do hereby agree that the Developer is not entitled to any recapture amounts as a result of the installation of the Improvements.

SECTION 9. DEDICATIONS, DONATIONS AND CONTRIBUTIONS.

Northstar has entered into agreements for the satisfaction of applicable donation and contribution requirements with the following districts: (i) Northbrook Park District; (ii) Northfield Township High School District No. 225; and (iii) Elementary School District No. 27.

SECTION 10. PAYMENT OF VILLAGE FEES AND COSTS.

A. General Requirements. In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement, the Developer shall pay to the Village, as and when due, all application, inspection and permit fees, all water and sewer general and special connection fees, tap-on fees, charges and contributions, and all other fees, charges and contributions required by applicable Village codes, ordinances, resolutions, rules or regulations.

B. Special Requirements. In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Developer shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and other consulting or administrative fees, costs and expenses incurred or accrued in connection with the review and processing of plans for the development of the Property and in connection with the negotiation, preparation, consideration and review of this Agreement. Payment of all such fees, costs and expenses for which demand has been made, but payment has not been received, by the Village prior to execution of this Agreement shall be made by a certified or cashier's check immediately upon execution of this Agreement by the Village President. Further, the Developer agrees that it will continue to be liable for and to pay, immediately upon presentation of a written demand or demands therefor, such fees, costs and expenses incurred in connection with any applications, documents or proposals, whether formal or informal, of whatever kind submitted by the Developer during the term of this Agreement in connection with the development and use of the Property. Further, the Developer agrees that it shall be liable for and shall pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

SECTION 11. PERFORMANCE SECURITY.

A. General Requirements. As security to the Village for the performance by the Developer of the Developer's obligations to construct and complete the improvements pursuant to and in accordance with this Agreement, the Developer shall deposit with the Village Manager performance guarantees ("Guarantee") consisting of a cash deposit and a letter of credit from a bank or other financial institution having capital resources of at least \$50,000,000.00 in form and substance substantially conforming with Exhibit H and satisfactory to the Village Attorney. The cash deposit

97717037
Page 6 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

portion of the Guarantee shall be at least ten percent of the amount required pursuant to Subsection 11.B of this Agreement.

B. Amount of Guarantee. The Guarantee shall be in a total amount equivalent to either:

- i. the total amount plus 10 percent of the actual, executed contracts for the construction of the Improvements, plus applicable Village review and inspection fees; or
- ii. in the event that actual, executed contracts for such Improvements are not available, the total amount plus 25 percent of an estimate of the cost of the Improvements, plus applicable Village review and inspection fees.

All such contracts and estimates shall be subject to review and approval by the Village Engineer.

C. Reduction of Guarantee. The aggregate amount of the letter of credit may be reduced by the Developer in accordance with the schedule contained in the Subdivision Code. All requests by the Developer to reduce the amount of the letter of credit shall be accompanied by and shall include, without limitation, the following:

- i. the total original amount of the applicable letter of credit;
- ii. an itemized list of all approved and pending requests to reduce the total original amount of the applicable letter of credit;
- iii. the total original amount of the contract for the Improvement(s) on which a reduction is requested;
- iv. the amounts of any increases or decreases in the total original amount of the contract;
- v. the amount of the reduction in the applicable letter of credit requested by the Developer; and
- vi. lien waivers from all contractors and subcontractors of the Developer for the improvement(s), evidencing that payment for the reduction amount has been made.

Unless so reduced, the letter of credit deposit shall be held by the Village in escrow until completion of the applicable Improvements and shall, at the Village's discretion, be drawn on or retained by the Village in the event that the Developer fails to construct and complete, in a good and workmanlike manner pursuant to and in accordance with this Agreement, the applicable Improvements or any portion thereof. Upon the Village's certification of completion of construction of the Improvements, the Village shall release the letter of credit and the cash deposit. All Guarantee deposits shall be maintained at the Developer's sole cost and expense.

97717037 Page 7 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

SECTION 12. LIABILITY AND INDEMNITY OF VILLAGE.

A. Village Review. The Owners and the Developer acknowledge and agree that the Village is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of any plans for the Property or the Improvements, or the issuance of any approvals, permits, certificates, or acceptances, for the development or use of the Property or the Improvements, and that the Village's review and approval of any such plans and the Improvements and issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure the Owners or the Developer, or any of their heirs, successors, assigns, tenants and licensees, or any third party, against damage or injury of any kind at any time.

B. Village Procedure. The Owners and the Developer acknowledge and agree that all notices, meetings and hearings have been properly given and held by the Village with respect to the approval of this Agreement and agree not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

C. Indemnity. The Owners and the Developer, only as to their own respective acts or omissions, agree to, and do hereby, hold harmless and indemnify the Village, the Corporate Authorities, the Plan Commission and all Village elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, from any and all claims that may be asserted at any time against any of such parties in connection with (i) the Village's review and approval of any plans for the Property or the Improvements; (ii) the issuance of any approval, permit, certificate or acceptance for the Property or the Improvements; (iii) the development, construction, maintenance or use of any portion of the Property or the Improvements; and (iv) the collection and distribution of amounts paid by the Developer pursuant to Subsection 8.A of this Agreement.

D. Defense Expense. The Owners and the Developer, only as to their own acts or omissions, shall, and do hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims referenced in Subsection 12.C above.

SECTION 13. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.

