

Request For Board Action

REFERRED TO BOARD: November 16, 2015

AGENDA ITEM NO: 5,6 & 7

ORIGINATING DEPARTMENT: Administration

SUBJECT:

- 1. Consideration of a Resolution authorizing Execution of a Renewed and Restated Development Agreement Relating to the Clublands Subdivision**
- 2. Consideration of an Ordinance Providing for Issuance of Not to Exceed \$26,000,000 Village of Antioch, Lake County, Illinois Special Service Area Number One and Two Special Tax Refunding Bonds, Series 2015 (Deercrest/Clublands Project) and Providing for the Levy of a Direct Annual Tax on Taxable Property Therein for the Payment of the Principal of and Interest on Such Bonds.**
- 3. Consideration of a Resolution Authorizing the Acquisition of Certain Tax Certificates by the Village and Transfer thereof to Developer Pertaining to the Clublands and Deercrest Developments**

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Village currently has established SSA 1 for Deercrest and SSA 2 for Clublands which were established to pay for certain public improvements in those subdivisions pursuant to the Anest Settlement Agreement. The previous developer, Neumann Homes went bankrupt in 2007 leaving behind a legacy of subdivision issues related to the public improvements, and many other issues arising from default on its obligations to perform under various developer agreements. The subdivisions have been dormant since they infrastructure was completed.

Due to the subdivisions being partially built out with NeuHaven (Deercrest) about 80 % built and Clublands about 30% built, the corresponding SSA's are experiencing difficulties because of the lack of tax collections and high delinquencies. Based on more favorable rates in the current market, a restructuring of the SSA debt in both SSAs into a single 2015 bond issue at reduced rates can achieve a savings to the bond issues and to the taxpayers. In conjunction with the SSA refinancing, the reconciliation of the past due taxes can assist the developments to proceed with a subsequent developer, Troy Mertz. Mr. Mertz approached the Village about a year and a half ago to propose new development in the subdivisions.

Mr. Mertz controls the property and has proposed to re-plat a section of Deercrest from townhomes to single family lots. He also has plans to develop Clublands by selling lots to homebuilders. 56 lots are currently ready for building permit in the Clublands subdivision with approximately 120 more that will be permitable once the Miller Road Storm Sewer is completed. The balance of the lots in the Clublands will require some sort of infrastructure improvement.

The actions required of the Board to effect this SSA refinancing, and for development to continue are threefold: 1) A new development agreement 2) A bond ordinance authorizing the restructuring of SSA debt, and 3) An authorization to acquire tax certificates and transfer them to the developer. These actions will set in motion the required sequence of events to allow a bond sale, the development to continue in Clublands, and the reconciliation of the delinquent taxes.

FINANCIAL IMPACT:

\$2 million minimum over the term of the issue.

DOCUMENTS ATTACHED:

1. Resolution for Development Agreement
2. Development Agreement
3. Bond Ordinance
4. Exhibits to Bond Ordinance
5. Resolution for tax certificates

RECOMMENDED MOTIONS:

1. Move to approve a **Resolution authorizing Execution of a Renewed and Restated Development Agreement Relating to the Clublands Subdivision**
2. Move to Approve an Ordinance Providing for Issuance of Not to Exceed \$26,000,000 Village of Antioch, Lake County, Illinois Special Service Area Number One and Two Special Tax Refunding Bonds, Series 2015 (Deercrest/Clublands Project) and Providing for the Levy of a Direct Annual Tax on Taxable Property Therein for the Payment of the Principal of and Interest on Such Bonds
3. Move to Approve a Resolution Authorizing the Acquisition of Certain Tax Certificates by the Village and Transfer thereof to Developer Pertaining to the Clublands and Deercrest Developments

RESOLUTION 2015 - _____

**A RESOLUTION AUTHORIZING EXECUTION OF A
RENEWED AND RESTATED DEVELOPMENT AGREEMENT
RELATING TO THE CLUBLANDS SUBDIVISION**

WHEREAS, the Village previously entered into a development agreement with Neumann Homes, Inc., to lay out the scope and obligations of the landowner/developer in developing the Clublands Subdivision, and

WHEREAS, the financial collapse of Neumann and its bankruptcy resulted in the original development agreement being in a state of default, and

WHEREAS, BMB Associates I LLC is the current title holder of the vacant and unimproved properties within Clublands, and

WHEREAS, BMB wishes to resume development of Clublands, and

WHEREAS, the Village Administrator and Village Attorney, acting upon the direction of the Mayor and Village Board has negotiated a renewed and restated development agreement in the form attached as Exhibit A hereto, and

WHEREAS, the Exhibit A agreement is intended to renew and refresh the covenants set forth in the defaulted agreements with Neumann, and to lay out a course for the resumption of the sales of houses in Clublands, ensuring to the maximum extent possible the necessary elements to protect current landowners and the Village as a whole from risks of development, and

WHEREAS, the Village is contemplating the refunding of the existing special service area bonds affecting the Clublands development and the Deercrest development in a combined refunding bond issuance, and

WHEREAS, Antioch Land Trust LLC, an affiliate of BMB Associates I LLC, owns certain lots within the Deercrest Subdivision previously owned by Neumann, and

WHEREAS, the interconnected nature of the proposed joint refunding necessitates that the agreement set forth in Exhibit A include certain limited obligations of Antioch Land Trust in connection with the issuance of the refunding bonds, along with the primary obligations of BMB Associates I LLC as the successor developer of Clublands, and

WHEREAS, the corporate authority finds and declares that the Exhibit A agreement is an appropriate and necessary agreement, that its terms are fair and equitable, and that the same should be executed and implemented,

NOW THEREFORE, BE IT RESOLVED by the Village of Antioch, Lake County, Illinois, as follows:

Village of Antioch, Illinois

SECTION ONE: The Mayor, Clerk and Administrator are directed to execute and implement the attached Exhibit A Renewed and Restated Clublands Development Agreement.

SECTION TWO: This resolution shall take effect immediately upon passage.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS,
ON THIS ____ DAY OF _____, 2015.

ATTEST:

LAWRENCE M. HANSON, MAYOR

LORI K. FOLBRICK, VILLAGE CLERK

RENEWED AND RESTATED CLUBLANDS DEVELOPMENT AGREEMENT

FOR AND IN CONSIDERATION of the mutual undertakings and covenants described herein, the VILLAGE OF ANTIOCH and BMB ASSOCIATES I LLC (collectively, the "Parties") do hereby agree as follows:

PREAMBLE

WHEREAS, the VILLAGE OF ANTIOCH, a municipal corporation existing under the laws of the State of Illinois (the "Village") previously entered into a contractual document known as the Clublands Development Agreement dated October 28, 2002 ("Development Agreement") with Neumann Homes, Inc. ("NHI" or "Neumann"), a true copy of which is attached hereto as Exhibit A and incorporated herein by reference, and

WHEREAS, NHI commenced the development of the Clublands subdivision, being a large parcel of undivided land within the corporate boundaries and jurisdiction of the Village, pursuant to the terms and conditions of the Development Agreement, and

WHEREAS, the lands referred to in the Development agreement were partially improved with roads, sewers, water lines, and other utilities, as well as a number of single-family homes, and

WHEREAS, NHI filed for bankruptcy protection in 2007, and it was subsequently liquidated, leaving behind a partially completed subdivision, incomplete infrastructure and a host of legal issues, bond claims, contractors' liens and the like, and

WHEREAS, during the course of the NHI bankruptcy, the property in Clublands that was then still owned by NHI was transferred to BMB Associates I LLC, a Delaware limited liability company ("BMB"), an entity controlled by ColeTaylor Bank, which had provided mortgage lending on said parcels, and

WHEREAS, ColeTaylor subsequently conveyed certain parcels to the Clublands Homeowners' Association, which was set up by NHI pursuant to the plats and the Development Agreement, and

WHEREAS, ColeTaylor thereafter conveyed its entire membership interest in BMB to Troy Mertz, and

WHEREAS, the terms and conditions of the Development Agreement were transferrable and binding on the successors and assigns of NHI, and

WHEREAS, BMB has proposed to work with the Village to allow the Village to refinance the Special Service Area Bonds known colloquially as "SSA-2" which encumber the Clublands properties, including both the developed properties currently owned by third parties, and the remaining lands owned by BMB as well as other special service area bonds affecting the neighboring "Deercrest" subdivision by issuance of a combined bond issuance (the "Series 2015 Bonds"), and

WHEREAS, BMB further proposed to resume development of the Clublands subdivision consistent with the existing plats, the Development Agreement and the recorded Covenants, Conditions and Restrictions of Record, subject to certain modifications described generally herein, and

WHEREAS, the Village, as the issuer of the SSA-2 bonds, has cooperated in the intended refinancing effort, and continues to do so, and

WHEREAS, the Village and BMB wish to formally acknowledge the continued viability of the Development Agreement and its continued applicability to the sale of existing lots, and the development of new residential lots within the Clublands subdivision, and for this reason, the said parties enter into this Renewed and Restated Development Agreement.

TERMS AND CONDITIONS

NOW THEREFORE be it agreed as follows:

1. The recitals set forth in the foregoing Preamble are merged into this agreement as substantive parts thereof.
2. The Parties acknowledge and agree that the Development Agreement was intended to, and did bind NHI and the Village, and that the terms and conditions set forth therein were intended to and did constitute binding covenants running with the land, and shall bind all successors and assigns of BMB in perpetuity.
3. The parties acknowledge and agree that this Renewed and Restated Development Agreement will be recorded with the Lake County Recorder of Deeds in evidence of the continuing covenants once fully executed and approved by the corporate authorities of each party.
4. The Development Agreement was one part of a group of documents that NHI and the Village had negotiated to develop the Clublands properties, and that group included, but is not limited to the following principal agreements:
 - a. The Development Agreement;
 - b. The Anest Settlement Agreement;
 - c. The Potable Water Improvement Agreement;
 - d. The Park Fee Reimbursement Agreement;
 - e. The Sewer and Water Recapture Ordinances;
 - f. The SSA-2 Bond Ordinance.
5. Due to the Village's utilization of surety bond proceeds and undertaking litigation related thereto, and related to defending certain lien claims, some of the public improvements described in the foregoing principal agreements were completed, and are now fully paid for, within the control of the Village (although not yet formally accepted by the corporate authorities thereof), and for that reason, BMB is not entitled to any additional benefits (such as recapture or any other financial incentive) from said agreements, (other than is specifically provided for in paragraphs 7

and 9 of this Renewed and Restated Development Agreement), but is fully entitled to connect to and tap onto the utilities in the course of development, pursuant to the Development Agreement and the Ordinances of the Village.

