

SEP 17 1987

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FIRST DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS  
KNOLLS SUBDIVISION

THIS DECLARATION, made this 23rd day of July, 1987, by Illinois Regional Bank NA Elmhurst Trust Number 5460, under Trust Agreement dated April 17, 1985, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of a certain parcel of real estate in the County of Kane, State of Illinois, and legally described in Exhibit "A" attached hereto and made a part hereof, hereinafter referred to as "Knolls Subdivision Unit 1"; and

WHEREAS, Declarant is desirous of subjecting Knolls Subdivision Unit 1 to certain covenants and restrictions pertaining to the size, design, and type of materials to be utilized in the construction of the single family dwelling units to be constructed thereon, as well as the prior approval by Declarant of all architectural, building, and other plans and

OMER E. RICHARDSON  
President

RECORDED  
KANE COUNTY ILL.  
SEP 17 1987

specifications for buildings, structures, and improvements proposed to be constructed in Knolls Subdivision Unit 1; and

WHEREAS, Declarant further is desirous of establishing certain easements for storm water management within Knolls Subdivision Unit 1, and the care and maintenance of such easements; and

WHEREAS, Declarant is further desirous of impressing all of the lots in Knolls Subdivision Unit 1 with certain additional restrictions and covenants as herein provided; and

WHEREAS, Declarant desires and intends that the several owners, mortgagees, occupants, and other persons acquiring any interest in Knolls Subdivision Unit 1, or in any portion thereof, shall at all times hold their interests subject to the rights, priorities, easements, covenants, conditions, restrictions, liens, and charges hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the attributes of Knolls Subdivision Unit 1 for the use and enjoyment of the residents and owners thereof.

NOW THEREFORE, Declarant hereby declares that Knolls Subdivision Unit 1 is, and shall be held, transferred, sold, conveyed, and occupied, subject to the conditions, covenants, restrictions, easements, charges, and liens hereinafter set forth, hereinafter referred to as "Covenants".

ARTICLE I

GENERAL PURPOSES OF THIS DECLARATION

The Subject Property is subject to the Covenants hereby declared to insure proper use and appropriate development and improvements of the Subject Property and every part thereof; to protect each owner therein from such improper use of surrounding lots as may depreciate the value of their property; to guard against the erection thereon of buildings built of improper design or unsuitable materials; to encourage the erection of original designs and attractive improvements thereon, with appropriate locations thereof; to prevent haphazard and inharmonious improvements; to insure desired high standards of maintenance and operation of community facilities and services for the benefit and convenience of all owners of property and all residents and, in general, to provide adequately for a residential subdivision of the highest quality and character and the preservation of natural resources and environment.

ARTICLE II

DEFINITIONS

Section 1. **Basement.** A portion of a living unit in which not less than one-half of its floor to clear ceiling height is below grade at the front elevation.

Section 2. **City.** The City of Batavia, a municipal corporation of Kane County, Illinois.

Section 3. Declarant. The Illinois Regional Bank NA Elmhurst Trust Number 5460 under Trust Agreement dated April 17, 1985.

Section 4. Living Space. Living space shall be calculated by using the outside dimensions of a dwelling unit, exclusive of porches, garages, uninhabitable storage areas, and basements.

Section 5. Living Unit. Any building or a portion thereof situated on a lot on the Subject Property and intended for the use and occupancy of a single family dwelling for which an occupancy permit has been issued.

Section 6. Lot. That portion of the Subject Property shown on recorded subdivision plat or plats of the Subject Property, improved or intended to be improved with one Living Unit as herein described. A lot may or may not coincide with a lot of record.

Section 7. Occupant. Any person or persons in possession of a Living Unit other than the owner.

Section 8. Owner. A person or persons whose estates or interests, individually or collectively, at any time constitute an aggregate fee simple ownership in a lot. The word "owner" shall also mean and refer to the Declarant as to any lot ownership, where title is held by Declarant, or its nominee or agent. The word "owner" shall not, however, notwithstanding any applicable provisions of any mortgage, mean or refer to a mortgagee or any

other persons having interest in any such lot ownership merely as security for the performance of an obligation unless and until such mortgagee or other holder of a security interest has acquired title pursuant to foreclosure by deed in lieu of foreclosure. The word "owner" shall include heirs or devisees of a record owner who is deceased.

**Section 9. Person.** A natural, person, corporation, partnership, trustee, or other legal entity capable of holding legal title to real estate.

**Section 10. Storm Water Detention Facilities.** Those portions of the Subject Property required pursuant to applicable codes and ordinances of the City to detain storm water and discharge such storm water at a restricted release rate, including all storm sewers, fixtures, and appurtenances being a part thereof or incidental to.