All obligations assumed by the Owners and the Developer under this Agreement shall be binding upon such party personally, upon any and all of the respective party's heirs, successors and assigns, and upon any and all of the respective successor legal or beneficial owners of all or any portion of the Property. To assure that all such heirs, successors, assigns and successor owners have notice of this Agreement and the obligations created by it, the Owners and the Developer shall each:

1. Deposit with the Village Clerk, concurrent with the Village's approval of this Agreement, any consents or other documents necessary to authorize the Village to record this Agreement with the Cook County Recorder of Deeds; and
2. Notify the Village in writing at least 30 days prior to any date upon which such party transfers a legal or beneficial interest in any portion of the Property to any party not a party to this Agreement; and

977717037

Page 8 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

3. Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the sale of all or any portion of the Property to any party not a party to this Agreement; and

4. Require, prior to the transfer of all or any portion of the Property, or any legal or equitable interest therein, to any party not a party to this Agreement, the transferee of said portion of or interest in the Property to execute an enforceable written agreement, in substantially the form attached hereto as Exhibit I, agreeing to be bound by the provisions of this Agreement (a "Transferee Assumption Agreement") and to provide the Village, upon request, with such reasonable assurance of the financial ability of such transferee to meet those obligations as the Village may require;

provided, however, that the requirements stated in the three preceding clauses shall not apply to any contract for, or transfer of, an individual Lot or group of Lots for which all Improvements have been completed and approved and, where appropriate, accepted pursuant to Section 6 of this Agreement. The Village agrees that upon a successor becoming bound to the personal obligation created in the manner provided in this Agreement and providing the financial assurances required herein, the personal liability of the Owners or the Developer shall be released to the extent of the transferee's assumption of such liability. The failure of the Owners or the Developer to provide the Village with a fully executed copy of a Transferee Assumption Agreement required above by the transferee to be bound by the provisions of this Agreement and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any such transfer shall result in such party remaining fully liable for all of such party's obligations under this Agreement, but shall not relieve the transferee of its liability for all such obligations as a successor to such party.

SECTION 14. TERM.

The provisions of this Agreement shall run with and bind the Property, and shall inure to the benefit of, and be enforceable by, the Owners, the Developer, the Village and any of their respective legal representatives, heirs, grantees, successors and assigns, from the date this Agreement is recorded and until the Improvements are approved by the Village and the public Improvements, as required by this Agreement and the Subdivision Code, are accepted by the Village. Following such approval and acceptance, the Village agrees, upon written request of the Owner and Developer, to execute appropriate and recordable evidence of the termination of this Agreement.

SECTION 15. ENFORCEMENT.

The parties hereto may, in law or in equity, by suit, action, mandamus or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement, provided, however, that the Owners and the Developer agree that they will not seek, and do not have the right to seek, to recover a judgment for monetary damages against the Village or any elected or appointed officials, officers, employees, agents, representatives, engineers or attorneys thereof, on account of the negotiation, execution or breach of any of the terms and conditions of this Agreement. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village shall be entitled to withhold the issuance of building permits or certificates of occupancy for any and all buildings and structures within the Property at any time when the Owners or the Developer have failed or refused to meet fully any of its obligations under this Agreement. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial proceeding.

SECTION 16. GENERAL PROVISIONS.

A. Notice. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be (i) personally delivered, or (ii) delivered by a reputable overnight courier, or (iii) delivered by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Telecopy notices shall be deemed valid only to the extent they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three (3) business days thereafter. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (x) actual receipt; or (y) one (1) business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (z) three (3) business days following deposit in the U.S. mail, as evidenced by a return receipt.

Notices and communications to the Owners shall be addressed to, and delivered at, the following address:

Robert W. King and JoAnn King
3903 Sunset Lane
Northbrook, IL 60062

Notices and communications to the Trust shall be addressed to, and delivered at, the following address:

First Bank and Trust Company of Illinois,
as Trustee under Trust Agreement dated
September 12, 1997 and known as
Trust No. 10-2147
300 East Northwest Highway
Palatine, IL 60067
Attention: Trust Officer

with a copy to:

Rudnick & Wolfe
203 North LaSalle Street, Suite 1800
Chicago, Illinois 60601-1293
Attention: David L. Relfman

Notices and communications to NHI shall be addressed to, and delivered at, the following address:

NHI Development, Incorporated
3100 Concord
Northbrook, IL 60062

97717037 Page 10 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

with a copy to:

Rudnick & Wolfe
203 North LaSalle Street, Suite 1800
Chicago, Illinois 60601-1293
Attention: David L. Reifman

Notices and communications to Northstar shall be addressed to, and delivered at, the following address:

Northstar Homes, Incorporated
3100 Concord
Northbrook, IL 60062

with a copy to:

Rudnick & Wolfe
203 North LaSalle Street, Suite 1800
Chicago, Illinois 60601-1293
Attention: David L. Reifman

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

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

with a copy to:

Burke, Weaver & Prell
55 West Monroe Street, Suite 800
Chicago, Illinois 60603
Attention: Steven M. Elrod

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

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

C. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies and benefits allowed by law.

D. Non-Waiver. The Village shall be under no obligation to exercise any of the rights granted to it in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village to exercise at any time any such

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

right shall not be deemed or construed a waiver thereof, nor shall it affect the Village's right to enforce such right or any other right.

E. Consents. Whenever the consent or approval is required in this Agreement such consent or approval shall be in no way unreasonably withheld or delayed, and, in all matters contained herein shall have an implied obligation of reasonableness, except as may be provided otherwise.

F. Governing Law. This Agreement shall be governed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

G. Non-Severability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the entire remainder of this Agreement shall, thereupon, be null and void and of no further force and effect, it being the intent of the parties that all of the provisions of this Agreement be treated as an individual whole.

H. Entire Agreement. This Agreement shall constitute the entire agreement of the parties to this Agreement; all prior agreements between the parties, whether written or oral, are merged in this Agreement and shall be of no force and effect.

I. Grammatical Usage and Construction. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural, in any place in which the context so requires.

J. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

K. Headings. The table of contents, heading, titles and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

L. Exhibits. Exhibits A through I attached hereto are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.

M. Amendments and Modifications. No modification, addition, deletion, revision, alteration, or other change to this Agreement shall be effective unless and until such change is reduced to writing and executed by the Village and all owners of record of the Property at the time such modification is intended to be effective, pursuant to all applicable statutory procedures.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

right shall not be deemed or construed a waiver thereof, nor shall such failure void or affect the Village's right to enforce such right or any other right.

