

**VILLAGE OF BENSENVILLE
700 WEST IRVING PARK ROAD
BENSENVILLE, ILLINOIS 60106**

ORDINANCE NO. 35-99

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A
REDEVELOPMENT AGREEMENT RELATING TO THE
HERITAGE SQUARE REDEVELOPMENT PROJECT AREA**

**ADOPTED BY THE
VILLAGE BOARD OF TRUSTEES
OF THE
VILLAGE OF BENSENVILLE
THIS 1ST DAY OF JUNE, 1999**

**Published in pamphlet form by authority of the President and Board of Trustees of the
Village of Bensenville, DuPage and Cook Counties, Illinois this 2nd day of June, 1999.**

STATE OF ILLINOIS)
) ss
COUNTIES OF COOK)
AND DUPAGE)

CERTIFICATE

I, Lynn D. Hutcherson, certify that I am the duly appointed Deputy Village Clerk of the Village of Bensenville, DuPage and Cook Counties, Illinois.

I further certify that on June 1, 1999, the Corporate Authorities of such municipality passed and approved Ordinance No. 35-99, entitled An Ordinance authorizing the execution of a redevelopment agreement relating to the Heritage Square Redevelopment Project Area, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 35-99, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the Village Hall, commencing on June 2, 1999 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

Dated at Bensenville, Illinois, this 2nd day of June, 1999.



Lynn D. Hutcherson
Deputy Village Clerk

SEAL

AN ORDINANCE authorizing the execution of a redevelopment agreement relating to the Heritage Square Redevelopment Project Area

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act, as supplemented and amended (the "*Act*"), the President and Board of Trustees (the "*Corporate Authorities*") of the Village of Bensenville, DuPage and Cook Counties, Illinois, (the "*Village*") have heretofore determined that it is advisable and in the best interests of the Village and certain affected taxing districts that the Village approve a redevelopment plan (the "*Redevelopment Plan*") and project (the "*Project*") for and designate a redevelopment project area to be known as the Heritage Square Redevelopment Project Area (the "*Redevelopment Project Area*") and that the Village adopt tax increment allocation financing for the Redevelopment Project Area; and

WHEREAS, by ordinances adopted on the 28th day of July, 1998, the Corporate Authorities have heretofore approved the Redevelopment Plan and the Project, have designated the Redevelopment Project Area, and have adopted tax increment allocation financing therefor, all as provided by and in compliance with the provisions of the Tax Increment Allocation Redevelopment Act, as amended (the "*Act*"); and

WHEREAS, the Act further requires that the Village shall provide reasonable opportunity for any person to submit alternative proposals or bids relating to the development of property within the Redevelopment Project Area, that no written agreement relating to the redevelopment of the Redevelopment Project Area shall be made except upon the adoption of an ordinance by the Corporate Authorities, and that no written agreement relating to the development of property within the Redevelopment Project Area shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the Village's request; and

WHEREAS, the Corporate Authorities have heretofore and it hereby is determined that it is advisable, necessary and in the best interests of the Village that the Corporate Authorities authorize the execution of a redevelopment agreement (the "*Agreement*") by and between the Village and Olson-Hallberg Construction, L.L.C., (the "*Developer*"), and relating to the development of real property located in the Redevelopment Project Area:

NOW THEREFORE, Be It Ordained by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, as follows:

Section 1. Preambles Incorporated. The preambles hereto be, and the same hereby are, incorporated into this Ordinance by this reference as if set out in this Section in full.

Section 2. Form of Agreement Approved. The Redevelopment Agreement is hereby approved in substantially the form attached hereto as EXHIBIT A and incorporated herein by this reference.

Section 3. Publication of Notice Authorized. Notice of the intention to execute the Agreement, substantially in the form attached hereto as EXHIBIT B (the "Notice"), shall be published at least once, the first publication to be as soon hereafter as may be, in a newspaper of general circulation within the taxing districts having property in the Redevelopment Project Area.

Section 4. Public Inspection of Agreement. A draft of the Agreement shall be placed on file at the offices of the Village no later than the date on which the Notice shall be published and shall remain on file in such offices for not less than 10 days thereafter.

Section 5. Execution of Agreement Authorized. Provided that no alternate bids or proposals are submitted to the Village as provided in the Notice, the President, Clerk, Treasurer or Manager of the Village, or successors or assigns, or any of them acting together, be, and the same hereby are, authorized to execute the Agreement with the Developer in the form herein approved with such insertions, revisions and additions as they shall deem reasonably necessary, such execution thereof by such officers to constitute complete ratification and approval of the Agreement as executed with no further official action whatsoever of the Corporate Authorities.

Section 6. Repealer. Ordinance No. 5-99 is specifically repealed.

Section 7. Superseder; Effective Date. All ordinances, resolutions, motions or orders in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed. This Ordinance shall be effective upon its adoption.

PASSED: this 1st day of June 1999.

APPROVED: this 1st day of June 1999.



John C. Geils, Village President

ATTEST:



Lynn D. Hutcherson, Deputy Village Clerk

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AYES: Basso, Strandt, Tralewski, Walberg, Wanzung, Geils

NAYS: None

ABSENT: Kervin

EXHIBIT A
Form of Redevelopment Agreement

VACANT LAND SALES CONTRACT

Contract made, effective as of June 15, 1999, by and between the Village of Bensenville, 700 W. Irving Park Road, Bensenville, DuPage County, Illinois 60106, referred to hereinafter in this Contract as "Seller," and Olson-Hallberg Construction, L.L.C., 4N220 Cavalry Drive, Bloomingdale, Illinois, referred to hereinafter as "Purchaser," as follows:

SECTION ONE

SALE OF PROPERTY

Purchaser agrees to purchase, and Seller agrees to sell to Purchaser, at the purchase prices and upon the terms and conditions recited hereinafter, the 31 separate vacant lots located at Main Street, Bensenville, DuPage County, Illinois, 60106, the totality of which are legally described in attached Exhibit "A".