6. At the time of executing this Renewed and Restated Development Agreement, BMB covenants and agrees that it has fully reviewed the existing infrastructure within the Clublands subdivision, that it is satisfied with the level of knowledge and information available to it about the locations and types of installed wet and dry utilities, and the conditions of the roadways, whether improved, partially improved or unimproved, and BMB further acknowledges that it is the obligation of the developer of the land to connect to the existing water and sewer lines and other utilities, and to improve and install roads according to the development plans, plats and the Development Agreement without monetary contribution by the Village (other than the continued cooperation of the Village in the refinancing of the SSA-2 bonds described herein).

7. The Parties further agree that the Sewer and Water Recapture Ordinances were adopted for the benefit of NHI, and whatever rights of recapture may exist, if any, are owned by the Liquidator of the assets of NHI, not BMB. Additionally, the Village acknowledges that NHI obtained the right to certain sewer line tap-on credits from Lake County. The Parties agree that nothing in this Agreement is intended to modify those rights, leaving BMB free to pursue them to the extent that it has the right to do so.

8. The Parties acknowledge that the Park Fee Reimbursement Agreement has been previously fully satisfied by the dedication of lands within the Clublands subdivision, including any that may be required by the Development Agreement to be included in the platting of any currently unimproved phases of the Clublands subdivision, and as such, no further cash contribution shall be required as a result thereof.

9. The Potable Water Improvement Agreement has also been fully satisfied from NHI funds, the proceeds of the initial placement of the SSA-2 bonds, Village funds and the proceeds of litigation against one or more of NHI's sureties, and other than is set forth in this paragraph, BMB is not entitled to any further cash contribution from that Agreement, and conversely is not required to make any further contributions thereunder, aside from the ordinary tap fees otherwise currently required. The parties therefore acknowledge that there are ongoing requirements within the Potable Water Improvement Agreement which provide for the payment of certain tap-on fees to NHI. In the bankruptcy, BMB obtained the right to 25% of the tap-on fees described therein, and it represents to the Village that it remains the current, sole owner of the right to such fees to be paid in the future to the Liquidator of NHI. The Village will make the appropriate payments required by the Potable Water Improvement Agreement to NHI's Liquidator and it will be the responsibility of BMB to collect its share without further assistance from the Village.

10. The Village also is pursuing one remaining claim against a surety of NHI, and whatever proceeds are recovered from such claim, if any, shall be the property of the Village and expended at its sole discretion.

11. The Development Agreement incorporated and was integrally related to the Anest Settlement Agreement, and as such, the Parties acknowledge and agree that the Anest Settlement Agreement remains in full force and effect, and is binding on BMB as the assignee or successor of NHI.

12. Within the Development Agreement, there are covenants of NHI to construct certain amenities for the ultimate benefit of the homeowners within the Clublands subdivision, and the Parties acknowledge that because of the NHI bankruptcy and the subsequent national economic recession the economic realities of developing the balance of the Clublands subdivision is likely to make construction of all such amenities difficult, if not impossible for BMB. The primary obligation thereunder is for BMB to construct certain clubhouse facilities for the benefit of the Clublands subdivision. As such, the Parties anticipate that BMB will come forward at the appropriate times to petition the Village to consider modifications to those covenants, and accordingly, the Village agrees to review such a petition in good faith, giving due and proper attention to the interests of the existing third party residents of the Clublands Subdivision through their Homeowners' Association. BMB acknowledges receipt of a draft agreement that was negotiated by the Village Attorney with a prior prospective redeveloper (Walton), and BMB has expressed an intention to utilize that draft as a model for its own negotiations with the Homeowners' Association.

13. Within the Development Agreement and within the Anest Settlement Agreement, there were provisions made for issuing a second Special Service Area bond, intended to fund the construction of additional infrastructure and public improvements within what has been designated as Phase 4 of the Clublands Subdivision. Due to the seriously altered financial situation presented following the Village's declaration of a default by NHI followed almost immediately thereafter by the bankruptcy of NHI and the recession that then followed shortly afterwards, the parties acknowledge and agree that no further SSA bonds are appropriate to issue on this property, and as such, agree that all clauses, terms, conditions and covenants contained in the Development Agreement and the Anest Settlement Agreement relating to the issuance of a second series of bonds for Phase 4 of the Clublands Subdivision are nullified, abrogated, set aside and will not be acted upon by either Party.

14. The Village agrees that the existing storm sewer improvements within the Clublands subdivision are sufficient to support the construction of up to 56 single family homes. The Village agrees that it shall issue up to 56 building permits to BMB or its assignee for single family home construction on lots not considered contributory to the Miller Road stormwater drainage system provided BMB (or its assignee) pay the fees and costs relating thereto. Prior to issuance of the 57th building permit (or any building permits thereafter), and in any event prior to the issuance of a building permit on any lot considered contributory to the Miller Road stormwater drainage system. BMB will be required to construct the Miller Road storm sewer improvements and associated detention pond improvements as set forth certain plans prepared by Manhard Engineering originally dated 8-31-2004 and revised November 2012 which are attached hereto as Exhibit A. Thereafter the Village agrees that it shall issue building permits for any remaining lots in the Clublands subdivision when requested by BMB or its assignee, provided that such party pays all applicable fees and costs therefore and provided the parcels for which building permits are requested are otherwise developed in accordance with the Clublands PUD.

15. In connection with the storm sewer improvements required under Paragraph 14 hereof, BMB acknowledges that the Village's preferred solution involves a gravity storm sewer that will require the acquisition of off-site easement rights. The Village agrees to cooperate with BMB to help obtain such easement rights to enable the gravity storm sewer. In the event neither BMB nor the Village is able to obtain such easement rights, after using commercially reasonable

efforts therefor, the Village agrees that BMB may elect to provide the required storm sewer capacity by installation of a system utilizing a lift station.

16. The Developer agrees that it will develop the Clublands property in compliance with Village of Antioch, Illinois Ordinance No. 02-09-32 dated September 16, 2002 (the "PUD Ordinance"). The Village acknowledges that the Developer, together with homebuilders that Developer may contract with, will bring specific architectural plans to the Village for approval prior to construction. To the extent such plans do not substantially conflict with any plans approved under the PUD Ordinance, the Village agrees that it shall approve such plans. To the extent such plans do substantially conflict with plans approved under the PUD Ordinance, the Developer and/or homebuilder may request modifications to the PUD Ordinance with regard to such plans and the Village agrees it will entertain such revisions pursuant to the Village's normal process for amending the PUD Ordinance.

17. Developer also makes the following commitments for the benefit of the Village:

- a. Prior to undertaking development work, Developer shall post performance bonds as required by the Village's Building Code, Subdivision Ordinance, and Watershed Development Ordinance to cover performance and installation of public and quasi-public improvements. Such bonds shall be subject to review and approval as to form and content by the Village, including the examination and approval of the contracts for the construction of the improvements in questions. The Village's approval shall not be unreasonably withheld, conditioned or delayed.
- b. Prior to the development thereof, Developer shall prepare and complete engineering plans and final plat documents for Phase 4. If these plans are not in substantial compliance with, and as conceived in, the Original PUD Ordinance (as may be amended) including the final plat of subdivision and final engineering plans approved by the Village for Phase 4, then Developer may petition to amend the PUD Ordinance to incorporate a more commercially marketable product. Notwithstanding this reservation of rights, the Parties acknowledge that overall density of the Clublands Subdivision was established and limited by the Anest Settlement Agreement and that the Parties are bound to those limits on overall density and that any amendment of the PUD Ordinance cannot exceed those limits.

18. Nothing herein should be taken as an indication of the Parties to modify any of the previously approved and recorded plats of Clublands subdivision, or any approved and recorded plat of any phase thereof.

19. Except as modified herein, the Development Agreement shall remain in full force and effect.

20. The Parties recognize that payments from BMB to the Village other than payments made by BMB of taxes of general applicability may be deemed to be private payments under the Internal Revenue Code of 1986, as amended (the "Code"), and that any such payments may cause interest on the Series 2015 Bonds and other financing instruments to be includible in the gross income of the owner thereof for federal income tax purposes. Accordingly, the Parties covenant and agree that if the Series 2015 Bonds are issued on a tax-exempt basis, the Village will accept no payment from BMB pursuant to any provision of this Agreement without first obtaining the advice of Bond Counsel that such payment will not impair the status of interest on

the Series 2015 Bonds or other financing instruments issued on a tax-exempt basis under the Code as not includible in the gross income of the owners thereof for federal income tax purposes.

21. The Village expressly agrees and recognizes that security for the Series 2015 Bonds and other financing instruments and payments of interest on Series 2015 Bonds and other financing instruments are limited to (a) taxes of general applicability, and (b) the amounts on deposit in the funds and accounts created under the ordinances and proceedings authorizing the issuance of the Series 2015 Bonds or other financing instruments. The Village recognizes that improper agreements with taxpayers may cause tax receipts to be classified as private payments under the Code. Accordingly, the Village covenants not to enter into or enforce any agreements with taxpayers, including, specifically BMB, that would modify the obligations of such taxpayers under general law without an opinion of Bond Counsel that such agreement or enforcement will not adversely affect the tax-exempt status of interest on the Series 2015 Bonds or other financing instruments issued on a tax-exempt basis for federal income tax purposes. If BMB requests that the Village enter into an agreement with BMB which would require an opinion from Bond Counsel under Paragraph 20 above or this Paragraph 21, then BMB agrees to pay the legal fees of Bond Counsel in conjunction with the issuance of such opinion. In the event that the Series 2015 Bonds are issued on a tax-exempt basis, no provision of this Agreement or any other agreement, written or oral, will be enforced for the benefit of the holders of the Series 2015 Bonds or other financing instruments or in any way to increase revenues available to pay interest on the Series 2015 Bonds or other financing instruments.