E. Consents. Whenever the consent or approval of any party hereto is required in this Agreement such consent or approval shall be in writing and shall not be unreasonably withheld or delayed, and, in all matters contained herein, all parties shall have an implied obligation of reasonableness, except as may be expressly set forth otherwise.

F. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

G. Non-Severability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the entire remainder of this Agreement shall, thereupon, be null and void and of no further force and effect, it being the intent of the parties that all of the provisions of this Agreement be treated as an individual whole.

H. Entire Agreement. This Agreement shall constitute the entire agreement of the parties to this Agreement; all prior agreements between the parties, whether written or oral, are merged in this Agreement and shall be of no force and effect.

I. Grammatical Usage and Construction. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural, in any place in which the context so requires.

J. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

K. Headings. The table of contents, heading, titles and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

L. Exhibits. Exhibits A through I attached hereto are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.

M. Amendments and Modifications. No modification, addition, deletion, revision, alteration, or other change to this Agreement shall be effective unless and until such change is reduced to writing and executed by the Village and all owners of record of the Property at the time such modification is intended to be effective, pursuant to all applicable statutory procedures.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

N. Changes in Laws. Unless otherwise explicitly provided in this Agreement, any reference to any Requirements of Law shall be deemed to include any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

O. Authority to Execute. The Village hereby warrants and represents to the Owners and the Developer that the persons executing this Agreement on its behalf have been properly authorized to do so by the Corporate Authorities. The Owners and the Developer hereby warrant and represent to the Village (i) that they have the full and complete right, power and authority to enter into this Agreement and to agree to the terms, provisions and conditions set forth in and to bind the Property as set forth in this Agreement, (ii) that all legal actions needed to authorize the execution, delivery and performance of this Agreement have been taken, and (iii) that neither the execution of this Agreement nor the performance of the obligations assumed by the Owners and the Developer hereunder will (a) result in a breach or default under any agreement to which the Owners or the Developer are a party or to which it or the Property is bound or (b) violate any statute, law, restriction, court order or agreement to which the Owners, the Developer, or the Property are subject.

P. Calendar Days and Time. Any reference herein to "day" or "days" shall mean calendar and not business days. If the date for giving of any notice required to be given hereunder or the performance of any obligation hereunder falls on a Saturday, Sunday or Federal holiday, then said notice or obligation may be given or performed on the next business day after such Saturday, Sunday or Federal holiday.

Q. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person, firm or corporation shall be made, or be valid, against the Village, the Owners, or the Developer.

97713037 Page 13 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY EXECUTION COPY

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first above written.

ATTEST:

Lona N. Lewis
Village Clerk

VILLAGE OF NORTHBROOK

By: Mal W. Dal
Village President

WITNESS:

Janet Palmer

ROBERT W. KING

Robert W. King

WITNESS:

Janet Palmer

JOANN KING

Joann King

ATTEST:

FIRST BANK AND TRUST COMPANY OF ILLINOIS, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 12, 1997 AND KNOWN AS TRUST NO. 10-2147

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

By: H. Carroll
Its: _____

NHI DEVELOPMENT, INCORPORATED

By: [Signature]
Its: Pres.

ATTEST:

By: H. Carroll
Its: _____

NORTHSTAR HOMES, INCORPORATED

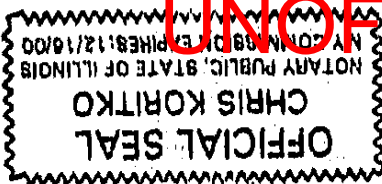
By: [Signature]
Its: Pres.

SEE FIRST AGREEMENTS TRUSTS EXECUTION CLAUSE
WITNESS TO MAKE A PART THEREOF.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY



97717037

Chris Koritko
15th day of September, 1997

GIVEN under my hand and notarial seal, this 15th day of September, 1997, I, Chris Koritko, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Robert W. King and Joann King, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as Trust Company of Illinois (formerly known as First Bank and Trust Co., Palatine, Illinois), who are Trust Company of Illinois (formerly known as First Bank and Trust Co., Palatine, Illinois), Assistant Trust Officer, of First Bank and Trust Company, did affix the corporate seal of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth, 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 Company, as Trustee as aforesaid, for the uses and purposes then so forth; and the said Assistant Trust Officer, then and there acknowledge that he, as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

STATE OF ILLINOIS)
COUNTY OF COOK)
SS)

ATTEST: *Carl R. Roth*
Assistant Trust Officer

BY: *[Signature]*
10-2147
(formerly known as First Bank and Trust Company, Palatine, Illinois), as Trustee under Trust Number 10-2147, and not individually.

IN WITNESS WHEREOF, First Bank and Trust Company of Illinois (formerly known as First Bank and Trust Co., Palatine, Illinois) not personally, but solely as Trustee under and pursuant to that certain Trust Agreement dated SEPTEMBER 12, 1997 and known as Trust Number 10-2147, has caused these presents to be signed by its Assistant Trust Officer, and its corporate seal to be hereunto affixed and attested by its Assistant Trust Officer this 15th day of SEPTEMBER, 1997.