The individual purchase prices for said vacant lots to be paid by the Purchaser hereunder to the Seller as recited hereinafter in SECTION THIRTEEN, sub-paragraph 1., shall be paid to Seller by Purchaser hereunder on a lot by lot basis at the times of the final closings on each individual sale of the new residences constructed by Purchaser hereunder to the eventual purchasers of such new residences. Seller shall remain in title of each such lot until the time of the formal closing on the sale of the new residence constructed on each such lot, at which time Seller will convey title to Purchaser who will in turn convey title to the eventual purchasers of such new residences.

SECTION TWO

CLOSING DATE/POSSESSION

The individual closings on each lot of this subdivision arising out of this transaction as provided for hereinafter shall take place at "First American Title Insurance Company", Bensenville, Illinois, or such other location and/or Title Company as the parties may mutually otherwise agree.

Possession of the individual lots being sold by the Seller to the Purchaser hereunder as provided for herein on a lot by lot basis shall be given to Purchaser at the time Purchaser exercises its right/obligation as recited hereinafter to purchase such individual lot(s), and Purchaser shall remain in possession and control of such lot(s) so purchased during construction and until the time of the formal closing on the sale of the new residence constructed on such lot(s) by

Purchaser, at which time the Seller hereunder will cause good title to same to be conveyed to the Purchaser who in turn will cause good title to same to be conveyed to the ultimate Purchaser of such new residence and possession will be turned over to such ultimate Purchaser of said new residence at the time of such formal closing.

Purchaser shall not be required to proceed with its lot by lot purchases hereunder until and unless the final formal "Plat of Subdivision" for said 31 separate lots is approved and formally recorded by the Seller with the Du Page County Recorder and all releases of existing easements on said lots wherein Purchaser's construction would be encumbered are obtained and recorded with the Du Page County Recorder by Seller.

Seller shall not be required to proceed in its sale of said lots hereunder until the final "Planned Unit Development" approval is rendered by Seller and the "Homeowner's Declaration" is approved by Seller and recorded by Purchaser with the Du Page County Recorder.

SECTION THREE

THE DEED

Seller shall convey or cause to be conveyed to Purchaser by a recordable, stamped Warranty Deed good title to the individual lots, on a lot by lot basis subject only to the following permitted exceptions if any: (a) general real estate taxes not due and payable at time of closing; (b) building, building line and use or occupancy restrictions, conditions and covenants of record; (c) zoning laws and ordinances; (d) easements for public utilities which do not encumber or restrict Purchaser's construction contemplated herein; (e) public roads and highways and easements pertaining thereto.

SECTION FOUR

SURVEY

At the time of execution of this "Contract", Seller shall deliver to Purchaser its fully approved and formally recorded "Plat of Subdivision" for said 31 separate vacant lots showing all easements, specifically including that certain easement identified in Document No. R78-109714 recorded with the DuPage County Recorder's Office affecting approximately 4 lots in the northwest corner of the subdivision (unless said easement is released prior to the recording of said Plat of Subdivision), and building lines and/or set-backs for

Purchaser's review and approval. Seller represents that it will use its best reasonable efforts to have said existing easement released.

Individual vacant lot surveys shall be obtained by Purchaser, the cost of which shall be reimbursed by the Seller to Purchaser in the form of a credit at the time of formal closing.

At or before the formal individual closing(s) on the sale(s) of the new residences to be constructed by Purchaser hereunder on the separate lots hereunder, the Seller shall deliver to Purchaser an individual spotted Plat of Survey for each such lot prepared and certified by a licensed Illinois Land Surveyor and showing all improvements constructed thereon, easements, building lines and/or set-backs and having all corners of such lots staked.

SECTION FIVE

TITLE

a) Upon the exercise by Purchaser of Purchaser's right/obligation hereunder to purchase any given lot(s) hereunder as provided for herein, Seller shall furnish to Purchaser at Seller's expense a Commitment for Title Insurance for each such individual lot issued by "First American Title Insurance Company" to issue an Owner's Title Insurance Policy on the current form of American Land Title Association Owner's Policy (or equivalent policy), including such coverage over "General Schedule B" exceptions therein as may be initially insured over and/or satisfied prior to the completion of new construction on such lot and covering the date hereof and in the amount of the final purchase price of the said lot and new residence to be constructed thereon, subject only to: (1) the permitted exceptions as set forth in Section Three above; (2) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount, which may be removed by the payment of money at the time of closing in which case an amount sufficient to secure the release of such title exceptions shall be deducted from the proceeds of sale due Seller at closing; and (3) acts done or suffered by, or judgments against Purchaser, or those claiming by, through or under Purchaser.

b) In addition, at or before each individual formal final closing (i.e. at the time of actual transfer of title from the Seller to the Purchaser as provided for herein) on the sale of each individual residence, on a lot by lot basis, to be constructed by Purchaser hereunder on the vacant lots hereunder, Seller shall furnish to Purchaser, at Seller's additional expense, a "later date" ("date down"), through the date of such formal final closing, on/of the original First

American Title Insurance Company Commitment for Title Insurance provided for hereinabove in sub-paragraph a) for each such individual lot, including coverage over all "General Schedule B" exceptions and subject only to: (1) the permitted exceptions as set forth in Section Three above; (2) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount, which may be removed by the payment of money at the time of closing in which case an amount sufficient to secure the release of such title exceptions shall be deducted from the proceeds of sale due Seller at closing; and (3) acts done or suffered by, or judgments against Purchaser, or those claiming by, through or under Purchaser.