22. BMB, with respect to the Clublands and Antioch Land Trust LLC ("ALT"), with respect to Deercrest, agree to provide to the Village (except as otherwise provided), the underwriter of the Series 2015 Bonds, the Trustee (as defined in the Trust Indenture executed by the Village in connection with the Series 2015 Bonds) and the Consultant (as defined in the Trust Indenture executed by the Village in connection with the Series 2015 Bonds) certain continuing information concerning the development of the special service areas until such time as the Village has issued 200 building permits for the construction of single family homes or townhomes within the special service areas. This information includes the following (for each special service area, as applicable): quarterly reports setting forth (A) status of completion of construction of the public and quasi-public improvements required by this agreement; (B) the number of single-family and townhome parcel sales, (C) the number of single-family and townhome parcels for which building permits have been issued by the Village, (D) a description of the lots sold and the range of sales prices for such lots, (E) the number of homes constructed, (F) any pending litigation which would adversely affect the ability of BMB to complete the construction of the public and quasi-public improvements under this agreement, (G) any material change in the structure or ownership of the BMB or ALT, respectively, (H) any failure of BMB or ALT to pay by the date due general ad valorem property taxes, the special taxes or any other governmental charge on lots owned by BMB or ALT, (I) any denial or termination of credit, (J) the occurrence of any event of bankruptcy with respect to the BMB or ALT or their affiliates Developer, (K) any significant amendments to land use entitlements for the special service areas if such amendments are likely to prevent or delay the construction of the public and quasi-public improvements required by this agreement or sales of BMB or ALT-owned lots, (L) any previously undisclosed governmentally-imposed preconditions to commencement or continuation of construction of the public and quasi-public improvements required by this agreement if such preconditions are likely to prevent or delay the construction of the public and quasi-public improvements required this Agreement, and (M) any changes of which the ALT or BMB is aware, if material, in the alignment, design or likelihood of completion of

significant public improvements affecting the special service areas, including major thoroughfares, sewers, water conveyance systems and similar facilities. Quarterly reports shall be made available within 30 days after the end of each calendar quarter.

23. Pursuant to Resolution No. _____ adopted by the Village on _____, the Village shall authorize Lake County, as trustee for the taxing bodies affecting the Clublands and Deercrest developments, to transfer tax certificates held by Lake County within Deercrest and the Clublands to the Village in return for a payment by ALT and BMB in such amount as Lake County may require. Upon the issuance of the Series 2015 Bonds, the Village will transfer all such tax certificates to ALT, with regard to Deercrest and BMB, with regard to Clublands. Thereafter, ALT and BMB shall surrender such tax certificates to Lake County as soon as reasonably possible in order to eliminate all prior tax obligations relating thereto, provided however that ALT and BMB may elect to hold such tax certificates if ALT or BMB, as applicable, reasonably determines that doing so will allow it to remove other liens or encumbrances of record which would negatively affect its development of the property subject to such tax certificate(s) and further provided that ALT or BMB, as applicable, will surrender such tax certificates (or otherwise eliminate any prior tax obligations relating thereto) as soon as reasonably possible after it determines holding such tax certificates is no longer necessary.

24. The parties reserve the right to modify this Agreement, but only in a written document duly executed pursuant to all applicable laws, including the Illinois Municipal Code and the Antioch Municipal Code, and for that reason, no oral modifications hereof shall be of any force or effect.

25. This document is intended as the final expression of the Agreement of the parties on the matters set forth herein, and all oral and written representations, negotiations and other discussions preliminary to its execution are merged into this document.

26. This document shall be governed by the laws of the State of Illinois and the sole venue for the resolution of any disputes shall be the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.

27. This Agreement shall remain in full force and effect until such time as the certificate of occupancy is granted by the Village to the residence constructed on the last platted lot in Phase 4 of Clublands, or twenty (20) years from its execution, whichever comes first.

28. Notices of any kind given under this Agreement shall be in writing and shall be delivered by overnight delivery (UPS or FedEx) or by email and shall be given to the following persons and entities as follows:

Village of Antioch:

James J. Keim, Administrator
874 Main Street
Antioch, IL 60002
email: jkeim@antioch.il.gov

with a copy to:

Robert J. Long

Village Attorney
Daniels, Long & Pinsel, LLC
19 North County Street
Waukegan, IL 60085
email: rlong@dlplawyers.com

BMB:

Troy Mertz
340 W. Butterfield Road
Unit 2D
Elmhurst, IL 60126
email: troymertz@gmail.com

with a copy to:

Karl Marschel
BRYAN CAVE LLP
161 North Clark Street
Suite 4300
Chicago, IL 60601-3315
email: karl.marschel@bryancave.com

29. This Agreement may be executed in counterparts, all of which shall be considered to be an original duplicate copy of this Agreement and fully enforceable.

30. If any provision, term or clause within this Agreement shall be found to be invalid by a court of competent jurisdiction, that finding shall not affect the balance of this Agreement, which shall remain in full force and effect to the fullest extent possible under the Laws of Illinois.

IN WITNESS WHEREOF, the parties have set their hands and seals on the dates below:

VILLAGE OF ANTIOCH

by: Lawrence M. Hanson,
its Mayor

Date: _____, 2015

Witness:

Date: _____, 2015

Lori K. Folbrick
Village Clerk

BMB ASSOCIATES I LLC

By: _____ Date: _____, 2015
Troy Mertz
its Manager

Joining with respect to certain reporting obligations required pursuant to Section 22 and 23 hereof, only:

ANTIOCH LAND TRUST LLC

By: _____ Date: _____, 2015
Troy Mertz
its Manager

CLUBLANDS DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") made and entered into as of this 28 day of October, 2002, by and between THE VILLAGE OF ANTIOCH, an Illinois municipal corporation of the County of Lake, in the State of Illinois (the "Village") and NEUMANN HOMES, INC. ("Developer").

WITNESSETH:

WHEREAS, the Village of Antioch is an Illinois municipal corporation organized under the Illinois Municipal Code in the County of Lake, State of Illinois; and

WHEREAS, Neumann Homes is the legal title holder of certain of the following described real estate, the legal description of which is attached hereto and made a part hereof as Exhibit A containing 450.25 acres ("Subject Property"); and

WHEREAS, Neumann Homes has entered into a Real Estate Purchase Contract with JCC Realty, LLC, BCP Realty, LLC and the Estate of the late Homer White by Andrew C. Lynch, Executor ("Owner") to acquire the remainder of the Subject Property; and

WHEREAS, the Subject Property is located in Antioch Township, Lake County, Illinois. The Subject Property is situated north of Miller Road, south of Illinois Route 173, east of the Eagle Ridge Subdivision, west of Timber Lake (a/k/a Pollock Lake) within the incorporated limits of the Village of Antioch, Lake County, Illinois. The Subject Property is commonly referred to as the Anest property and the former Homer White farm; and

WHEREAS, the Owner and Developer have petitioned and applied to the Village for such Planned Unit Development and Preliminary Entitlement Subdivision approvals as may be necessary and desirable for the purposes stated herein; and the Village has conducted such public hearings and meetings as provided by Illinois law as are necessary and proper for such petitions and applications; and

WHEREAS, as authorized by state statute, the Village and Developer seek to provide a mechanism for the funding and construction of the necessary infrastructure to serve the proposed development on the Subject Property and to serve other property within the Village's planning jurisdiction; and

WHEREAS, as authorized by state statute, the Village and Developer seek to provide for the timing and construction of subdivision and other infrastructure improvements to service the development including the dedication of land by easement or deed for public use and the conveyance of certain other land in exchange therefor; and

WHEREAS, as authorized by state statute, the Village and Developer seek to reach an understanding on the timing and creation of an SSA and the issuance of bonds (non-recourse to the Village and taxable only to the Subject Property being developed hereunder) for the funding of certain public improvements; and

WHEREAS, the Village and Developer, acting consistent with Illinois law have agreed to the terms and conditions in this Agreement as evidenced by their signatures affixed hereto.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Village and Developer agree as follows:

1. Incorporation of Recitals. The foregoing recitals are material to this Agreement and are incorporated into this Agreement as if fully stated herein.

2. Authority. This Agreement is made pursuant to and in accordance with the provisions of the Illinois Municipal Code (Chapter 65 of the Illinois Compiled Statutes) including, but not limited to the authority granted to the Village to approve planned developments; to grant subdivision approval; to enter into contracts for the construction of sanitary sewer and public water facilities; to accept dedications of land by easement or deed for public use and to convey land and dedications; and to create a special service area. Additionally, this Agreement is made and entered into pursuant to the Village's authority to settle and resolve pending litigation.

3. Consideration and Incorporation into Settlement Agreement. Developer and Village acknowledge that the consideration for the obligations of each of the parties contained herein include the resolution of, settlement of and dismissal of the lawsuits entitled, "Bill Anest, an individual, et al. v. Village of Antioch, Case No. 01 CH 137" and "Deercreech, LLC, et al., Plaintiffs v. Village of Antioch, Defendants and Bill Anest, an Individual, et al., Plaintiffs-Intervenors v. The County of Lake, et al., Defendants, No. 00 CH 1050". Developer and Village agree that this Agreement shall be included within and incorporated into the terms of any settlement agreement entered into between the parties in connection with the above-captioned lawsuits..

4. The Requested Zoning and Subdivision Approvals.

(a) The development approved by Ordinance Number 02-09-32, (file PZB02-11), is depicted on the "Preliminary Plat of Subdivision - Overall," consisting of five sheets, revised dated 08-26-02; and the "Preliminary Engineering for Clublands of Antioch," consisting of eleven sheets, revised dated 8-29-02 all prepared by Manhard Consulting, Ltd., of Vernon Hills, Illinois, which is attached as Exhibit B ("Development Plan" or "Development") to this Agreement.

(b) The Village, following the necessary legal notices, public hearings and other proceedings has approved a Planned Unit Development (Ordinance # 02-09-32) for the Subject Property for single-family residential uses. Developer and the Village agree that the Subject Property shall be developed substantially in accordance with the Development Plan attached as Exhibit B, and in accordance with all applicable State, Federal and local laws and regulations.