This SUBDIVISION AGREEMENT BY, BETWEEN AND AMONG THE VILLAGE OF NORTHBROOK AND ROBERT W. KING AND JOANN KING AND FIRST BANK AND TRUST COMPANY OF ILLINOIS, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 12, 1997 AND KNOWN AS TRUST #10-2147 AND NHI DEVELOPMENT INCORPORATED AND NORTSTAR HOMES, INCORPORATED is executed by First Bank and Trust Company of Illinois (formerly known as First Bank and Trust Co., Palatine, Illinois), not personally, but solely as Trustee under and pursuant to that certain Trust Agreement herinbefore described and the Trustee does not obligate itself hereunder, anything herein contained to the contrary notwithstanding, to the performance of any of the terms, conditions and representations made and contained in the within instrument, it being specifically understood by any and all parties dealing with this instrument that said Trustee has affixed its signature hereto as such Trustee by direction in behalf of the beneficiary or beneficiaries under the said Trust without any intention of binding the said Trustee in its individual capacity. The Trustee has no knowledge of the factual matters herein contained and all agreements, conditions and representations are made solely upon the direction in behalf of the beneficiary or beneficiaries as aforesaid, and no personal liability shall be asserted to be enforceable against said Bank by reason hereof or thereof, all such personal liability, if any, being expressly waived and released.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

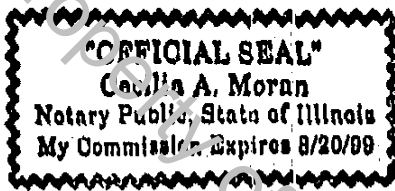
UNOFFICIAL COPY

EXECUTION COPY

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on Sept. 15, 1997, by Mark W. Danusich, the Village President of the VILLAGE OF NORTHBROOK, an Illinois municipal corporation, and by Lorna N. Lewis, the Village Clerk of said municipal corporation.



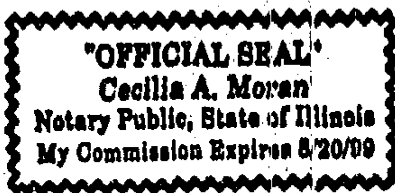
Cecilia A. Moran
Signature of Notary

SEAL

My Commission expires: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on Sept. 15, 1997, by ROBERT W. KING, an individual.



Cecilia A. Moran
Signature of Notary


SEAL

My Commission expires: _____

97717037 Page 16 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

"JASO JASO" 
Cook County Clerk's Office
Chicago, Illinois
Official Seal of the Cook County Clerk's Office
Established 1831

UNOFFICIAL COPY

EXECUTION COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on Sept. 15, 1997, by
JOANN KING, an individual.



Cecelia A. Moran
Signature of Notary

SEAL

My Commission expires: _____

STATE OF ILLINOIS)
) SIS.
COUNTY OF COOK)

This instrument was acknowledged before me on _____, 1997, by
_____ of FIRST BANK AND TRUST COMPANY
OF ILLINOIS, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 12, 1997
AND KNOWN AS TRUST NO. 10-2147, and _____
of said corporation.

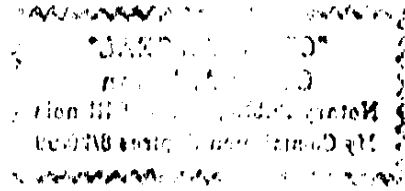
Signature of Notary

SEAL

My Commission expires: _____

97717037 Page 15 of 61

UNOFFICIAL COPY



Property of Cook County Clerk's Office

UNOFFICIAL COPY EXECUTION COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on September 15 1997, by Allen Shulman, President of NHI DEVELOPMENT, INCORPORATED, an Illinois corporation, and Linda Carroll, Secretary of said corporation.

Susan A Names
Signature of Notary



SEAL

My Commission expires: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on September 15 1997, by Allen Shulman, President of NORTHSTAR HOMES, INCORPORATED, an Illinois corporation, and Linda Carroll, Secretary of said corporation.

Susan A Names
Signature of Notary



SEAL

My Commission expires: _____

97717037 Page 17 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

INDEX OF EXHIBITS

- 97717037
- | | |
|-----------|---|
| Exhibit A | Final Engineering Plan |
| Exhibit B | Final Subdivision Plat |
| Exhibit C | Final Tree Preservation Plan |
| Exhibit D | Legal Description of the Property |
| Exhibit E | Restrictive Covenant for Compliance with Bulk Standards |
| Exhibit F | Restrictive Covenant for Construction of Sidewalks and Cooperation with Street and Street Light Improvement Proceedings |
| Exhibit G | Resolution Approving Final Subdivision Plat |
| Exhibit H | Letter of Credit Form |
| Exhibit I | Transition Assumption Agreement |
- Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT D

LEGAL DESCRIPTION OF THE PROPERTY

LOT 22 IN SUNSET VIEW ESTATES, A SUBDIVISION OF THE NORTH 50 RODS OF THE WEST 12 RODS OF THE EAST HALF (½) SOUTH EAST QUARTER (¼) AND THE NORTH 50 RODS OF THE WEST HALF (½) SOUTH EAST QUARTER (¼) AND THE NORTH 50 RODS OF THE EAST 80 RODS OF THE SOUTHWEST QUARTER (¼) OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

AFTER RECORDATION OF THE FINAL PLAT, THE PROPERTY WILL BE LEGALLY DESCRIBED AS:

LOTS 1, 2 AND 3 IN KING SUBDIVISION, BEING A RESUBDIVISION OF LOT 22 IN SUNSET VIEW ESTATES, A SUBDIVISION IN THE SOUTH HALF OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Commonly known as: 3903 Sunset Lane
Northbrook, Illinois 60062

P.R.E.I. No.: 04-06-401-031-000

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT E

RESTRICTIVE COVENANT FOR
COMPLIANCE WITH BULK STANDARDS

THIS RESTRICTIVE COVENANT is made this _____ day of _____, 1997 by First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147 (the "Owner"), the owner of record title to the parcel of real estate located in the Village of Northbrook (the "Village"), Cook County, Illinois commonly known as 3903 Sunset Lane, and legally described in Exhibit A attached hereto and made a part of this Restrictive Covenant by this reference (the "Subject Property").

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

Section 1. Background.