c) If the initial title commitment for any given lot(s) provided for hereinabove in sub-paragraph a) and/or the "later date" ("date down") thereof as provided for hereinabove in said paragraph b) disclose unpermitted exceptions, Seller shall have thirty days from the date of delivery thereof to the Seller from said title company to have the said exceptions waived, or to have the title insurer commit to insure against loss or damage that may be caused by such exceptions, and the date for commencement of construction and/or final closing date shall be delayed, if necessary, during said 30-day period to allow Seller time to have said exceptions waived. In any event, and at Purchaser's option, Purchaser shall not be required to commence construction on any such lot(s) for which the Commitment for Title Insurance contains any such "unpermitted exceptions" until and/or unless Seller makes proper formal provisions with said Title Company to insure over and/or waive any such "unpermitted exceptions." If Seller fails to have unpermitted exceptions waived or, in the alternative, to obtain a commitment for title insurance specified above as to such exceptions within the specified time, Purchaser may terminate the Contract between the parties, or may elect, upon notice to Seller within ten days after the expiration of the thirty day period, to take the title as it then is, with the right to deduct from the purchase price owed by Purchaser to Seller hereunder for any such lot(s) any such liens or encumbrances of a definite or ascertainable amount. If Purchaser does not so elect, this Contract between the parties shall become, at Purchaser's option and upon notice from Purchaser to Seller thereof, null and void, without further action of the parties. In any event, however, each such Commitment for Title Insurance and/or subsequent "later date" ("date down") thereof for any individual lot shall be considered and treated as a separate independent event hereunder, and in the event the Purchaser elects not to proceed with construction hereunder on any specific lot(s) upon which there exists such "unpermitted exceptions" that Seller cannot have waived and/or insured against as provided for hereinabove, such election by Purchaser shall apply only to any such specific lot(s) so affected, and shall not preclude or limit Purchaser from otherwise proceeding hereunder with its purchase of other and/or additional lot(s) hereunder for which the commitment for title insurance does not contain any such "unpermitted exceptions" unable to be waived and/or insured against.

d) Every title commitment which conforms with sub-paragraph b) hereinabove shall be conclusive evidence of good title as therein shown, as to all matters insured by the policy, subject only to permitted special exceptions therein stated, if any.

SECTION SIX

AFFIDAVIT OF TITLE

At the time of each individual formal closing on the sales of the residences to be constructed by Purchaser hereunder on the vacant lots hereunder, Seller shall furnish Purchaser at closing with an Affidavit of Title covering the date of closing, subject only to those permitted special exceptions set forth in Section Three above, and unpermitted exceptions, if any, as to which the title insurer commits to extend insurance in the manner specified in Section Five.

SECTION SEVEN PRORATIONS

General real estate taxes for the individual lots hereunder shall be prorated as of the date of the individual formal closing on the sale of the new residence on each such lot based on the tax assessor's latest assessed valuation, the latest known equalization factors and the latest known tax rate, and Seller shall be responsible for the real estate taxes on each such lot until the formal transfer of title for each such lot at the formal closing on the sale of the new residence on each such lot.

SECTION EIGHT

(THIS SECTION INTENTIONALLY LEFT BLANK)

SECTION NINE

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SECTION TEN

MUNICIPAL PURPOSE

The sale of the property described herein to Purchaser is in furtherance of Seller's desire for municipal redevelopment and revitalization.

SECTION ELEVEN

DESCRIPTION OF WORK

Purchaser shall perform the following described work (residential home construction) in substantial accordance with the building plans, exterior elevations and material list(s) referred to in this Contract as the "Contract Documents" (see SECTION FIFTEEN hereinafter), at Main Street, Bensenville, DuPage County, Illinois 60106 (commonly known as The Heritage Square) and legally described on the attached Exhibit D .

SECTION TWELVE

CONSTRUCTION OF UNITS

Each residential unit to be constructed by Purchaser pursuant to this Contract shall be at least 2,000 square feet in size, excluding basement areas. The price of each unit to be sold by purchaser upon completion of construction shall be at least \$215,000.00, exclusive of extras. The said residential units shall be constructed in substantial accordance with all of the material terms and specifications of this Contract, including but not limited to the architectural plans, material requirements and diversity of elevations required by Seller and attached hereto as part of the Contract Documents. Purchaser shall provide a minimum one-year, written home warranty to all buyers of the completed residential unit constructed by Purchaser, which warranty shall be substantially in the form attached hereto as Exhibit E .

SECTION THIRTEEN

PURCHASER'S PAYMENT OF PURCHASE PRICE

Purchaser shall pay Seller for each of the individual lots hereunder the sums as specified hereinafter in sub-paragraph 1, which amount(s) shall be paid by Purchaser in cash or in kind at the time(s) of the formal closings on the sale(s) of the individual new residences constructed on such lots(s) pursuant to the following terms and conditions:

1. The individual purchase prices to be paid by Purchaser to Seller as provided for herein for the 31 lots are as follows, regardless of when such lots are "purchased" (i.e., when Purchaser notifies Seller of Purchaser's election to

proceed hereunder and commence construction on a designated lot(s) by Purchaser:

- a) Purchaser to pay Seller the sum of \$33,000.00 per lot for the first 8 lots purchased by Purchaser from Seller hereunder.
- b) Purchaser to pay Seller the sum of \$35,000.00 per lot for the second 8 lots purchased by Purchaser from Seller hereunder.
- c) Purchaser to pay Seller the sum of \$42,000.00 per lot for the third 8 lots purchased by Purchaser from Seller hereunder.
- d) Purchaser to pay Seller the sum of \$33,714.00 per lot for the final 7 lots purchased by Purchaser from Seller hereunder.

The above recited purchase prices for the 31 individual lots hereunder shall apply regardless of which particular individual lots in the subdivision are purchased, in any order and in any grouping, with those decisions to be at the sole option and discretion of Purchaser in accordance with the other terms and conditions of this Contract.

2. Purchaser shall, at Purchaser's sole cost and expense, begin and complete the construction of two (2) spec residential homes on the property as follows:

(a) Lot 9: one spec residential home to be constructed in accordance with plans and specifications signed and dated by the parties. This home shall be a three- or four-bedroom home, with a minimum of 2,000 square feet, and a minimum final sales price of \$215,000.