(c) The Developer may subdivide the Development into not less than four (4) phases and the Village shall approve the Final Plat for each phase pursuant to the procedures and standards set forth in the Subdivision Code in effect on the date of this

Agreement, except for changes that may be required by Federal, State, or County of Lake regulations that pre-empt Village ordinances, within a reasonable time after the Final Plat is submitted for approval and provided such Final Plat conforms substantially to the Development Plan. Developer (provided Developer's application is substantially consistent with the approved Development Plan), by applying for approval of a Final Plat for any portion of the Subject Property within one (1) year from the date of approval of the Development Plan by the Village, shall be deemed to have satisfied any requirements of Village Ordinances pertaining to the expiration of preliminary plat approval, notwithstanding the fact that further final plats for the remaining portions of the Subject Property will be submitted in the future.

(d) In preparing final plats of subdivision and final plans for the planned development for the Subject Property, the Developer may make minor modifications, consistent with the Village's applicable regulations, to the general design and layout of lots, streets, rights-of-way, and improvements, as depicted in the Development Plan, in order to facilitate the effective, efficient, and economical development of the Subject Property in accordance with the requirements of the Planned Unit Development regulations. In the course of seeking approval of any final plat of subdivision of the Subject Property, the Developer may at its sole cost and expense, seek additional zoning approvals and subdivision variations, which approvals or variations shall be subject to Village approval.

(e) Minor modifications shall include changes which reduce density, reduce the number of lots, reduce the height of buildings, increase onsite retention and detention facilities. Such modifications may modify the general layout of the streets, rights-of-way and public improvements as depicted on the Development Plan. In the event of a minor modification review and approval shall be had during the final planned unit development/final subdivision plat approval process and such minor modification shall not be the basis for denial of the final planned unit development plat/final subdivision plat.

(f) The Village agrees that any amendments after the effective date of this Agreement to its zoning, subdivision, building, and other development codes, shall not apply to the development of the Subject Property pursuant to the Development Plan, except as may be required by State Statute, in particular 55 ILCS 5/5-1062 regarding stormwater management and 55 ILCS 5/5-1064, regarding building codes provided that such requirements pre-empt Village ordinances.

(g) Developer shall within fourteen (14) days of a request by the Village comply with the escrow of funds provisions required of developers for plan reviews, consultation, inspections, and other developer requests by staff or professional consultants to be hired by the Village as a result of Developer's requests and submittals for its development.

5. Storm Drainage, Application of Watershed Development Ordinance, Development and Acceptance of Easements for Storm Drainage Purposes and Joint Detention Agreement.

(a) The Village will write a letter of support requesting the Lake County Stormwater Management Commission ("SMC") to review expeditiously all submittals by the Developer and the Village. The letter shall support the approval by SMC of the base flood elevations previously approved by SMC for the Subject Property in a letter to Manhard Consulting, Ltd., dated August 21, 2001; approval by SMC to allow the storage of 0.6 feet of stormwater in the 47 acre lake on the Anest Property ("Stormwater Storage"), known as Homer White Lake; a finding by SMC that Homer White Lake is not an isolated water of Lake County, as defined by the Lake County Watershed Development Ordinance; an expedited review by SMC of Neumann's request for a Watershed Development Permit to enable the approval of Stormwater Storage and issuance of a permit on or before October 15, 2002; and any variances from the provisions of said Ordinance that may be necessary to enable SMC to issue said permit. The Village shall attend, through its attorney, Mayor and/or administrator, a meeting with SMC expressing such support and expeditious review. In addition, the Village will hold any necessary hearings to consider any variances to said ordinance that may be required to enable the Subject Property to be developed as proposed by Neumann. In addition, the Village agrees to designate the necessary Development Regulations Officer(s) who meet the qualifications and have passed the Lake County's Enforcement Officer exam, all pursuant to the Watershed Development Ordinance.

(b) Developer agrees to dedicate and the Village agrees to accept an easement over Homer White Lake for storm detention purposes provided that the maintenance responsibilities are assumed by either a homeowners association created by Developer, by Developer or a third party entity designated by Developer.

(c) The Village acknowledges that the Developer's plans include use of Homer White Lake for recreational purposes and the Village approves such plans as part of the Development Plan.

(d) In connection with the dedication of the park land as depicted on the Development Plan, the Village and Developer agree to enter into a shared detention agreement in connection with the detention facilities to serve the park site. The Agreement shall provide that the Developer and its successor the Homeowners Association shall be responsible for the maintenance costs for the storm detention basin.

(e) The Village acknowledges and approves the filling of isolated wetlands of Lake County as depicted on the preliminary plans submitted to the Village and in accordance with SMC regulations.

(f) After approval of the Final Plat and receipt of the original (mylar) Final Plat, executed by Developer and any other entity of Owner or financial entity with an interest in the Subject Property whose signature is required and following the receipt of evidence acceptable to the Village attorney that the 184± acres public open space is

under a legally binding contract between Developer and the Lake County Forest Preserve District for the conveyance of said property to the Lake County Forest Preserve District, and prior to recordation of the Final Plat, the Village, upon application by Developer or its duly authorized representative, shall allow construction of stormwater improvements on and off of the Subject Property provided:

(i) Such construction shall be undertaken at the sole risk of Developer; and

(ii) The Village has approved a soil erosion control plan for the affected area.

(g) Only the storm sewer improvements necessary to serve the particular phase of the development shall be required to be installed, all in conformity with Final Engineering Plans submitted to and approved by the Village Board and permitted by staff.

6. Public Sewer Service to the Development.

(a) The Village warrants that no sewer impact connection tap-on fees shall be charged to Developer in connection with development on the Subject Property inasmuch as all such connection impact fees have been paid to or are due to the County.

(b) Upon receipt of all necessary permits and approvals from the Illinois Environmental Protection Agency, the Village shall allow the Developer to connect the sanitary sewer lines that are constructed on the Subject Property ("Sewage Collection Lines") to an off-site sanitary sewer line that shall provide the Subject Property with access to Lake County's Northeast Sewer Interceptor and the Northeast Sewerage Treatment Plant. The Sewage Collection Lines shall be constructed pursuant to Final Engineering Plans submitted to and approved by the Village.

(c) Developer agrees to dedicate and the Village agrees to accept all off-site and on-site sewer mains Developer constructs according to the approved plans and within easements without any cost to the Village, subject to the Developer's entitlement to recapture as further set forth in paragraph 9 herein. The Village shall adopt a recapture ordinance in a form and substance authorized by law and as agreed to by the parties.

(d) The Village warrants that it shall acquire at the Developer's expense and, if necessary, use its powers of eminent domain, to acquire the land and easements necessary to serve the Subject Property with sanitary sewer.

(e) If not already accepted, the Village will accept from the Lake County Forest Preserve District, the grant of an easement for a sanitary sewer across the Glick Property sufficient to serve the Subject Property ("Glick Easement") which easement Developer acknowledges is over a different route from that route previously engineered by Clark Dietz Engineering. If not already accepted, the Village will accept from the County of Lake the assignment of an Easement for Sanitary Sewers Relating to the

Doolittle Tract, recorded with the Lake County Recorder as Document No. 4529520 ("Doolittle Easement"). The Village agrees to record the Glick Easement and the assignment of the Doolittle Easement immediately upon receipt of the same. The Village agrees to accept and to record the Abbott easements along Route 45 and along Route 173.

(f) Developer shall dedicate easements in locations mutually acceptable to Developer and Village through the Subject Property to connect the Subject Property and other properties upstream to the County's sanitary sewer plant for the Northeast Sewerage System, all to be set forth on the approved Final Engineering Plans. The easements identified on Exhibit C, which identifies the easement locations on the property to be conveyed to the Lake County Forest Preserve are hereby approved by the Village and the Village shall approve Final Engineering Plans which include easements in locations substantially consistent with Exhibit C.

(g) After approval of the Final Plat and receipt of the (mylar) Final Plat, executed by Developer and any other entity of Owner or financial entity with an interest in the Subject Property whose signature is required and following the receipt of evidence acceptable to the Village attorney that the 184± acre public open space is under a legally binding contract between Developer and the Lake County Forest Preserve District for the conveyance of said property to the Lake County Forest Preserve District and prior to recordation of the Final Plat, and prior to the issuance of an Illinois Environmental Protection Agency sanitary sewer permit, the Village shall upon application by Developer, or its duly authorized representative, shall allow construction of sanitary sewer improvements on and off of the property provided:

(i) Such construction shall be undertaken at the sole risk of Developer;

(ii) The Developer has applied to the Illinois Environmental Protection Agency for sanitary sewer permits, the Village has signed such application and the IEPA has issued a log number for the application;

(iii) The Village has approved a soil erosion control plan for the affected area; and

(iv) Any construction shall be located within appropriate easements.

(h) Only the sewer lines and facilities necessary to serve the particular phase of the development for which a Final Plat has been approved shall be required to be installed, all in conformity with Final Engineering Plans submitted to and approved by the Village.

(i) The Village agrees that it shall terminate the Agreement dated February 17, 2000 between the Village and Deercrest, LLC ("Sprenger") and S&S Properties, Inc. ("Anest") for the purpose of providing sewer services to the east portion of the Village, it being agreed that such services shall be funded in part by the Clublands SSA.

7. Public Water Service to the Development.

(a) Provided Developer makes payment of the water connection tap-on fee pursuant to the schedule of fees, attached as Exhibit D, the Village shall allow the Developer to connect the water mains that are constructed on the Subject Property ("Water Distribution Lines") to an off-site water main which will provide the Subject Property with access to the Village's public water system in order to permit Developer to obtain a sufficient quantity of potable water. The Water Distribution Line shall be constructed pursuant to Final Engineering Plans submitted to and approved by the Village.

(b) The Village hereby represents that based on existing regulatory standards, it has adequate potable water supply to service the Subject Property as it may be developed pursuant to the terms of the approved Planned Development. If adequate public water supply services are not made available to the Subject Property by the Village, the Developer shall have the right, but not the obligation, to construct within the Subject Property, with funding provided in part by the Clublands SSA, such facilities and plants and to take such other actions, including, without limitation, the drilling of new wells and storage towers on or off of the Subject Property, as may be necessary or appropriate to meet the water supply needs of all or any part of the Subject Property.

(c) In the event the Developer is required to construct any improvements in connection with the water infrastructure including ground or elevated storage facilities, the supply (i.e. wells), treatment, or transmission mains (other than the transmission main extension from the end of the current Village line along 173 out to the Clublands Development), the Village agrees to credit such expenses borne by the Developer against the water connection tap-on fees due in connection with the Development, or the Village agrees that connection tap-on fees shall first be allocated to the payment for any such improvements and the Village agrees to accept such water infrastructure following inspection and approval by the Village and provided that a one year maintenance bond is provided by Developer.