A. On April 8, 1997, the Village of Northbrook Board of Trustees (the "Village Board") passed Resolution No. 97-R-53 approving the tentative plat of resubdivision of the Subject Property (the "Resolution").

B. Section 5D of the Resolution provides that the Village Board's approval is expressly subject to and contingent upon, among other things, the Owner's execution of a Restrictive Covenant for Compliance with Bulk Standards.

C. Pursuant to Section 4 of the Subdivision Agreement By, Between and Among the Village, Robert W. and JoAnn King, the Owner, NHI Development, Incorporated and Northstar Homes, Incorporated, dated _____, 1997, the Owner has agreed to execute and record and be bound by this Restrictive Covenant.

Section 2. Owner's Obligation to Comply With Bulk Standards.

A. Additional Standards. Until such time as the Village adopts new residential bulk standards, Owner and its successors in title are hereby unconditionally and continuously obligated to comply with all residential bulk standards in effect in the Village at the time that any applications for any permits for work on the Subject Property are submitted and shall also comply with the following additional bulk standards:

1. Maximum floor area ratio of .25.
2. Maximum building coverage of 20%.
3. Minimum side yard of 25% of lot width; provided, however, that no side yard shall be less than 12 feet.
4. Minimum front yard and setback of 145 feet for Lot 1, 125 feet for Lot 2 and 130 feet for Lot 3.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

All terms used in this Subsection 2.A shall have the meanings ascribed to them in the Northbrook Zoning Code (1988), as amended.

B. New Standards. At such time as the Village adopts new residential bulk standards, Owner and its successors in title shall be obligated to comply with such new bulk standards.

Section 3. Enforcement. The Owner recognizes and agrees that the Village has a valid interest in ensuring that this Restrictive Covenant is properly adhered to and therefore does hereby grant the Village the right to enforce this Restrictive Covenant by any proceeding at law or in equity against any person or persons attempting to violate any restriction contained herein, either to restrain violations; to compel affirmative action, or to recover damages.

Section 4. Exercise of Village Rights; Waiver. The Village is not required to exercise the rights granted herein except as it shall determine to be in its best interest. Failure by the Village to exercise any right herein granted shall not be construed as a waiver of that right or any other right. Nothing herein shall be deemed or construed to constitute a dedication of any real property to the Village.

Section 5. Payment of Village Costs. The Owner shall pay the Village, upon presentation of a written demand or demands therefore, all administrative, engineering and legal fees incurred in connection with the enforcement of this Restrictive Covenant. If the amount so charged is not paid within thirty (30) days following such written demand by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien upon the Subject Property and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien as in foreclosure proceedings as permitted by law.

Section 6. Amendment. This Covenant may be modified, amended or annulled only upon the express, prior written approval of the Village of Northbrook, by resolution duly adopted.

Section 7. Covenants Running With the Land. The covenants and restrictions hereby imposed shall run with the land and shall be binding upon and inure to the benefit of the Owner and its successors, assigns, agents, licensees, invitees and representatives, including, without limitation, all subsequent owners of the Subject Property, or any portion thereof, and all persons claiming under them.

Section 8. Recordation. This Restrictive Covenant shall be recorded with the Recorder of Deeds of Cook County, Illinois, and all contracts and deeds of conveyance relating to the Subject Property, or any part thereof, shall be subject to the provisions of this Restrictive Covenant. The Owner agrees to pay all fees and costs incurred by the Village in the preparation and recordation of this Restrictive Covenant.

Section 9. Headings. The headings of the Sections herein are intended for reference only and are not intended to alter, amend or affect any of the terms or provisions of this Restrictive Covenant.

Section 10. Term. The restrictions hereby imposed shall be enforceable for a term of one hundred (100) years from the date this Restrictive Covenant is recorded, after which time such Restrictive Covenant shall be automatically extended for successive periods of ten (10) years unless an instrument amending this Restrictive Covenant shall be recorded and provide

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

for some other duration. If any of the rights or restrictions imposed by this Restrictive Covenant would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the current Governor of the State of Illinois as of the date of this Restrictive Covenant.

Section 11. Severability. Invalidation of any one of these covenants and restrictions by a judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Owner has caused this Restrictive Covenant to be executed on the date first above written.

OWNER:

FIRST BANK AND TRUST COMPANY OF
ILLINOIS, AS TRUSTEE UNDER TRUST
AGREEMENT DATED SEPTEMBER 12, 1997
AND KNOWN AS TRUST NO. 10-2147

By: _____

Its: _____

ATTEST:

By: _____

Its: _____

97717037 Page 22 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on _____, 1997, by
_____ of FIRST BANK AND TRUST COMPANY
OF ILLINOIS, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 12, 1997
AND KNOWN AS TRUST NO. 10-2147, an Illinois corporation, and _____,
_____ of said corporation.

Signature of Notary

SEAL

My Commission expires: _____

Property of Cook County Clerk's Office

97717037 Page 36 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY EXECUTION COPY

EXHIBIT "A" TO RESTRICTIVE COVENANT FOR
COMPLIANCE WITH BULK STANDARDS

LEGAL DESCRIPTION

LOTS 1, 2 AND 3 IN KING SUBDIVISION, BEING A RESUBDIVISION OF LOT
22 IN SUNSET VIEW ESTATES, A SUBDIVISION IN THE SOUTH HALF OF
SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD
PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Commonly known as: 3903 Sunset Lane
Northbrook, Illinois 60062

P.R.E.I. No.: 04-06-401-031-000

Property of Cook County Clerk's Office

97717037 Page 37 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT F

RESTRICTIVE COVENANT FOR CONSTRUCTION OF SIDEWALKS AND COOPERATION WITH STREET AND STREET LIGHT IMPROVEMENT PROCEEDINGS

THIS RESTRICTIVE COVENANT is made this ____ day of _____, 1997, by First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147 (the "Owner"), the owner of record title to the parcel of real estate commonly known as 3903 Sunset Lane, located in the Village of Northbrook, Cook County, Illinois, and legally described in Exhibit A attached hereto and made a part of this Restrictive Covenant by this reference (the "Subject Property").