(b) Lot 10: one spec residential home to be constructed in accordance with plans and specifications signed and dated by the parties. This home shall be a three- or four-bedroom home, with a minimum of 2,000 square feet, and a minimum final sales price of \$215,000.

Purchaser shall, upon exercising Purchaser's right/obligation hereunder to purchase any given lot(s) hereunder, apply for and pick up all applicable building permits for the homes then to be constructed by Purchaser on such lots, and shall pay to the Seller the total fixed sum of \$1,802.00 per lot as Purchaser's total cost for all such building permits, tap-on and/or connection fees, licenses, all inspections, the water meter and any and all bond(s) that may be required for each lot, with the Seller to pay for any additional costs or expenses for such items for each lot which may exceed said \$1,802.00 amount to be paid by Purchaser. (See Paragraph D in Section EIGHTEEN.) Further, installation of foundations for said two spec residential homes shall commence by Purchaser on or before 20 days after the building permit for the lot(s) is issued; substantial completion of construction of said two spec residential homes shall occur on or before 120 days after commencement of construction as provided for herein; occupancy permits issued by Seller shall be secured and obtained by Purchaser for said two spec residential homes prior to the final closing(s) on the sale of such spec residential homes. Specifically providing, however, that in the event Purchaser's failure to comply with the projected

deadlines and requirements identified in this sub-Section and/or elsewhere contained in this Contract is caused by and/or result from inclement weather conditions, labor strikes or difficulties, material shortages and/or delays in receipt of same, vandalism, fire, flood, government orders or regulations, acts of God and/or any other cause reasonably beyond Purchaser's control, then such deadlines and/or requirements contained herein shall be extended for a reasonable period by reason thereof and Purchaser shall not be in breach or default on account thereof. Purchaser's failure to comply with the deadlines and requirements identified in this subsection shall constitute a default of this agreement and shall entitle Seller to pursue any and all remedies available to it at law, equity, or otherwise, including all rights upon default provided for herein.

3. In the event that at any time during the term of this Contract there shall remain three or more fully completed homes constructed by Purchaser hereunder unsold (i.e., the formal closing on which to the new buyers has not yet taken place) for a period of excess of 120 days from the date of the completion (i.e., the date of issuance of the certificate of occupancy) of such third home, then, at Purchaser's option, Purchaser can, upon notice to Seller, elect not to proceed with any further construction and/or purchases from Seller hereunder until and unless the number of such unsold completed homes shall become two or fewer, at which time Purchaser shall be obligated to proceed hereunder with such additional construction and/or purchases from Seller as are provided for herein.

4. In the event Purchaser shall elect to exercise its right not to proceed further hereunder predicated upon the existence of the "unsold" contingency set forth hereinabove in sub-paragraph 3., and such condition (i.e., the existence of three or more unsold completed homes) extends for a period in excess of 180 days from the date of the completion of such third home, then, after said 180 day period and upon notice to Purchaser by Seller, Seller can then offer for sale in a group(s) not to exceed three individual lots at any one time to each such third party purchaser, any then remaining vacant lots not already purchased by Purchaser hereunder to a outside third party purchaser, upon the same terms and conditions as contained in this Contract, but giving to Purchaser hereunder the "right of first refusal" to purchase any such lot(s) so offered, with Purchaser hereunder to have 30 days from the date on which Purchaser hereunder was notified by Seller of any bona fide third party written offer for such lots within which to exercise Purchaser's "right of first refusal" hereunder.

5. Any such election, either not to proceed further hereunder as provided for hereinabove in sub-paragraph 3. and/or not to exercise its "first right of refusal" as provided for hereinabove in sub-paragraph 4., shall not limit, restrict and/or preclude Purchaser hereunder from otherwise proceeding with further and/or additional purchases hereunder in the event that the said "unsold" contingency

recited hereinabove in sub-paragraph 3. is eliminated and/or waived by Purchaser, or Seller obtains another outside third party buyer in accordance with the terms of sub-paragraph 4. hereinabove to which the "first right of refusal" to Purchaser hereunder will also apply.

SECTION FOURTEEN

STARTING AND COMPLETION DATES

Projected construction dates under this Contract shall be as follows:

A. Subject to the terms and conditions recited hereinabove in Section Thirteen and/or elsewhere in this Contract concerning completion of work, Purchaser shall complete construction of and obtain occupancy permits for, on a lot by lot basis as determined by Purchaser, at least 6 residences in addition to the two spec residential homes provided for in Section Thirteen above, on or before June 1, 2000 or such other date as both parties agree in writing.

B. Subject to the terms and conditions recited hereinabove in Section Thirteen and/or elsewhere in this Contract concerning completion of work, Purchaser shall complete construction of, and obtain occupancy permits for, on a lot by lot basis as determined by Purchaser, an additional 10 residences on or before June 1, 2001 or such other date as both parties agree in writing.

C. Subject to the terms and conditions recited hereinabove in Section Thirteen and/or elsewhere in this Contract concerning completion of work, Purchaser shall complete construction of and obtain occupancy permits for, on a lot by lot basis as determined by Purchaser, the remaining 13 residences on or before June 1, 2002 or such other date as both parties agree in writing.

D. Purchaser shall at all times utilize the services of an Illinois-licensed real estate broker, selected by Purchaser, to assist with the marketing and sale of all residences constructed and sold pursuant hereto. Purchaser shall take all reasonable steps necessary to ensure that said real estate broker uses its best efforts in bringing about and closing the sales of said residences. In further pursuit hereof, Purchaser shall also submit a project marketing plan for the review and approval of the Seller or Seller's staff on or before August 1, 1999. Said marketing plan shall include, but not be limited to, details on the advertising campaign, the responsibilities of the Purchaser's local real estate market representative and any such other provisions as required by Seller. Purchaser's failure to materially and/or substantially comply with any of these terms shall constitute a breach of this Contract.