(d) The Village warrants that it shall acquire and, if necessary, use its powers of eminent domain, to acquire the land and easements necessary to service the Subject Property with water from the Village's public water supply system. Any costs for the acquisition of such land and easements shall be funded by either the Clublands SSA or by Developer.

(e) Developer agrees to dedicate and the Village agrees to accept all off-site and on-site water mains Developer constructs without any cost to the Village, subject to the Developer's entitlement to recapture as set forth in paragraph 9 herein. The Village shall adopt a recapture ordinance in a form and substance authorized by law and as agreed to by the parties.

(f) The Village has initiated a condemnation action in the Circuit Court of Lake County (Civil Case No. 02 ED 051) to obtain all easements necessary to extend the Village's potable water system to the Subject Property. If the Village has not acquired all

of the necessary easements on the Cohn property within forty-five (45) days after the date of this Agreement, the Village shall initiate a condemnation action to acquire all necessary easements on that land. In the event that the condemnation action is not successful, the Village shall permit Developer, at its option, to commence design and construction of a separate water system on the Subject Property, the Sprenger property, or the 55-acre White property, which water system or alternate route will be funded by the Clublands SSA, described herein, and upon construction, inspection and approval will be part of the Village's water system. The Village agrees that its failure to obtain a water easement will not delay or suspend the review, final approval or construction of the Development. The Parties agree to mutually cooperate with each other in securing an alternative easement route for the water line.

(g) The Village shall use its best efforts to assist and support the Developer in obtaining from IDOT permission to auger under Route 173 and obtain IDOT's permission to install the water line in the Route 173 right-of-way to points of connection where the Village has secured the necessary water line easements.

(h) The Village acknowledges that it has no knowledge or information that any of the easements are restricted in use for their intended purpose by virtue of the Endangered Species Act, the Historic Preservation Act, or any other federal, state or county regulations.

(i) The location and depth of any well(s) required for the Development will be at the mutual agreement of the Developer and the Village

(j) After approval of the Final Plat and receipt of the original (mylar) Final Plat, executed by Developer and any other entity of Owner or financial entity with an interest in the Subject Property whose signature is required and following the receipt of evidence acceptable to the Village attorney that the 184± acres public open space is under a legally binding contract between Developer and the Lake County Forest Preserve District for the conveyance of said property to the Lake County Forest Preserve District, and prior to recordation of the Final Plat and prior to the issuance of an Illinois Environmental Protection Agency water permit, the Village shall, upon application by Developer or its duly authorized representative, allow construction of water improvements on and off of the Subject Property provided:

(i) Such construction shall be undertaken at the sole risk of Developer;

(ii) The Developer has applied to the Illinois Environmental Protection Agency for water permits, the Village has signed such application and the IEPA has issued a log number for the application; and

(iii) The Village has approved a soil erosion control plan for the affected area and the IEPA has issued a log number for the application; and

(iv) Any off-site construction shall be located within appropriate easements.

(k) Only water mains and facilities necessary to serve a particular phase of the development shall be required to be installed, all in conformity with Final Engineering Plans submitted to and approved by the Village.

(l) The Village agrees that it shall terminate the Agreement dated February 17, 2000 between the Village and Deercrest, LLC ("Sprenger") and S&S Properties, Inc. ("Anest") for the purpose of providing water services to the east portion of the Village, it being agreed that such services shall be funded in part by the Clublands SSA.

8. Road and Traffic Improvements.

(a) In connection with the traffic improvements at Savage Road and Route 173, Developer commits to the following:

(i) Developer will bear the expense of conducting annual traffic warrants for the purpose of establishing whether a traffic signal is warranted at this intersection. The first warrant study shall commence two (2) years after the first building permit is issued for the Development or sooner if requested by the Village. Developer will supply the Village administrator with the results of the traffic warrants.

(ii) When IDOT agrees to permit the installation of a traffic signal and issues a permit for the same, Developer will, at its expense, subject to Developer's entitlement to recapture as set forth in paragraph 9 herein, install said traffic signal provided that upon completion, inspection and approval by IDOT of the traffic signal, the Village will accept responsibility for those legs of said signal that will be the Village's responsibility as per IDOT regulations provided that IDOT accepts responsibility for the remaining legs. Developer shall not be responsible for the improvements after completion, inspection and approval.

(iii) Neumann agrees to construct at its expense, subject to Developer's entitlement to recapture as set forth in paragraph 9 herein, the improvements at the intersection of Savage Road and Route 173, all as set forth on the approved final engineering plans. Provided that IDOT consents to the improvements, Developer shall begin the construction no later than the date that the Village issues 45 certificates of occupancy. To the extent IDOT's consent is delayed, this date shall be extended.

(iv) The temporary realignment of Savage Road shall meet the "minor" street standards not the "collector" street standards as those terms are defined in the Village Subdivision Code.

(b) In connection with the traffic improvements at Savage Road and Route 173, the Village commits to the following:

(i) The Village will use its best efforts to assist and support the Developer in obtaining IDOT's consent to the installation of a traffic signal; and

(ii) If condemnation is necessary, the Village will work with IDOT including entering into an intergovernmental agreement to condemn the land and easements necessary for the installation of the traffic signal and any other off-site road improvements agreed to between the Village and Developer.

(c) Provided that the Township permits and issues the necessary approvals for the improvements described below, Developer shall asphalt overlay, at its expense, the existing pavement on Savage Road from the southern boundary of the Subject Property to the southerly Antioch Township line. In the event the Township does not approve said improvement, on or before the expiration of this Agreement Developer shall be relieved of this responsibility and satisfaction of this requirement shall not be a condition to permitting Developer to proceed with the Development.

(d) Provided that IDOT permits and issues the necessary approvals for the improvements described below, Developer shall improve the intersection of Illinois Route 45 and Illinois Route 173 by installing, at its expense, a right turn lane on the southwest leg of Illinois Route 173 and Route 45. In the event IDOT does not approve said improvement, on or before the expiration of this Agreement Developer shall be relieved of this responsibility and satisfaction of this requirement shall not be a condition to permitting Developer to proceed with the Development.

(e) If IDOT and the Township permit and issue the necessary approvals for the improvements described below, Developer shall improve the intersection of Miller Road and Route 45, at its expense, by installing a right turn lane on the southwest leg of Miller and Route 45. In the event IDOT and the Township do not approve said improvement, on or before the expiration of this Agreement Developer shall be relieved of this responsibility and satisfaction of this requirement shall not be a condition to permitting Developer to proceed with the Development.

(f) The Village will not impose any requirement on the Developer to improve White Road, other than the on-site improvements depicted on the preliminary engineering plans which consist of improving the gravel surface at the east end of White Road on the Subject Property and installing a turn-around.

(g) The Village agrees that there shall be no other road or traffic improvements required in connection with the Development other than those set forth in subparagraphs (a) through (f) above.

(h) Streets constructed within the Subject Property shall be dedicated public streets where indicated and all dedicated streets shall be constructed in accordance with the Village's ordinances as modified under this Agreement. Roadway improvements and dedications of right-of-way to the Village for roadway improvements shall be only as provided for in the Final Engineering Plans.

(i) After approval of the Final plat and receipt of the original (mylar) executed by Developer and any other entity of Owner or financial entity with an interest in the Subject Property whose signature is required and following the receipt of evidence acceptable to the Village attorney that the 184± acres public open space is under a legally binding contract between Developer and the Lake County Forest Preserve District for the conveyance of said property to the Lake County Forest Preserve District, and prior to recordation of the Final Plat, the Village, shall, upon application by Developer or its duly authorized representative, allow construction of streets on the property provided:

(i) Such construction shall be undertaken at the sole risk of the Developer;

(ii) The Developer has applied to the Village for the necessary permits; and

(iii) The Village has approved a soil erosion control plan for the affected area.

(j) Only the street improvements necessary to serve the particular phase of the development shall be required to be installed, all in conformity with Final Engineering Plans submitted to and approved by the Village.

9. Recapture for Water, Sewer, Traffic and Other Improvements.

(a) The Developer, or the SSA (depending on which entity bears the expense of the improvement subject to recapture) shall be entitled to a recapture for all excess capacity provided by the sewer and water facilities including any wells, water towers, booster pumps, lift stations, mains, transmission lines, collection systems or other facilities and any traffic improvements including the costs of signalization and road widening constructed at Developer's expense which benefit other properties other than the Subject Property ("Recapture Improvements").

(b) The Village agrees, pursuant to the Illinois Compiled Statutes, Chapter 65, Section 5/9-5-1, as amended, to execute a Recapture Agreement with the Developer under the terms and provisions of which the Village shall agree to reimburse the Developer, from monies collected from benefited third parties, an equitable portion of the cost of any Recapture Improvements (based upon proportional benefits amongst only the other properties benefited), including an equitable and lawful allocation of costs and expenses incurred in the acquisition of any easement for such Improvement, together with interest thereon from the date said Improvement has been accepted by the Village until connection or use thereto is sought by the benefited third parties, at a rate of eight percent (8%) simple interest per annum beginning upon the Village's acceptance of the Recapture Improvements and running for twenty (20) years until collected from such third parties. Such Recapture Agreement shall describe the benefited properties outside of the Subject Property, which may reasonably be expected to benefit from the Recapture Improvements and shall specify the equitable amount or proportion of the cost of said Improvements which is to be incurred primarily for the benefit of that

benefited property. Such Recapture Agreement shall also provide that the Village shall collect such recapture fees charged to the owners of the property not within the Subject Property at the time application is made to connect to and use the Recapture Improvements by the respective properties of each such owner. The Village agrees that no benefited property owner shall be permitted to connect onto and utilize said Recapture Improvements without first paying the recapture fees to the Village as stated hereinabove. In the case of road recapture, the recapture fee shall be paid as a condition to the approval of the Final Plat. The Village Engineer shall determine the service area and the identity of the properties benefited by the Recapture Improvements and also the equitable proportion of the total cost and expense thereof which is to be recaptured from each of said benefited properties. All costs and fees charged by the Village engineer in determining the service area, the identity of the properties benefited, and the equitable allocation of the recapture amount shall be paid for by the Developer through the standard Developer escrow provisions of the Village ordinance. The Village shall have no obligation to enter into a recapture agreement until or unless all engineering and all other Village fees and costs attributable to the development of the recapture agreement are paid for by Developer. These costs and fees shall be subject to recapture. The Village shall have no recapture obligations under this paragraph until the terms thereof are formalized into a separate written agreement in accordance with the provisions of Illinois Compiled Statutes, Chapter 65, Section 5/9-5-1, as amended. Said Recapture Agreement shall be filed with the Lake County Recorder. The Developer and the Village shall reasonably determine *inter alia* (i) the location of the benefited properties; and (ii) shall allocate the benefit conferred upon such properties, all in accordance with the relevant statutes.