**Section 11. Story.** That portion of a building other than a basement included between the top surface of the next floor or roof above, except that a space used exclusively for the housing of mechanical services of the building shall not be construed to be a story if access to such space may be had only for maintenance of such services. Except as otherwise provided for herein, a mezzanine floor shall be counted as a

story when it covers over one-third of the area of the floor next below it, or if the vertical distance from the floor next below it to the floor next above it is twenty-four (24) feet or more.

Section 12. Structural Alteration. Any change in the supporting members of a structure, such as bearing walls, columns, beams, or girders; or any substantial change in the roof or in the exterior walls, excepting such repair or replacement as may be required for the safety of the building.

Section 13. Structure. Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground. A sign or other advertising device detached or projected shall be construed as a separate structure.

Section 14. Subject Property. The entire tract of real estate described in Exhibit "A" attached hereto, being Knolls Subdivision Unit 1.

### ARTICLE III

#### USE RESTRICTIONS

Section 1. Land Use and Building Type. All lots on the Subject Property shall be used for single family residential purposes only and no building shall be erected, reconstructed, or maintained thereon except one living unit designed by a licensed architect and having an attached garage containing not more than four (4) parking spaces for the sole use of the owner or occupant of the living unit. Other accessory buildings and structures may

be erected in such manner and location only as hereinafter provided, or as approved in writing by Declarant, its successors or assigns.

**Section 2. Building Height.** No living unit shall be erected, altered, or placed within the Subject Property, which is more than two and one-half stories or thirty (30) feet in height, whichever is lesser. No accessory building or structure shall exceed seventeen (17) feet in height unless a greater height is approved in writing by Declarant, or its successors or assigns.

**Section 3. Living Unit - Quality and Size.** It is the intention and purpose of these Covenants to assure that all living units shall be of a quality of design, workmanship, and materials approved by Declarant, or its successors or assigns. All living units shall be constructed in accordance with the applicable governmental building codes and with such more restrictive standards as may be required by Declarant, or its successors or assigns. The minimum living space of the living unit shall be:

- a. For one story living units, not less than 1,600 square feet.
- b. For living units of more than one story, not less than 2,200 square feet.

**Section 4. Location on Lot.** No building shall be located on a lot nearer to the front lot line than the front yard line shown on the recorded plat of subdivision of the Subject Property containing such lot, which setback shall not be less than

thirty-five (35) feet except for those lots specifically identified on any such plat permitting a reduction of this setback requirement. Tennis courts and swimming pools shall be screened from any interior street by a wall, solid fence, evergreen hedge, or other visual barrier as approved in writing by Declarant, or its successors or assigns. No tennis court or swimming pool shall be located on a lot nearer to the front lot line than the minimum setback shown on said recorded plat and shall not be located within any side yard setback.

Section 5. Driveways. Access driveways and other paved areas for vehicular use on a lot shall have a base of compacted gravel, crushed stone, or other approved base material, and shall have a wearing surface of asphaltic concrete or the equivalent thereof and shall not be located nearer to any side or rear lot line than three (3) feet. Plans and specifications for driveways, culverts, pavement edgings, or markers shall be approved in writing by Declarant, or its successors or assigns. The final surface course of the driveway for each living unit shall be completed within eight (8) months following the issuance of the occupancy certificate for such living unit.

Section 6. Recreational Vehicles. No recreational vehicles of any type, including, without limitation, boats, trailers, campers, motor homes, airplanes, and other such vehicles and equipment shall be parked or stored, temporarily or permanently, in an area which is not fully enclosed within a permanent structure on any lot within the Subject Property.



**Section 7. Noxious or Offensive Activities.** No noxious or offensive activities shall be conducted upon any of the Subject Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without in any way limiting the effect of the foregoing, the following activities are specifically prohibited:

- a. Unsightly plants or underbrush or plants breeding infectious plant diseases or noxious insects.
- b. The burning of refuse outside a living unit (except as the burning of leaves may be permitted by ordinance of the appropriate municipal authority).
- c. Exterior television or radio antennae, poles, wires, rods, or other devices in connection with the reception or transmission of any television, radio, or any other electrical signal, except within buildings or structures on the Subject Property, unless the same shall be contained in conduits or approved cables constructed, placed, and maintained underground.
- d. The hanging of laundry or other articles, or the erection of laundry drying equipment outside the living unit.
- e. The storage of garbage outside the living unit.