E. Nothing herein contained is meant to and/or shall be construed to limit and/or restrict the Purchaser from accelerating, at Purchaser's option, the above recited purchase/construction schedule in accordance with the remaining provisions of this Contract.

SECTION FIFTEEN

CONTRACT DOCUMENTS

A. The "contract documents" of this Contract and which are made a part hereof by incorporation by reference are as follows:

(1). This "Vacant Land Sales Contract," with supplementary exhibits and/or riders attached to this Contract, and any revisions and/or amendments thereto made by the parties hereto in the manner provided for herein made after the effective date of this Contract, including but not limited to the blueprints, elevations and material lists; and

(2). The plans and specifications, with addenda attached to such plans and specifications, signed and dated by the parties (said plans and specifications shall include but not be limited to the approved material list signed and dated by the parties, blueprints signed and dated by the parties, that certain 7-sheet Heritage Square design plan issued by the Seller and signed and dated by the parties, and any other plans and specifications signed and dated by the parties); and

(3). Material modifications to the above recited plans, external elevations or construction on special lots (see sub-paragraph (4) immediately hereinafter) which are specifically identified by the parties in writing, in the manner as provided for herein, governing residences not encompassed by the plans and specifications described anywhere herein and made a part hereof shall be subject to the review and approval by a Review Committee composed of the following: Bensenville Village President, one Bensenville Village Trustee selected by Bensenville Village President, one architectural consultant selected by Bensenville Village President, and two builder representatives selected by Purchaser. However, the Purchaser shall have the right to make internal modifications to homes being constructed provided that the change is not a change to a bearing wall and that the change is in accordance with the approved material list. A simple majority vote of said Review Committee shall constitute approval by said Review Committee as required herein.

(4) The five "special lots" upon which "custom" residences are to be built are hereby specified as lot numbers #2, #3, #6, #7 and #14 as indicated on the recorded "Plat of Subdivision" provided for hereinabove in SECTION FOUR.

Purchaser shall have the right to identify and select additional "special lots" upon which "custom" residences are to be built. No construction of any kind shall begin on any "special lot," i.e., on lots 2, 3, 6, 7, 14, and any other lot identified and selected as a "special lot" pursuant to the provisions of this subparagraph, without the plans and specifications for said "special lots" being first reviewed and approved by the Review Committee.

B. The "contract documents" together form the contract for the work described in this Contract. The parties intend that these "contract documents" include all of the rights, duties, obligations and liabilities of the respective parties hereto and the provisions and all terms governing all labor, materials, equipment, supplies, and other items necessary for the execution and completion of the work, and all terms and conditions of payment hereunder.

C. All original/initial "contract documents" are to be separately dated and executed in triplicate by both Seller and Purchaser prior to the commencement of any of the Contract work hereunder. Any and all documents containing any additional, revised and or modified terms, conditions and/or agreement between the parties agreed to by the parties subsequent to the execution by the parties of the original/initial "contract documents" herein must likewise be separately dated and executed in triplicate by both Seller and Purchaser and recite therein that they are being made a part of the original/initial "contract documents" herein by incorporation and reference. Purchaser, by executing the documents, represents that he or she has inspected and is familiar with the work site and the local conditions, codes, ordinances and statutes under which the work is to be performed.

D. Notwithstanding anything herein to the contrary, all construction and any other work performed pursuant to the terms and conditions of this Contract shall be subject to the prior review and approval of the Review Committee in applying the applicable terms and conditions of this Contract to any such work.

SECTION SIXTEEN

CONDITION OF PROPERTY

If, before and/or during the period of construction hereunder by Purchaser, it becomes in the opinion of the Review Committee apparent, determined and/or known that any of the lot(s) hereunder require any further action (excepting such remedial action required as the result of Purchaser introducing material or conditions to the lot(s) in which event such required remedial action shall be the responsibility of Purchaser) (specifically including but not limited to the removal of existing and/or buried concrete debris) and/or remediation arising out of the condition of the land being sold by the Seller hereunder in order to comply with any applicable governmental regulations

pertaining thereto, it shall be the obligation of the Seller to provide any such further action and/or remediation to bring any such lot(s) into compliance with such applicable governmental regulations pertaining thereto, and in the event that the Seller, upon notice to Purchaser, elects not to proceed with any such required action and/or remediation, then the Purchaser shall have no further obligation to proceed with any additional construction on any such lot(s), or, in the alternative, the Purchaser can elect to proceed with any such requisite action and/or remediation for any such lot(s) on the condition that the cost of such action does not exceed 60% of the applicable lot price and then deduct the costs thereof from the amount(s) owed by the Purchaser to the Seller at the time of final closing(s) on the sale of the new residence(s) on any such lot(s) and proceed with construction hereunder. In the event that the cost(s) of any such further action and/or remediation on any given lot exceeds 60% of the applicable lot price, Purchaser shall not proceed with any such requisite action and/or remediation for any such lot(s) without the prior written consent of Seller. Further, in the event that the cost(s) of any such further action and/or remediation on any given lot exceeds 60% of the applicable lot price and Seller consents in writing to Purchaser's request to proceed with any such requisite action and/or remediation for any such lot(s), then the Purchaser can deduct the costs thereof from the amount(s) owed by the Purchaser to the Seller at the time of final closing(s) on the sale of the new residence(s) on any such lot(s), proceed with construction hereunder, and "carry over" any such outstanding costs of remediation and deduct same from the purchase price owed by the Purchaser to the Seller as set forth in Section 13 on any other and/or additional lot(s) hereunder. Seller has provided to Purchaser for Purchaser's reference a "No Further Remediation Letter" issued by the Illinois Environmental Agency for the property governed by this Contract.

SECTION SEVENTEEN

RIGHTS AND RESPONSIBILITIES OF SELLER

A. Access to Work Site for Inspections. Seller shall be given free access to the work site at all reasonable times during its preparation and progress to check on work progress.