10. Creation of SSA and Issuance of Bonds.

(a) In order to recoup the development costs associated with the Development including off-site and on-site improvements in connection with the Development, the Village agrees to establish a special service area pursuant to the provisions of the Special Service Area Act, 35 ILCS 200/27-5, *et seq.* of the Illinois Compiled Statutes. The Village acknowledges that it is authorized pursuant to the provisions of Section 7(6) of Article VII of the Illinois Constitution of 1970 to impose additional taxes upon areas within its boundaries to provide special services to those areas to pay the debt incurred in order to provide those special services in the manner provided by law. The Village finds that the Subject Property and a portion of the off-site and on-site improvements and related costs are eligible pursuant to the provisions of the Special Service Area Act. Prior to the obligation of the Village under this paragraph arising, the Village and the Developer shall reasonably agree as to each particular public improvement which will qualify for Special Service Area financing.

(b) The Village agrees to establish a special service area, subject to objections filed by qualified persons. Subject to the establishment of the special service area, the Village agrees to issue special service area bonds (the "Bonds") in an amount not to exceed Sixty Five Million Dollars (\$65,000,000.00), with the number of bond issuances at Developer's option, the proceeds of which shall be used *inter alia* to purchase or construct certain public improvements, lawfully recognized as being included in the term "public improvement", which may include engineering and appurtenant work,

mass grading required to achieve proper gravity flow and storm runoff for the sewer and storm drain systems, including soil reports, construction of storm, water and sanitary sewer mains throughout the project as well as erosion control improvements, the value of the land under and the construction of public streets, including sidewalks, curbs and gutters, streetlights and bike paths and landscaping of public areas, including the installation of trees located in the on-site public park land/detention basins; to pay lawfully required impact and connection fees; to pay capitalized interest; to establish a reserve fund; to pay issuance costs; and to reimburse the Village for its expenses including but not limited to legal fees relating to the Bonds. The Bonds shall be retired solely by special taxes levied on a reasonable and rational basis against only the taxable property on the Subject Property. It is understood and agreed that such bonds shall not constitute an indebtedness of the Village. Interest on the bonds shall be paid by the SSA until the public improvements are complete and are accepted by the Village and in accordance with the debt service schedule as finally determined by the Village. The Special Service Area bond resolution shall state that the SSA bonds shall be subject to prepayment.

(c) The Village will enter into an agreement for public improvements in connection with the Clublands SSA. Included within said agreement for public improvements, the Village will agree to include the following language:

Use of Clublands SSA Sanitary Sewer Facilities. The sanitary sewer facilities that are part of the special services to be constructed as part of the Clublands SSA (the "Clublands SSA Sewer Facilities") are intended to protect the public health, safety, and welfare by providing a safe, environmentally sound, cost-effective, and efficient means of collecting sewage for transport and treatment by the Northeast Regional Sewerage System, to which the Clublands SSA Sewer Facilities will be tributary. In order to: (i) ensure that every property owner seeking to use the Clublands SSA Sewer Facilities provides its pro rata share of the bonded indebtedness for the Clublands SSA Sewer Facilities; (ii) minimize inefficiencies, discourage wasteful duplication of public facilities, and avoid unused capacities available from the Clublands SSA Sewer Facilities; and (iii) comply with the requirements of the Northeast Regional Sewerage System, each property not originally in the County SSA that seeks to use the Clublands SSA Sewer Facilities shall be required to satisfy the following conditions (in addition to all other requirements for receiving such sewer service):

(i) Pay a recapture fee for all capacity provided by the sewer facilities including any lift stations, mains, transmission lines, collection systems or other facilities that benefit said property. All revenue received pursuant to such recapture agreement shall be used for the purpose of

retiring bonds issued in connection with the Clublands SSA that are used to fund the construction of said Clublands SSA Sewer Facilities; provided, however, that after said bonds have been retired, all revenue received pursuant to said recapture agreement shall be paid to the last taxpayers of record who paid taxes for the Clublands SSA;

(ii) Be annexed into the County of Lake's Northeast Lake FPA Special Service Area in accordance with the Establishing Ordinance therefor; and

(iii) Payment of Connection Authorization Fee, as set forth in paragraph 13(f).

(d) As the construction of the Public Improvements will be funded in part with the proceeds of bonds issued in connection with the Clublands SSA, the Developer shall serve as the Village's general contractor in connection with said construction and shall be permitted to draw upon such bond proceeds for the purpose of paying subcontractors in connection with said construction.

(e) Developer shall include on the Illinois Real Estate Transfer Declaration Form ("Declaration Form"), the financial benefit of the Clublands SSA to said lot so that the full actual consideration for the lot is reflected on the Declaration Form. Developer shall include said benefit on line 10(P) of the Declaration Form or wherever else the Township Assessor deems appropriate.

11. Impact, Connection and Tap-On Fees. The impact, connection and tap-on fees identified in Exhibit D are the only fees to be imposed on the Development and the Village agrees that no other such fees shall be imposed on the Development or the Subject Property during the term of this Agreement.

(a) Developer shall pay the water, school, park, village library and other impact fees at the time building permits are issued as set forth on the schedule attached as Exhibit D which the Village acknowledges are the fees in effect on June 15, 2002.

(b) The Village acknowledges that the contribution of land, Developer funded improvements to the parkland, the path, the recreational improvements in connection with the use of Homer White Lake fully satisfy and exceed the Village Park Department donation requirements as set forth in the Village Code of Ordinances.

(c) The Village acknowledges that there are no recapture fees due by Developer to any other property owner in connection with providing sanitary sewer, water, storm sewer, road improvements or other infrastructure to serve the Subject Property nor shall it adopt any ordinance that imposes a recapture on the Subject Property without Developer's consent.

(d) In the event that the Developer and the School District are delayed in reaching a written agreement by the time Developer applies for building permits, Developer shall deposit with the Village the cash amount as set forth on Exhibit D as each lot is permitted. The absence of an agreement with the School District shall not delay either the recordation of the Final Plat or the issuance of the necessary permits for the land development work permitted under Sections 5 through 9 herein, or the issuance of building permits provided that Developer pays the amount required by the ordinance as building permits are issued pursuant to the fee schedule attached as Exhibit D.

12. Dedication of Easements and Rights-of-Way.

(a) All public improvements, including streets, sidewalks, storm sewers, lift stations, water wells, water storage towers, sanitary sewers and water mains, constructed on and off of the Subject Property shall be located within easements or rights-of-way as may be necessary for the construction and maintenance of such public improvements, (collectively "Public Improvements"). Such easements or rights-of-way on the Subject Property shall be conveyed or dedicated to the Village by the Developer. All such conveyances of easements and rights-of-way to be dedicated to the Village shall be by recorded plat of subdivision or by such other instrument mutually acceptable to the parties.

(b) The Village, at its sole cost and expense, shall be responsible for the maintenance, repair, restoration, and reconstruction of all Public Improvements following acceptance by the Village pursuant to Section 12(a) above and the one-year maintenance bond period, as provided in the Village's Subdivision Ordinance.

(c) All electric, cable and telephone lines on the Subject Property shall be placed underground in accordance with the requirements of the relevant electric, cable and telephone company, provided, however, that existing or relocated power lines and telephone lines serving the Subject Property or other properties and temporary overhead lines serving construction trailers and sales offices do not have to be located underground by the Developer or at Developer's expense.

(d) Developer shall be permitted to reserve unto itself non-exclusive easement rights in all utility easements shown on any Final Plat or grant of easement, provided that such reserved easements shall not interfere with the installation or maintenance of the Public Improvements.

(e) Within thirty (30) days after the execution of this Agreement, the Village shall convey to Developer a concurrent right and easement in and to all of the easements heretofore granted to the Village for the purpose of the construction and installation of all off-site sewer and water improvements required in order to service the Subject Property with sanitary sewer service and potable water service. The Village shall cooperate with Developer in obtaining at Developer's expense, title insurance insuring the Village and the Developer's rights and interests in and to all such easements.

13. Village Assistance in Connection with Transfer Parcels.

(a) Any development of the Transfer Parcels is subject to the land development ordinances of the Village including its zoning and subdivision code and this Section 13 shall not be interpreted as any approval or consent by the Village to any specific use or entitlement to development of the Transfer Parcels.

(b) The Village agrees that until July 9, 2012, connection fee credits attributable to the original Anest property and the White Estate property (as set forth in Section 10.C.1 of the County Establishing Ordinance) that are not used for the Subject Property be transferred to one or more parcels of land designated by Developer that is or are not currently located in the County SSA for the Northeast Sewerage System ("Transfer Parcels"); provided that the Transfer Parcels are annexed to the County SSA in accordance with applicable law and Section 4.1 of the Village/County Agreement.

(c) The Village will consent to the annexation of the Transfer Parcels into the County SSA and consent to a flow limit sufficient for the approved use of the Transfer Parcels, after the parcels have been identified.

(d) The Village will, if necessary, under relevant law or contract, consent to the transfer of capacity as set forth above. The Village agrees to use its best efforts to provide easements at Developer's expense to connect the Village's water system to the Transfer Parcels after the same are identified. The water supply to the Transfer Parcels shall be in sufficient quantity to serve the development of said Transfer Parcels as approved by the Village.

(e) The Village will, if requested by Developer, adopt a proposing ordinance but it shall not be obligated to adopt an establishing ordinance for a special service area for the purpose of providing funding for:

(i) The design and construction of all on-site and off-site roads, sanitary sewers, water lines, storm sewers, storm water detention or retention basins and other utilities and public improvements necessary for the development of the Transfer Parcels;

(ii) The acquisition of easements, rights-of-way, parklands and school lands that are required, consistent with Illinois law, as a result of the development of the Transfer Parcels; and

(iii) The prepayment of County connection fees described in Section 10 of the County Establishing Ordinance which will qualify for the credits described in Section 10.C.1 of the County Establishing Ordinance and payment of the County SSA taxes on the land to be sold to the Forest Preserve District.