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

Section 1. Background.

A. Paragraph 4-102 N1 of the Northbrook Subdivision and Development Code (1991), as amended (the "Subdivision and Development Code"), provides that public sidewalks are required along both sides of all streets in single family residential zoning districts where the minimum lot size does not exceed 50,000 square feet in size.

B. The Subject Property is located in the R-2 Single Family Residential District, and a portion of the Subject Property fronts Sunset Lane.

C. The Owner desires to defer the construction of public sidewalks on the Subject Property along Sunset Lane, and has requested a temporary waiver of the requirements of Paragraph 4-102 N1.

D. The Village Board of Trustees has determined that the temporary waiver to allow the deferral of construction of the sidewalks should be granted, subject to execution by the Owner of a recordable covenant acknowledging Owner's continuing obligation to construct the sidewalks in accordance with Paragraph 4-102 N1 at its sole cost and expense when required to do so by the Village.

E. Section 4-102 of the Subdivision and Development Code provides that certain street and street light improvements are required in connection with the subdivision of property located within the Village (the "Owner's Street and Street Light Improvements").

F. The Owner desires to forego the construction of the Owner's Street and Street Light Improvements.

G. The Village is considering certain street and street light improvements along the length of Sunset Lane to be performed on some future date (the "Village Street and Street Light Improvements").

UNOFFICIAL COPY

Property of Cook County Clerk's Office

H. The Village Board of Trustees has determined that the Owner should be permitted to forego the construction of the Owner's Street and Street Light Improvements, subject to the execution by the Owner of a recordable covenant acknowledging Owner's agreement to cooperate with, participate in and refrain from objecting to any special assessment, special service area or other special district proceedings instituted by the Village for the purpose of financing the Village Street and Street Light Improvements.

I. The Owner desires and intends that all current and future owners having or acquiring an interest in the Subject Property, or in any portion thereof, shall at all times hold their interests subject to the covenants set forth herein. Thus, the term "Owner," as used throughout this Restrictive Covenant, shall include all such current and future owners.

Section 2. Owner's Obligation to Construct Sidewalk. The Owner is hereby unconditionally and continuously obligated to construct a sidewalk in front of the Subject Property along Sunset Lane when required to do so by the Village, in its sole and absolute discretion. Such construction shall be at the Owner's sole cost and expense and shall be in compliance with all requirements of the Village for the construction of sidewalks.

Section 3. Village Right to Construct Sidewalk. If the Owner fails or refuses to diligently pursue the construction of a sidewalk as and when required by the Village, then the Village shall have, and the Owner hereby grants to the Village, in addition to all other rights afforded to the Village in this Restrictive Covenant and by law, the right, at the Village's option, to complete such sidewalk construction. The Village shall have the right to demand payment directly from the Owner, based on costs actually incurred or on the Village's reasonable estimates of costs to be incurred, of an amount of money sufficient to defray the entire cost of such work, including legal fees and administrative expenses. If the amount so charged is not paid by the Owner within thirty (30) days following a demand in writing by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien upon the Subject Property and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien as in foreclosure proceedings as permitted by law.

Section 4. Cooperation with Village. The Owner hereby agrees that it shall cooperate with the Village in any special assessment, special service area or other special district proceeding instituted by the Village for the purpose of financing the Village Street and Street Light Improvements, shall participate in any such proceeding and shall raise no objection or challenge to any such proceeding.

Section 5. Enforcement. The Owner recognizes and agrees that the Village has a valid interest in ensuring that this Restrictive Covenant is properly adhered to and therefore does hereby grant the Village the right to enforce this Restrictive Covenant by any proceeding at law or in equity against any person or persons attempting to violate any restriction contained herein, either to restrain violations, to compel affirmative action, or to recover damages.

Section 6. Exercise of Village Rights; Waiver. The Village is not required to exercise any of the rights granted herein except as it shall determine to be in its best interest. Failure by the Village to exercise any right herein granted shall not be construed as a waiver of that right or any other right. Nothing herein shall be deemed or construed to constitute a dedication of any real property to the Village.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 7. Payment of Village Costs. The Owner shall pay to the Village, upon presentation of a written demand or demands therefore, all administrative, engineering and legal fees incurred in connection with the enforcement of this Restrictive Covenant. If the amount so charged is not paid within thirty (30) days following such written demand by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien upon the Subject Property and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien as in foreclosure proceedings as permitted by law.

Section 8. Amendment. This Covenant may be modified, amended, or annulled only upon the express, prior written approval of the Village of Northbrook, by resolution duly adopted.

Section 9. Covenants Running with the Land. The covenants and restrictions hereby imposed shall run with the land and shall be binding upon and inure to the benefit of the Owner and its successors, assigns, agents, licensees, invitees and representatives, including, without limitation, all subsequent owners of the Subject Property, or any portion thereof, and all persons claiming under them.

Section 10. Recordation. This Restrictive Covenant shall be recorded with the Recorder of Deeds of Cook County, Illinois, and all contracts and deeds of conveyance relating to the Subject Property, or any part thereof, shall be subject to the provisions of this Restrictive Covenant. The Owner agrees to pay the fee for the preparation and recordation of this Restrictive Covenant, as established by the Village's Annual Fee Ordinance, as may from time to time be amended.

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

Section 12. Term. The restrictions hereby imposed shall be enforceable for a term of one hundred (100) years from the date this Restrictive Covenant is recorded, after which time such Restrictive Covenant shall be automatically extended for successive periods of ten (10) years unless an instrument amending this Restrictive Covenant shall be recorded and provide for some other duration. If any of the rights or restrictions imposed by this Restrictive Covenant would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the current Governor of the State of Illinois as of the date of this Restrictive Covenant.