B. The Review Committee shall have the authority to reject any work that in the opinion of the Review Committee does not substantially conform to the "contract documents", and, by virtue of such rejection, to stop the work or a portion thereof when such work is rejected by the Review Committee.

C. Seller reserves the right to let other "Contracts" in connection with the development of the lots hereunder, specifically providing that any such

"Contracts" are to be coordinated with the work being done by the Purchaser hereunder and do not duplicate and/or interfere with the proper completion of the Purchaser's work hereunder.

D. It is the responsibility of Seller to provide to Purchaser, concurrent with the execution of this Contract, an itemization and schedule of all the site development improvements to be provided and/or performed by Seller pursuant to this Contract. Seller shall complete, at Seller's cost and expense, and on or before the specified date(s) for completion of such development improvements, all subdivision improvements, buffering, off-site screening and parkway improvements provided for in attached Exhibit G. Purchaser shall not be required to perform further hereunder in the event such development improvements to be provided by Seller are not completed as scheduled (see said Exhibit G) until and unless such development improvements are, in fact, provided and/or completed. If any such development improvements remain incomplete and/or are not provided as scheduled herein for a period in excess of 180 days after the specified completion date(s) for any such improvements recited in said attached Exhibit G (specifically providing, however, that in the event Seller's failure to comply with the said projected deadlines and requirements identified in this sub-section is caused by and/or the result from inclement weather conditions, labor strikes or difficulties, material shortages and/or delays in the receipt of same, vandalism, fire, flood, government orders or regulations, acts of God and/or any other cause reasonably beyond Seller's control, then such deadlines and/or requirements contained herein shall be extended for a reasonable period by reason thereof and Seller shall not be in breach or default on account thereof), then, at Purchaser's option and with notice to Seller, Purchaser can either proceed hereunder pursuant to the terms of this Contract OR, in the alternative, Purchaser can declare Seller to be in breach and default hereunder upon written notice thereof by purchaser to Seller and thereafter avail itself of any remedies provided for herein in the case of such breach and/or default by Seller.

SECTION EIGHTEEN

RESPONSIBILITIES OF PURCHASER

Purchaser's duties in connection with the above-described project are as follows:

A. Responsibility for and Supervision of Construction. Purchaser shall be solely responsible for all construction (except for the development improvements to be provided and/or completed by Seller as recited hereinabove in Section Seventeen D.) under this Contract, including the techniques, sequences, procedures and means, and for coordination of all work. Purchaser

shall supervise and direct the work to the best of its ability and give it all attention necessary for such proper supervision and direction.

B. Discipline and Employment. Purchaser shall maintain at all times discipline among its employees, and purchaser agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he or she was employed.

C. Furnishing of Labor, Materials, etc. Purchaser shall provide and pay for all labor, materials, and equipment, including tools, construction equipment and machinery, utilities, including water, transportation, and all other items and services necessary for the proper completion of work on the project in accordance with the contract documents.

D. Payment of Taxes; Procurement of Licenses, Bonds and Permits. Purchaser shall pay all taxes required by law in connection with Purchaser's work on the project in accordance with this Contract, including sales, use, and similar taxes. Purchaser shall also secure all licenses, surety bonds and/or permits necessary for proper completion of the work hereunder, the costs for same to be paid as set forth hereinabove in SECTION THIRTEEN, sub-paragraph 1.

E. Compliance With Construction Laws and Regulations. Purchaser shall comply with all laws and ordinances, and the rules, regulations, or orders of all public authorities relating to the performance of the work under and pursuant to this Contract.

F. Responsibility for Negligence of Employees and Subcontractors. Purchaser assumes full responsibility for acts, negligence or omissions of all of its employees on the project, for those of its subcontractors and their employees, and for those of all other persons doing work under a Contract with Purchaser.

G. Warranty of Fitness of Equipment and Materials. Purchaser represents and warrants to Seller that all equipment and materials used in the work, and made a part of the structures on such work, or placed permanently in connection with such work, will be new unless otherwise specified in the Contract Documents, and be of good quality, free of defects, and in substantial conformance with the contract documents. It is understood and agreed between the parties to this Contract that all non-conforming equipment and materials may be considered defective as provided for herein.

H. Clean-up. Purchaser agrees to keep the work premises and adjoining ways reasonably free of waste material and rubbish caused by its subcontractors. Likewise, Seller agrees to keep its development improvement work premises and adjoining ways reasonably free of waste material and rubbish caused by Seller's subcontractors. Purchaser further agrees to remove all such waste

material and rubbish on termination of the project, together with all of its tools, equipment, machinery, and surplus materials. Purchaser further agrees, on completion of its work at an individual site, to conduct general clean-up operations, including the cleaning of all glass surfaces, paved streets and walks, steps and interior floors and walls.

I. Indemnity and Hold Harmless Agreement. Purchaser and Seller reciprocally agree to indemnify and hold the other, its agents, officers and employees, harmless from and indemnified against any and all claims, damages, losses and expenses, including reasonable attorneys' fees and court costs in case it shall be necessary to file an action arising out of the respective performance of the work in this Contract by Purchaser and Seller, that is (a) for bodily injury, illness, or death, or for property damage, including loss of use, and (b) caused in whole or in part by Purchaser's or Seller's negligent act or omission, or that of their subcontractor(s), or that of anyone employed by them or for whose acts Purchaser's or Seller's subcontractor may be liable. In the event of such actions or claims, the Purchaser, if responsible for any such act or omission, agrees immediately upon the assertion of such action or claim to provide the Seller with a surety bond under such terms and in such amounts satisfactory to the Seller so that the amounts of any potential actions or claims in excess of insurance policy limits wherein the Seller is a named insured are covered to the satisfaction of the Seller. Said surety bond requirement is in addition to, and not in lieu of, any other obligation of the Purchaser hereunder. The parties acknowledge that the Seller as a municipal corporation is "self-insured" and therefore not obligated to provide such surety bond as contemplated by this subsection in the event that the Seller is responsible for any such act or commission as contemplated by this subsection.