(iv) The Village will agree to use, if necessary, its powers of eminent domain to acquire easements to extend sanitary sewer from the existing County interceptor to the Transfer Parcels.

(f) Where the Village's consent is required for a petitioner ("Petitioner") to connect to the Lake County Northeast Regional Sewerage System or the Clublands SSA Sewer Facilities (collectively the "System") pursuant to any applicable ordinance or intergovernmental agreement, the Village shall condition such consent upon the payment to the Village of a Connection Authorization Fee ("Fee") based upon the population equivalent ("P.E.") allocated to the Petitioner's property. The Fee shall be calculated as follows:

(i) Five Hundred Eleven and 00/00 Dollars (\$511.00) for each P.E. unit allocated to the Petitioner's property of Unused Credit (as defined below) that the Village transfers to the Petitioner ("Unused Credit Fee"); and

(ii) A minimum of Four Hundred Forty Nine and 00/100 Dollars (\$449.00) for each P.E. unit allocated to the Petitioner's property ("Connection Charge") provided that the Developer's Connection Charge shall not exceed \$449.00.

The Developer owns a certain number of connection fee credits ("Connection Fee Credits") pursuant to Section 10 of an Ordinance Establishing the Northeast Lake FPA Special Service Area, approved by the Lake County Board on December 2, 1994 ("County Establishing Ordinance"). The Developer agrees to sell and the Village agrees to purchase approximately 1,540 Unused Connection Fee Credits ("Unused Credit") based on the terms and conditions set forth below.

The Petitioner shall pay the Fee to the Village when the Petitioner applies for the Illinois Environmental Protection Agency Permit for Petitioner's property. Upon notice from the Village that a Petitioner has paid the required Fee ("Unused Credit Fee and Connection Charge"), the Developer shall sell and assign that number of Unused Credits, up to the amount it then owns, to the Village. Within five (5) days of receipt of such assignment by Developer, the Village shall pay the Developer \$940.00 per Unused Credit. The Village will then reassign the Unused Credits, so purchased from the Developer, to the Petitioner and will advise the Lake County, Illinois that the Unused Credits are to be applied to the account of the Petitioner. The parties acknowledge that the Developer is or will be the owner of the Original SSA Tracts (as defined in the County Establishing Ordinance) and is exempt from the payment of the Fee or any portion thereof or any other fee or charge for connection of the Developer's Original SSA Tracts to the System.

Once all Unused Credits have been purchased by the Village or used by the Developer, the Unused Credit Fee set forth in (i) above shall be eliminated from the Fee and the Fee shall consist of the Connection Charge as set forth in (ii) above or as subsequently adjusted by the Village. Further, once all outstanding Unused Credits have been purchased by the Village or used by the Developer, the Village shall have no further obligation to purchase Unused Credits from the Developer and the Developer shall have no further obligation to sell Unused Credits to the Village.

14. Security for and Acceptance of Public Improvements.

(a) Security to be provided by Developer for public improvements benefiting an individual phase of development within the Subject Property shall be provided as a condition to recordation of a final plat for that phase and shall be in accordance with the applicable Village ordinances, as modified by this Agreement. The Village shall recognize the proceeds from the sale of the Bonds in connection with the SSA ("Security") as fully satisfying Developer's obligations to provide for security.

(b) The Village's Security requirements shall be reduced as provided for in the bond documents in connection with the Clubland's SSA.

(c) Acceptance of public improvements in all phases of the Development shall be in accordance with the Village Ordinance. In the event a request for acceptance of public improvements is denied, the Village agrees to provide the Developer in writing the reasons for the denial. The Village agrees to accept public improvements upon the Developer's compliance with all Village ordinances within thirty (30) days, weather permitting.

(d) To the extent utility improvements are developed or installed in phases or units, the Village shall inspect and accept the same on a phase-by-phase basis. The Developer shall only be required to install water lines and sewer mains in each phase as each phase is platted and approved by the Village.

15. Temporary Facilities.

(a) After the adoption of ordinances approving the planned unit development, but prior to the approval of any final plat of subdivision for, or the availability of public improvements on the Subject Property, the Developer may at, its own risk, install or erect up to three pre-sale trailers, up to three construction office trailers, advertising signs, parking lot, and up to 10 semi-trailers as may be necessary on the Subject Property and models after obtaining all applicable permits from the Village.

(b) Any time after the execution of this Agreement, and prior to approval of Final Plats for the Subject Property, or parts thereof, excavation, mass grading, erosion and sedimentation control, water retention and detention, filling, soil stockpiling and site grading may proceed in and upon the Subject Property or portions thereof; provided, however, that the Developer shall undertake such work at its own risk. It shall not undertake such work, except upon the Village engineer's approval of such plans containing sufficient information to demonstrate that the work will be accomplished in accordance with good engineering practices. Additionally, the Developer shall be required to take such action as may be necessary to assure that such work ultimately complies with the approved final engineering plans for the Subject Property. The Village will issue an "Earth Change Approval" provided that the requested work meets the requirements of and is consistent with the Watershed

Development Ordinance. In such event, it is understood that work can commence prior to the issuance of the Watershed Development permit from Lake County SMC. If the proceeds of the SSA bonds are not in place, the Developer shall post a performance bond until such proceeds are in place at which time the performance bond shall be returned to Developer.

(c) The Developer shall be permitted to construct and maintain on the Subject Property at any one time not more than 16 model homes subject to the approval by the Village's Building Department of the construction plans therefor; provided that foundations and framing of such models shall not be permitted unless a stone haul road adequate to handle emergency vehicles has been constructed. In conjunction with the construction, use, and maintenance of the model homes, the Developer may erect and maintain temporary fencing, which shall not be unreasonably withheld. The Village agrees that the Developer may maintain model homes on the Subject Property until the completion of all construction activities on the Subject Property.

(d) Subject to the receipt of a conditional occupancy permit, the Developer shall be permitted to use and occupy (but not for residential purposes) the construction office trailers, semi-trailers, pre-sale trailers, model homes, and construction related structures upon the installation of temporary electric generators, waste water holding tanks or portable toilet facilities, and water facilities; provided, however, that such generators, tanks and water facilities shall be disconnected and removed at such time as electrical service and public sewer and water systems become available to the Subject Property and the structures are connected thereto; provided further that model homes shall be served by a waste water holding tank or portable toilet facilities so long as either water or sewer are not available after completion of construction thereof and construction sales trailers shall not be required to connect to the public sewer and water systems. Notwithstanding the foregoing, temporary structures intended for storage of materials and equipment only may be used and occupied (but not for residential purposes) prior to the installation of such temporary electric, waste water, and water facilities. All matters governed by the Lake County Health Ordinance shall be subject to the review and approval of the Lake County Health Department.

16. **Building Code.**

(a) The Building Code of the Village, as is in effect on January 15, 2000, which the Village acknowledges is the same code which is in effect on the date of this Agreement, shall apply to the Subject Property, and all construction thereon shall be in conformance with said Code, unless a stricter code is required by the Illinois Compiled Statutes, 55 ILCS 5/5-1064 and which pre-empts the Village Code.

(b) Notwithstanding anything to the contrary in the Building Code or other ordinances of the Village, the following standards, procedures, and requirements shall apply to the development of the Subject Property:

(i) The Developer may submit applications for building permits prior to the approval of the final plat for the Subject Property or a portion thereof; provided, however, that no building permit shall be issued and no construction

shall commence except on a lot created pursuant to an approved and recorded final plat of subdivision and accessible via a road improved with at least a binder course. However, Developer shall be permitted to commence the construction of model homes pursuant to the terms immediately below.

(ii) Developer may commence construction of model homes on the Subject Property immediately upon issuance of a building permit therefor and prior to the approval of a final plan or plat provided that a stone haul road access is provided. Prior to commencing work hereunder, Developer must obtain all necessary permits for such work including, but not limited to, earth change and Watershed Development Permits.

17. Signage.

(a) Notwithstanding any ordinance or regulation of the Village to the contrary, the Developer shall be permitted to install the following temporary signage on the Subject Property:

Five (5) double-faced or V-shaped as approved by Village staff, signs announcing the Developer's future development of the Subject Property, (i) two of which shall not exceed 120 square feet per face (10' x 12') and must be located at or near; and (ii) the remaining three (3) signs shall not exceed 48 square feet per face. Such signs may be erected immediately after the adoption of ordinances approving the planned development for the Subject Property. The location of the signs shall be subject to the prior approval of Village staff. These signs, or any of them, may be converted at any time to announce the sale of residences and lots within the Subject Property. Such signs shall be removed at the time that the sales on all of the model homes on the Subject Property have closed, but in no event later than twelve (12) months after the sale of all of Developer's lots (not including the lots, tracts or parcels upon which the model homes are located)

No such temporary sign shall be closer than 150 feet from any other such sign on the same side of the street. All signs shall be maintained at all times in an acceptable and clean condition as to both structure and message display.

(b) Developer shall be permitted to install community identification ground signage, not exceeding eight feet in height or 160 square feet per face at each point of access to the Subject Property along all access points. Such signs may be located in the public right-of-way provided that the homeowners association is obligated to maintain said signs in a properly established easement. The construction plans for such signs shall be subject to the review and approval of the Village's Building Department, which approval shall not be unreasonably withheld. At the time of submission of such construction plans, the Developer shall be required to deliver evidence to the Village that each such sign will be adequately maintained.

(c) Nothing in this paragraph shall limit the Developer's right to install signs on the Subject Property or any portion thereof that are otherwise permitted by Village ordinance.

18. **Special Assessments and Taxation.** Without the prior written consent of Developer, the Village shall not, (a) levy against any real or personal property within the Subject Property, any special assessment or special taxation for the cost of any improvements in or for the benefit of the Subject Property; or (b) impose additional taxes upon the Subject Property, in the manner provided by law for the provision of special services to the Subject Property or an area in which the Subject Property is located or for the payment of debt incurred in order to provide such special services, including specifically, but not by way of limitation, the creation of "special service areas" or the levy of differential taxes with respect to or in the Subject Property. Nothing in this section shall prevent the Village from levying or imposing additional taxes upon the Subject Property in the manner provided by law for the provision of special services to the entire Village, which additional taxes are applicable to all other areas in the Village, or from levying or imposing additional taxes upon the Subject Property which are applicable to and apply equally to all other properties within the Village.