**Section 8. Temporary Structures.** No trailer, basement of an uncompleted building, tent, shack, garage, barn, and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a living unit shall be on the same lot as the living unit, and such buildings or structures shall be removed promptly upon the completion of construction.

**Section 9. Bi-level Designs.** Living units incorporating a "bi-level" type architectural design are prohibited within the Subject Property and shall not be approved by the Declarant pursuant to the architectural review procedures set forth in Article V of this Declaration.

**Section 10. Aluminum Siding.** Aluminum and/or vinyl siding shall not be utilized upon or incorporated into any exterior elevation or wall of any structure located upon any lot within the Subject Property.

**Section 11. Accessory Storage Structures.** No accessory storage structures shall be constructed, placed, or maintained on any lot within the Subject Property.

**Section 12. Sodding and Seeding of Yards.** All front and side yards shall be sodded and all rear yards sodded or seeded on each lot within the Subject Property within one (1) year following the issuance of the occupancy for the living unit on such lot.

Section 13. Model Homes. No structure located upon the Subject Property shall be occupied or utilized for the purpose of a model home and/or sales office without the prior written approval of the Declarant, and then only in accordance with the limitations and restrictions of such approval. Such approval shall be in the sole and absolute discretion of the Declarant.

Section 14. Above Ground Swimming Pools. No above ground swimming pools, excluding children's wading pools, shall be erected, placed, or utilized on any lot within the Subject Property.

Section 15. Fences. No chain link fence of any design, height, or color shall be installed or utilized on any lot within the Subject Property for any purpose.

Section 16. Fireplaces. Except as hereinafter expressly provided, only masonry fireplaces and chimneys shall be constructed and/or utilized within the Subject Property. No prefabricated fireplaces or chimneys shall be utilized in any structure erected upon the Subject Property except in the basement of such structure, or for contemporary style homes for which the chimney housing is not less than two feet by five feet (2' x 5') wide.

#### ARTICLE IV

##### EASEMENTS

Section 1. Easement for Storm Water Detention. A perpetual, non-exclusive easement is hereby granted to the City for storm water detention and management purposes, over, across, and along those portions of the various lots within the Subject

Property identified on the final plat(s) of subdivision as "drainage easements" or "storm detention easements". The final plat(s) of subdivision for the Subject Property shall specifically identify each storm water detention area, and the easements impressed thereon. The lot owner shall have the responsibility for maintaining the easement premises for storm water management purposes as hereinafter provided so as to insure the free and uninterrupted flow of storm water over and across said storm water detention areas. No structures or improvements shall be constructed within or upon the easement premises which would interfere with the area effectively functioning as a storm water detention facility in accordance with the codes and regulations of the City.

Section 2. Easements to Run with the Land. All easements and rights on or with respect to any lot within the Subject Property are easements appurtenant to and running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns, the City, and any owner, occupant, purchaser, mortgagee, or other person having an interest in any lot affected thereby, or its or his heirs, grantees, successors, and assigns.

ARTICLE V

MAINTENANCE OF STORM WATER DETENTION EASEMENTS

Section 1. Duty of Lot Owner to Maintain. Each lot owner shall be responsible for the care and maintenance of that portion of his respective lot or lots impressed with a storm drainage easement pursuant to the final plat(s) of subdivision for the Subject Property so as to insure the continued compliance of such area with the codes and regulations of the City pertaining to dry bottom storm water detention facilities. The aforesaid responsibility shall not include the maintenance, repair, or replacement of storm sewer lines, inlets, or other associated structures dedicated to and accepted by the City. In the event the easement premises is not properly maintained for such purpose by the lot owner, the City shall, upon ten (10) days prior written notice to the lot owner, have the right to perform or have performed on its behalf any maintenance work to or upon the easement premises reasonably necessary to insure adequate storm water storage and free flow of storm water through the easement. In each such case, the City, through its designated representatives, shall have the right to enter upon, cross over, and utilize all or any portion of the lot upon which the easement is located to carry out such maintenance. The City and its representatives shall use all reasonable efforts to minimize any damage or disturbance to the lot or lots affected thereby. In the event the City is required to effectuate such maintenance of the

easement premises, it shall be entitled to recover one hundred ten percent (110%) of the costs incurred by it as a result thereof in accordance with the provisions of Section 2 of this Article V.

Section 2. Right of City to Effect Lien. In the event a lot owner fails to properly maintain the storm water detention drainage easement located upon his lot in compliance with the codes and regulations of the City, and as a result thereof, the City performs such maintenance in accordance with the provisions of Section 1 of this Article V, the cost incurred by the City as a result thereof together with the additional sum of ten percent (10%) of such cost, upon recordation of a notice of lien within sixty (60) days of completion of such work by the City, shall constitute a lien against the lot or lots upon which such work was performed which may be foreclosed by an action brought by or on behalf of the City for such purposes.