K. Safety Precautions and Programs. Purchaser has the duty of providing for and overseeing all safety orders and precautions necessary to the reasonable safety of the work. In this connection, purchaser shall take reasonable precautions for the safety of all employees and other persons whom the work might affect, all work and materials incorporated in the project, and all property and improvements on the construction site and adjacent to the construction site, complying with all applicable laws, ordinances, rules, regulations and orders.

SECTION NINETEEN

TIME OF ESSENCE; EXTENSION OF TIME

A. All times stated in this Contract or in the contract documents are of the essence.

B. The times stated in this Contract or in the contract documents may be extended by a "change order" dated and executed by both parties hereto for such a reasonable time as they may determine when the work in progress is delayed by changes ordered, labor disputes, material shortages, fire, weather delays, transportation delays, injuries or other causes beyond Purchaser's control which justify the delay.

SECTION TWENTY

SUBCONTRACTORS

A. A subcontractor, for the purposes of this Contract, shall be a person whom Purchaser has a direct contract for work at the project site.

B. All contracts between Purchaser and subcontractors shall conform to the provisions of the contract documents, and shall incorporate in them all relevant provisions of this Contract.

SECTION TWENTY-ONE

INSURANCE

A. Purchaser's Liability Insurance. Purchaser agrees to keep in full force and effect at its own expense during the entire period of construction on the project liability insurance as will protect it from claims under workers' compensation and other employee benefit laws, for bodily injury and death, and for property damage that may arise out of work under this Contract, whether directly or indirectly by Purchaser, or directly or indirectly by a subcontractor. The minimum liability limits of such insurance shall not be less than \$1,000,000.00 each occurrence/\$5,000,000.00 aggregate. Such insurance shall include contractual liability insurance applicable to Purchaser's obligations under this Contract. Proof of such insurance shall be filed by Purchaser with Seller within a reasonable time after execution of this Contract and before any work is commenced on the project.

B. Purchaser acknowledges that Seller is self-insured.

SECTION TWENTY-TWO

CORRECTING WORK

When it appears to the Review Committee during the course of construction that any work does not substantially conform to the provisions of the contract documents, Purchaser shall, at the direction of the Review Committee, make

necessary corrections so that such work will so conform, and in addition will correct any defects caused by faulty materials, equipment or quality of performance in the work supervised by it or by a subcontractor, appearing within one year from the date of issuance of a final certificate of occupancy for any such residence so effected, or within such longer period as may be prescribed by law or as may be provided for by applicable special guaranties in the contract documents, if any.

SECTION TWENTY-THREE

WORK CHANGES

A. Seller reserves the right to propose work changes in the nature of additions, deletions or modifications without invalidating this Contract, and to negotiate with Purchaser the requisite corresponding adjustments in the Contract price and time for completion.

B. All changes will be authorized by a written "change order" dated and signed by Seller and Purchaser and fully describing therein each such change.

C. Work shall be changed, and the Contract price and completion time be modified only as set out in the written "change order" dated and signed by both parties hereto as provided for hereinabove. In the absence of any such duly executed "change order," the original Contract terms, prices and/or completion dates shall apply

SECTION TWENTY-FOUR

DEFAULT AND/OR TERMINATION OF CONTRACT

A. Termination. In the event of any default/breach by either party of any of the material terms of this Contract, including but not limited to purchaser's failure to carry out any material aspect of the construction in substantial accordance with the provisions of the contract documents, the non-breaching party shall have the obligation to so notify the breaching party in writing of the occurrence of any such default/breach. If the breaching party fails to cure or otherwise remedy said default/breach to the satisfaction of the Review Committee pursuant to the terms of this Contract within a reasonable time after the date of said notice of default from the non-breaching party to the breaching party, the non-breaching party may, without further notice, cancel any further work yet to be performed and or provided by the breaching party hereunder and terminate this Contract before the completion date(s) specified in this Contract for any such further work, and without prejudice to any other remedy for default it may have hereunder. Further, if the Contract is terminated by Seller pursuant to the terms of this sub-section as the result of such default/breach committed by Purchaser,

Purchaser agrees to indemnify and hold Seller harmless against any and all claims, losses, damages and expenses, including reasonable attorneys fees and court costs, that may arise therefrom and originate with the eventual purchaser(s) of such new residences separately contracted for by and between Purchaser and such eventual purchaser(s).

B. Upon any such default by Purchaser, Seller may, upon written notice to Purchaser, elect not to terminate this Contract, and in such event Seller may make good the deficiency of which the default consists, and Purchaser agrees to immediately reimburse Seller for all reasonable costs and expenses incurred by Seller thereby upon presentation by Seller to Purchaser of an itemized list of all such costs and expenses and the invoices and or/receipts for same.

C. Default shall include, but not be limited to, the breach by a party of any one or more of the material provisions of this Contract; the insolvency of purchaser as evidenced by the filing of any bankruptcy petition by Purchaser, the filing of any liens or other claims against the property which Purchaser fails to satisfy and/or have removed within a reasonable time after such lien or claim becomes known to Purchaser, or as evidenced in any other manner to indicate Purchaser's insolvency; the abandonment of the project by Purchaser as evidenced by its failure to proceed in a substantial, visible manner with the construction specified pursuant to the terms of this Contract for 30 days or more; or the failure of Purchaser to pay when due any amount due Seller herein.

SECTION TWENTY-FIVE

GOVERNING LAW

It is agreed that this Contract shall be governed by, construed, and enforced in accordance with the laws of the State of Illinois.