19. **Developer's Right to Sell Lots.** The Developer shall have the right either to build on the Subject Property or sell developed lots to other builders or to convey any or all of the property at any time after the date of this Agreement. The Village agrees that if the Developer conveys all or any portion of the Subject Property, the Developer shall, with regard to the portion of the property conveyed, no longer be bound by the duties and obligations of this Agreement and shall have no further obligation to perform under this Agreement, provided, however, that the Developer shall be responsible for any breach of this Agreement that occurred prior to such conveyance.

20. **Occupancy Certificates.**

(a) The Village agrees to issue Certificates of Occupancy within four (4) business days after the application therefor or to issue a Letter of Denial within said period of time informing the Developer specifically as to what corrections are necessary as a condition to the issuance of a Certificate of Occupancy, quoting the section of any code or ordinance relied upon by the Village in its request for correction.

(b) Any resubmittal of an application for a certificate of occupancy after issuance of a Letter of Denial shall be processed within four (4) business days in the same manner as any other such application, with payment of the applicable re-inspection fee.

(c) Certificates of occupancy for buildings shall be issued by the Village when weather conditions have not permitted the related improvements (landscaping, driveways, and sidewalks), to be completely finished and provided that such buildings and related structures are in a substantially completed condition and are fit for habitation and would qualify for a final occupancy permit but for these incomplete items. Provided that the necessary security to complete these improvements is deposited with the Village.

21. Defense. The Village agrees to defend this Agreement, the Planned Unit Development, the SSA ordinances and any other governmental approvals granted to Developer against any lawsuits brought by objectors including any other governmental bodies challenging the same including any lawsuits brought by other government bodies seeking to condemn all or any portions of the Subject Property. The costs of the Village defense shall be at the Developer's expense. In the event of a third party challenge, the Developer may elect to appear and defend litigation or tender the defense to the Village. If the Developer elects to appear and defend the Village may also be represented by counsel. If the Developer tenders the defense to the Village, the Village and the Developer shall select an attorney by mutual agreement. In the event of any monetary judgment entered against the Village, the Developer shall indemnify the Village for such money judgment. The Developer's duty to defend, hold harmless and indemnify the Village as set forth above shall not apply to that portion of the Connection Charge in excess of Four Hundred Forty Nine and 00/100 Dollars (\$449.00) per P.E. unit. The Village and the Developer will cooperate with each other in connection with the litigation. In the event the Developer is able to settle any litigation or claim and the Village refuses or withholds its consent to such settlement, the Developer's obligation under this Agreement shall be limited to the terms of the proposed settlement agreement as long as the settlement agreement does not include costs, damages or awards against the Village for which the Village will be liable, and the cost of the Village's attorneys' fees, if any, as of the date of the proposed settlement agreement.

22. Term of Agreement. This Agreement shall remain in full force and effect until the completion and issuance of the last certificate of final occupancy by the Village for the last building or unit located on the Subject Property, but in no event longer than twenty (20) years from the date herein.

23. Amendment/Integration/Conflict between Text and Exhibits.

(a) The Village and the Developer, as the case may be, and/or their respective successors and assigns may, by mutual consent, agree in writing to amend the terms and conditions set forth in this Agreement. However, only the written approval of the legal title holder of an interest in the property affected by the amendment (the legal title holder of the property affected by the amendment) shall be required to affect an amendment to this Agreement. No purported oral amendment to the Agreement shall be binding or enforceable.

(b) All exhibits to this Agreement are incorporated herein by this reference. To the extent that there is any inconsistency between any exhibit and the text of this Agreement, the text of this Agreement shall govern.

24. Notices. All notices, requests and demands shall be in writing and shall be delivered by hand, mailed by certified mail, return receipt requested, or sent via overnight courier as follows:

To the Village: Village of Antioch
874 Main Street
Antioch, Illinois 60002-1509
Attention: Village Administrator

With a copy to: Village Attorney
Daniels, Long & Pinsel
19 N. County Street
Waukegan, Illinois 60085
Attention: Donald W. Anderson, Esq.

To the Developer: Neumann Homes, Inc.
4355 Weaver Parkway
Warrenville, Illinois 60555
Attention: William Laytin

and

Neumann Homes, Inc.
4355 Weaver Parkway
Warrenville, Illinois 60555
Attention: Chris Lebling

Notices shall be deemed received, in the case of hand delivery, when actually delivered; in the case of certified mail, five (5) days after deposit with the U.S. Postal Service; and in the case of overnight courier, the day following the deposit with the courier.

25. Mutual Assistance.

(a) The Parties shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms and objectives of this Agreement and the intentions of the Parties as reflected by said terms, including, without limitation, the giving of such notices, the holding of such public hearings, the enactment by the Village of such resolutions and ordinances and the taking of such other actions as may be necessary to enable the Parties' compliance with the terms and provisions of this Agreement and as may be necessary to give effect to the terms and objectives of this Agreement and the intentions of the Parties as reflected by said terms.

(b) The Parties shall cooperate fully with each other in seeking from any or all appropriate governmental bodies (whether Federal, State, County or local including, without limitation, the County of Lake, Illinois, the U.S. Army Corps of Engineers, the Stormwater Management Commission of Lake County, the Illinois Department of Transportation and Antioch Township) in order to enable the Developer to develop the Subject Property in accordance with this Agreement and for any financial entitlements or other aid and assistance required or useful for the construction or improvement of the Subject Property and facilities in and on the Subject Property or for the provision of services to residents of the Subject Property, including, without limitation, grants and assistance for public transportation, roads and highways, water and sanitary sewage facilities and storm water disposal facilities.

(c) Upon being provided with the necessary documentation from Developer, the Village will request the necessary permits from the Illinois Environmental Protection Agency for sanitary sewer and water service to serve the Subject Property, request the Illinois Department of Natural Resources to close its consultation regarding the Subject Property and request any other State of Illinois agency or other governmental entity to issue its permit or authorization with respect to the Development concurrent with and upon the Village's approval of the Development.

(d) Whenever any approval or consent of the Village, or any of its departments, officials, or employees is called for under this Agreement, the same shall not be unreasonably withheld or delayed, provided that the Developer is otherwise in compliance with the terms of this Agreement.

(e) The Village agrees that it shall not impose any development moratorium on the Subject Property.

26. Remedies.

(a) This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties or by an appropriate action at law or in equity to secure the performance of the covenants herein described. If an action is filed in state court, the Nineteenth (19th) Judicial District, Lake County, Illinois, shall be the exclusive venue for any such action. If this Agreement or any provision hereof is held invalid, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the terms of the remaining provisions contained herein, unless both the Village and Developer mutually deem the provision to be material to this Agreement. The Village and Developer hereby declare that each would have approved each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that one or more section, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid or ineffective.

(b) Upon a breach of this Agreement, any of the Parties, in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained for failure of performance or both, or may obtain rescission and disconnection for material failure of performance. No action taken by any party hereto pursuant to the provisions of this paragraph or pursuant to the provisions of any other paragraph of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any party at law or in equity.

(c) Except for the time periods for the approval of Final Plats, the reduction of security, the acceptance of public improvements, the issuance of building permits and occupancy permits, which time period shall be strictly enforced, if any of the Parties shall fail to perform any of its material obligations hereunder, and the party affected by such default shall have given written notice of such default to the defaulting party, and such defaulting party shall have failed to cure such default within thirty (30) days of such default notice (provided, however, that said thirty (30) day period shall be

extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same), then, in addition to any and all other remedies that may be available, either in law or equity, the party affected by such default shall have the right (but not the obligation) to take such action as in its reasonable discretion and judgment shall be necessary to cure such default. In such event, the defaulting party hereby agrees to pay and reimburse the party affected by such default for all reasonable costs and expenses (including attorneys, fees and litigation expenses) incurred by it in connection with action taken to cure such default.

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

(e) If the performance of any covenant to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include acts of God, war, acts of civil disobedience, strikes or similar acts) the time for such performance shall be extended by the amount of time of such delay.

(f) Except in cases of emergency where immediate danger to health or life exists and/or work exceeds the scope of the permits issued, or in the event of a violation of the Watershed Development Ordinance, the Village shall not issue any stop orders directing work stoppage on buildings or improvements on the Subject Property or any part thereof without first giving the Developer three (3) days advanced written notice of its intent to issue such stop order. The notice shall set forth in detail the reasons for such stop order and shall cite the provisions of law on which the village intends to issue the stop order. Upon delivery of such notice, the Developer shall take immediate steps to correct any violation and, provided such steps are promptly undertaken and diligently pursued, no stop order shall issue.

27. Severability. If any provision of this Agreement, or any section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

28. Counterparts. This Agreement may be executed in several counterparts, all of which shall be an original and all of which shall constitute but one and the same agreement.

29. Developer's Obligation. The obligations of the Developer hereunder shall become effective only upon the acquisition of legal or beneficial title to the Subject Property by the Developer.

30. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties' respective successors and assigns, including successor members of the Village Board of Trustees, and successor grantees, purchasers, lessees, and owners of the Property.

WHEREFORE, the parties herein have signed this Agreement on the date and year first above written.

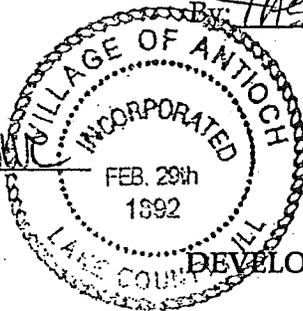
VILLAGE:

VILLAGE OF ANTIOCH, an Illinois
municipal corporation

By: Sted Moravella
Village President

ATTEST:

By: Carroll R. R...
Village Clerk



DEVELOPER:

NEUMANN HOMES, INC.

By: [Signature]
Its: CEO Kenneth R. Neumann

EXHIBITS LIST

EXHIBIT

- A Legal Description of the Subject Property
- B Development Plan
- C Easement Locations
- D Schedule of Fees

EXHIBIT A

Legal Description of the Subject Property

EXHIBIT B
Development Plan

EXHIBIT C

Easement Locations

EXHIBIT D

Schedule of Fees