Section 13. Severability. Invalidation of any one of these covenants and restrictions by a judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

97717037 Page 38 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

IN WITNESS WHEREOF, the Owner has caused this Restrictive Covenant to be executed on the date first above written.

OWNER:
FIRST BANK AND TRUST COMPANY OF
ILLINOIS, AS TRUSTEE UNDER TRUST
AGREEMENT DATED SEPTEMBER 12, 1997
AND KNOWN AS TRUST NO. 10-2147

By: _____

Its: _____

ATTEST:

By: _____

Its: _____

Property of Cook County Clerk's Office

97717037 Page 41 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY EXECUTION COPY

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on _____, 1997, by
_____ of FIRST BANK AND TRUST COMPANY
OF ILLINOIS, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 12, 1997
AND KNOWN AS TRUST NO. 10-2147, and _____
of said corporation.

Signature of Notary

SEAL

My Commission expires: _____

Property of Cook County Clerk's Office

97717037 Page 42 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "A" TO RESTRICTIVE COVENANT FOR
CONSTRUCTION OF SIDEWALKS AND COOPERATION
WITH STREET AND STREET LIGHT IMPROVEMENT PROCEEDINGS

LEGAL DESCRIPTION

LOTS 1, 2 AND 3 IN KING SUBDIVISION, BEING A RESUBDIVISION OF LOT 22 IN SUNSET VIEW ESTATES, A SUBDIVISION IN THE SOUTH HALF OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Commonly known as: 3903 Sunset Lane
Northbrook, Illinois 60062

P.R.E.I. No: 04-06-401-031-000

Property of Cook County Clerk's Office

97717037 Page 43 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT G

RESOLUTION NO. 97-R- (Approving Final Plat for King Subdivision)

Robert W. King and JoAnn King (the "Owners") are the owners of record of the property consisting of approximately 2.6 acres and commonly known as 3903 Sunset Lane, Northbrook, Illinois (the "Subject Property"). First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147 (the "Trust") is the contract purchaser of the Subject Property. NHI Development, Incorporated, an Illinois corporation ("NHI") is the sole beneficiary of the Trust. Northstar Homes, Incorporated, an Illinois corporation ("Northstar") proposes to develop the Subject Property with three single family homes. The Trust, NHI and Northstar are sometimes hereinafter collectively referred to as the "Developer".

Northstar has applied for final subdivision plat approval (Docket No. 97-18) for the Subject Property. The Plan Commission held a public meeting to consider the application in its regular meeting on July 15, 1997, rendering its recommendation of approval of the final plat of subdivision on that date (Resolution No. 97-PC-14).

The Owners, the Developer and the Village have approved a subdivision agreement providing for, among other things, the orderly development and improvement of the Subject Property.

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

Section 1. The final plat of subdivision for King Subdivision, prepared by Gremley & Biedermann, Inc., consisting of one sheet, with latest revision date of August 12, 1997 (the "Final Subdivision Plat") is hereby approved.

Section 2. The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, said Final Subdivision Plat, contingent upon certification of the Final Subdivision Plat by proper County officials as to the absence of property tax delinquency and all other certifications as necessary.

Section 3. The Village Manager is hereby directed to record said Final Subdivision Plat with the Cook County Recorder of Deeds upon satisfactory completion of all administrative details relating thereto.

PASSED: This ____ day of _____, 1997.
AYES: ()
NAYS: ()
ABSENT: ()
ABSTAIN: ()

ATTEST:

Village President

Village Clerk

97717037 Page 44 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT H

FORM OF IRREVOCABLE LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT NO. _____ AMOUNT: _____

EXPIRATION DATE: _____ DATE OF ISSUE: _____

[Name of Bank]

[Address]

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

97717037 Page 45 of 61

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

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

Drawn under _____
Credit No. _____ Dated: _____

and shall be in the form attached hereto as Exhibit "A" and shall be accompanied by one of the following documents executed by the Village Manager, an individual designated as acting Village Manager, or the Assistant Village Manager:

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

(b) A written statement on the form attached hereto as Exhibit "C" stating that all or any part of the improvements required to be constructed pursuant to Section 6 of the Subdivision Agreement dated _____, 1997 by and between the Village of Northbrook, Robert W. King, JoAnn King, First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147, NHI Development, Incorporated and Northstar Homes, Incorporated (the "Subdivision Agreement") have not been constructed in accordance with the Subdivision Agreement; or

EXHIBIT H

Page 1 of 9

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

(c) A written statement on the form attached hereto as Exhibit "D" stating that all or any part of the costs, payments, permit fees or other fees required to be paid to the Village pursuant to the Subdivision Agreement have not been paid in accordance with the Subdivision Agreement; or

(d) A written statement on the form attached hereto as Exhibit "E" stating that all or any portion of the maintenance, repair, or restoration required to be performed pursuant to Section 6 of the Subdivision Agreement in accordance with the Subdivision Agreement; or

(e) A written statement on the form attached hereto as Exhibit "F" stating that all or any portion of the Customer's undertakings pursuant to the Subdivision Agreement have not been performed in accordance with the Subdivision Agreement.

EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS LETTER OF CREDIT, THIS LETTER OF CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE BROCHURE NO. 500" (THE "UNIFORM RULES"). IN THE EVENT OF A CONFLICT BETWEEN THIS LETTER OF CREDIT AND THE UNIFORM RULES, THIS LETTER OF CREDIT SHALL CONTROL.

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

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

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

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

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

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

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

97717037 Page 46 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

7. The aggregate amount of this Letter of Credit may be reduced only upon receipt by us of a document executed by the Northbrook Village Manager stating that such aggregate amount shall be reduced in an amount permitted by the Northbrook Subdivision and Development Code because of the satisfactory completion of all or part of the improvements required to be constructed pursuant to Section 6 of the Subdivision Agreement dated _____, 1997 by and between the Village of Northbrook, Robert W. King, JoAnn King, First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147, NHI Development, Incorporated and Northstar Homes, Incorporated.