SECTION TWENTY-SIX

ATTORNEYS FEES

In the event that any action is filed by either party hereto to enforce any of the terms and/or conditions of this Contract, then the prevailing party in any such legal action shall be entitled to be reimbursed by the non prevailing party in any such action for the reasonable attorney's fees and/or court costs incurred thereby by the prevailing party in any such action.

SECTION TWENTY-SEVEN

ENTIRE AGREEMENT

This Contract shall constitute the entire Contract between the parties, and any prior understanding or representation of any kind, whether written or oral, preceding the date of this Contract and not herein designated as a Contract Document shall not be binding upon either party except to the extent specifically incorporated in this Contract.

SECTION TWENTY-EIGHT

MODIFICATION OF CONTRACT

Any modification of this Contract or additional obligation assumed by either party in connection with this Contract shall be binding only if evidenced in a writing dated and signed by each party.

SECTION TWENTY-NINE

NOTICES

Any notice provided for or concerning this Contract shall be in writing and be deemed sufficiently given when sent by certified mail, return receipt requested, if sent to the respective address of each party as set forth at the beginning of this Contract or to the attorney for such party as recited immediately hereinafter. Also, notice can also be sent and deemed sufficiently given to or by the parties and/or their said respective attorneys by fax transmission (Monday through Friday, 9 a.m. to 5:00 p.m., excepting federal or state holidays), as evidenced by a copy of the sender's fax transmission journal sheet, if requested.

ATTORNEY FOR SELLER:

Peter Ostling
700 W. Irving Park Road
Bensenville, IL 60106
Fax #: 630-350-0260

ATTORNEY FOR PURCHASER:

Thom Freeman
145 S. Center Street
Bensenville, IL
Fax #: 630-766-0068

SECTION THIRTY

ASSIGNMENT OF RIGHTS

The rights of each party under this Contract are personal to that party and may not be assigned or transferred to any other person, firm, corporation or other entity without the prior, express and written consent of the other party.

SECTION THIRTY-ONE

PARAGRAPH HEADINGS

The titles to the paragraphs of this Contract are solely for the convenience of the parties and shall not be used to explain, modify, simplify or aid in the interpretation of the provisions of this Contract.

SECTION THIRTY-TWO

ASSOCIATION DOCUMENTS

Prior to the first of the closings as contemplated in Section Two hereinabove, Purchaser shall perform and complete all acts necessary to create, establish and maintain in good standing the Heritage Square Homeowners' Association. Further, Purchaser, its successors, assigns, agents, contractors, officers and any other party or entity acting pursuant to direction of Purchaser specifically agree to be bound by and comply with all obligations imposed by the Heritage Square Homeowners Association documents attached hereto as Exhibit C and made a part hereof.

SECTION THIRTY-THREE

REAL ESTATE TRANSFER ACT

Purchaser shall do all things necessary to comply with the Real Estate Transfer Act.

SECTION THIRTY-FOUR

SEVERABILITY

In the event a court of competent jurisdiction declares any part of this Contract unenforceable, only that portion of this Contract so adjudicated shall be stricken, and the remainder of this Contract shall remain in full force and effect.

SECTION THIRTY-FIVE

RUNNING OF BENEFITS

All provisions of this Contract, including the benefits and burdens hereinunder, run with the land and are binding upon and inure to the benefit of the heirs, assigns, licensees, invitees, successors, tenants, employees and personal representatives of the parties.

This Contract, and all terms herein contained, shall survive the closing of this transaction and specifically shall not merge with the deeds to be conveyed at the individual closings provided for herein.

SECTION THIRTY-SIX

RIGHT OF FIRST REFUSAL TO PURCHASE

If Purchaser or Purchaser's heirs, executors or assigns at any time receive a bona fide offer to purchase an individual lot/residence within this project, and purchaser desires to accept such offer; or should purchaser make a bona fide offer to sell the property or transfer the beneficial interest in any land trust in which the property is held, Purchaser shall give Seller thirty (30) days' notice, in writing, of such offer setting forth the name and address of the proposed purchaser or new beneficiary, with executed copies of all relevant documents, specifically including the amount of the proposed purchase price and all other terms and conditions of such offer. Seller shall then have the first option to purchase the such lot/residence or the beneficial interest which is the subject of the offer by giving written notice to purchaser of its intention to so purchase within said thirty (30) day period at the same price and upon the same terms as any such offer. The provisions of this paragraph shall remain operative each time purchaser desires to accept a bona fide offer to sell each individual lot/residence to a third party. For purposes of this provision, an offer to sell shall include any assignment of beneficial interest if the property is held in trust. This right of first refusal to purchase shall run with the property and shall inure to the benefit of seller and seller's successors and assigns, and shall be binding upon the purchaser and purchaser's successors and assigns.

SECTION THIRTY-SEVEN

DISPUTE RESOLUTION

With the mutual written consent of the parties, any controversy or claim arising out of or relating to this Contract or the breach thereof may be settled by non-binding arbitration in accordance with the construction industry arbitration rules of the American Arbitration Association. In the event that the parties do not and/or cannot agree in writing to such non-binding arbitration, then each party hereto shall have the right to avail itself of any remedy or relief available to it in law or in equity, or as otherwise provided for herein.

IN WITNESS HEREOF, each party to this Contract has caused it to be executed at Bensenville, DuPage County, Illinois on the date indicated below.

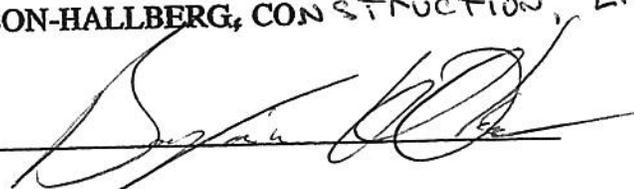
EXECUTED AND DATED THIS 15th DAY OF June, 1999.

VILLAGE OF BENSENVILLE

By: 
Village President

Attest: 
Village Clerk

OLSON-HALLBERG, CONSTRUCTION, L.L.C. ^{XB}

By: 

Attest/Witness: _____