8. This Letter of Credit is irrevocable.

[Signature of Bank Officer]

[Signature of Bank Officer]

[Officer's Title]

[Officer's Title]

Property of Cook County Clerk's Office

97717037 Page 47 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "A" TO FORM OF IRREVOCABLE LETTER OF CREDIT

FORM OF DRAFT

{To Be Supplied By Issuing Bank}

Property of Cook County Clerk's Office

97717037 Page 24 of 61

EXHIBIT H
Page 4 of 9

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "B" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

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

Very truly yours,

Northbrook Village Manager

97717037 Page 25 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "C" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:

Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the improvements required to be constructed pursuant to Section 6 of the Subdivision Agreement dated _____, 1997 by and between the Village of Northbrook, Robert W. King, JoAnn King, First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147, NHI Development, Incorporated and Northstar Homes, Incorporated have not been constructed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

97717037 Page 26 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "D" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the costs, payments, permit fees or other fees required to be paid pursuant the Subdivision Agreement dated _____, 1997 by and between the Village of Northbrook, Robert W. King, JoAnn King, First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147, NHI Development, Incorporated and Northstar Homes, Incorporated have not been paid in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

97717037 Page 27 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "E" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:

Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the maintenance, repair or restoration required to be performed pursuant to the Subdivision Agreement dated _____, 1997 by and between the Village of Northbrook, Robert W. King, JoAnn King, First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147, NHI Development, Incorporated and Northstar Homes, Incorporated have not been performed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

97717037 Page 28 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT "F" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:

Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the undertakings of the Customer (as that term is defined in the above-referenced Letter of Credit) pursuant to the Subdivision Agreement dated _____, 1997 by and between the Village of Northbrook, Robert W. King, JoAnn King, First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147, NHI Development, Incorporated and Northstar Homes, Incorporated have not been performed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

97717037 Page 29 of 41

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

EXHIBIT I

TRANSFEEE ASSUMPTION AGREEMENT

THIS AGREEMENT, made as of this _____ day of _____, 19____, by, between and among [OWNER] (the "Owner"), [TRANSFEEE] (the "Transferee") and the Village of Northbrook, Illinois, an Illinois municipal corporation (the "Village"),

WITNESSETH:

WHEREAS, pursuant to that certain real estate sale contract dated _____, 19____, the Transferee agreed to purchase from the Owner certain real property situated in Cook County, Illinois and legally described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof (the "Subject Property"); and

WHEREAS, following the conveyance of the Subject Property by the Owner, the Transferee will be the legal owner of the Subject Property; and

WHEREAS, as a condition to the conveyance of the Subject Property by the Owner, the Owner and the Village require that the Transferee agree to comply with all the terms, requirements and obligations set forth in that certain Subdivision Agreement, dated as of _____, 1997, and recorded in the Office of the Cook County Recorder of Deeds on _____, 1997, as Document No. _____, by, between and among the Village, Robert W. King, JoAnn King, First Bank and Trust Company of Illinois, as Trustee under Trust Agreement dated September 12, 1997 and known as Trust No. 10-2147, NHI Development, Incorporated and Northstar Homes, Incorporated, as amended from time to time (the "Subdivision Agreement");

NOW, THEREFORE, in consideration of the agreement of the Owner to convey the Subject Property to the Transferee and of the Village to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between and among the Village, the Owner and the Transferee as follows:

1. Recitals. The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.

2. Assumption of Obligations. The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors and administrators, hereby agrees, at its sole cost and expense, to comply with all of the terms, requirements and obligations of the Subdivision Agreement, including all exhibits and attachments thereto, regardless of whether such terms, requirements and obligations are to be performed and provided by, or are imposed upon, the Owner or the developer of the Subject Property.

3. Assurances of Financial Ability. Contemporaneously with the Transferee's execution of this Agreement, the Transferee shall deposit with the Village Administrator the performance security required by Section 11 of the Subdivision Agreement. Upon execution of this Agreement by the Village and deposit with the Village Administrator of the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

required performance security, the Village shall surrender the original performance security to the Owner. In addition, and not in limitation of the foregoing, the Transferee shall, upon the request of the Village, provide the Village with such reasonable assurances of financial ability to meet the obligations assumed hereunder as the Village may, from time to time, require.

4. Payment of Village Fees and Costs. In addition to any other costs, payments, fees, charges, contributions or dedications required by this Agreement, the Subdivision Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Transferee shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering and other consulting or administrative fees, costs and expenses incurred in connection with the negotiation, preparation, consideration and review of this Agreement.

5. Acknowledgment and Release of Transferor. The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements and obligations of the Subdivision Agreement, including all exhibits and attachments thereto, and the Village hereby releases the Owner from any personal liability for failure to comply with the terms, requirements and obligations of the Subdivision Agreement.

6. Trustee Exculpation. This Agreement is executed by [Bank], not personally, but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by [Bank] are undertaken by it solely as Trustee as aforesaid, and not individually, and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against the Trustee by reason of any of the terms, provisions, stipulations, covenants, conditions and/or statements contained in this Agreement. Any such liability shall be asserted instead against [the property contained in Trust Number _____ or the beneficiaries thereof or against] the other signatories hereof or their successors.]

97717037 Page 31 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXECUTION COPY

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

ATTEST:

VILLAGE OF NORTHBROOK

Village Clerk

By: _____
Village President

ATTEST:

[OWNER]

By: _____

Its: _____

ATTEST:

[TRANSFeree]

By: _____

Its: _____

Property of Cook County Clerk's Office

97717037 Page 32 of 61

UNOFFICIAL COPY

Property of Cook County Clerk's Office