## ARTICLE VI

### ARCHITECTURAL CONTROLS

Section 1. Plan Approval. It is understood and agreed that the purpose of architectural controls for the Subject Property is to secure an attractive, harmonious residential development having continuing appeal. No construction of a building, fence, wall, or other structure shall be commenced, erected, or maintained, nor shall any addition to or change or alteration thereto be made (except interior alterations) until the construction plans and specifications, showing the nature, kind,

shape, height, and materials, color scheme, and proposed location on lot and approximate cost of such building or other structure and the grading plan and landscape plan of the lot to be built upon shall have been submitted to and approved in writing by Declarant. Declarant shall have the right to refuse to approve any such construction plans or specifications, grading plan or landscape plan, which are not suitable or desirable in the opinion of Declarant for aesthetic or other reasons; and in so passing upon such construction plans and specifications, grading plan or landscape plan, Declarant shall have the right to take into consideration the suitability of the proposed building or other structure with the surroundings, and the effect of the building or other structure on the compatibility with adjacent or neighboring properties.

All plans, specifications, and other materials pertinent to any proposed construction shall be submitted to the office of Richardson Associates, Inc., 1979 Mill Street, Suite 201, Naperville, Illinois 60540, as agent for Declarant, for approval or disapproval. A report in writing setting forth the decision of Declarant by Richardson Associates, Inc., and the reasons therefor shall thereafter be transmitted to the applicant by Richardson Associates, Inc. within thirty (30) days after the date of filing the plans, specifications, and other material by the applicant. Richardson Associates, Inc. following the submission of the aforesaid, will aid and assist the prospective residents, or their

agents, and will make every attempt to reasonably cooperate with the wishes of the lot owner. Lot owners are encouraged to submit preliminary sketches for "informal comment" prior to the submittal of architectural drawings and specifications for full review. In the event: (a) Declarant through its agent fails to approve or disapprove within sixty (60) days after submission, the final plans, specifications, or other material, as required in this Declaration; or (b) no suit to enjoin construction has been filed within sixty (60) days after commencement of such construction, approval shall not be required, provided, however, that all other provisions of this Declaration shall be fully complied with.

**Section 2. Assignment of Authority.** The rights and authorities established by this Article VI shall be personal to Declarant, through its agent, but may be assigned by Declarant to such other person, and thereafter from time to time assigned, as Declarant, or its successor or assign, may deem appropriate. An assignment of the Declarant's rights and authorities pursuant to this Article VI may only be accomplished by written instrument expressly referencing this Article VI, duly executed by the assignor, accepted by the assignee, and recorded with the Kane County Recorder of Deeds. Declarant may at any time terminate the architectural controls established hereunder by written instrument recorded with the Kane County Recorder of Deeds, without the consent of any lot owner within the Subject Property.



## ARTICLE VII

### GENERAL PROVISIONS

Section 1. Declarant's Rights Reserved. Notwithstanding any provision herein to the contrary, the easements under Article IV shall be subject to:

a. The right of the Declarant to execute all documents and do all other acts and things affecting the Subject Property which, in the Declarant's opinion, are desirable in connection with Declarant's rights hereunder, provided any such document or act or thing is not inconsistent with the property rights of any owner.

b. Easements of record on the date hereof and any easements which may hereafter be granted by Declarant to any public utility or governmental bodies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewer and water pipes or any other utility services serving any living units.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant, the owner of any land subject to this Declaration or portions hereof, their respective legal representatives, heirs, grantees, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time such covenants shall be

automatically extended for successive periods of ten (10) years unless and until an instrument amending this provision as hereinafter provided shall be recorded.

**Section 3. Amendment.** This instrument and its effect shall not at any time hereafter be modified, amended, or annulled except by the written agreement of the then owners of record of two-thirds (2/3) of all of the lots, or such other percentage of lot owners as may be expressly otherwise provided in this Declaration. No amendment shall be effective until duly executed, acknowledged, and recorded in the office of the Recorder of Deeds, Kane County, Illinois.

**Section 4. Severability.** If any provision of this Declaration or any section, sentence, clause, phrase, or word hereof, or the application thereof in any circumstances, is held invalid, the validity of the remainder of this Declaration and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

**Section 5. Rights and Obligations.** Each grantee of Declarant by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens, and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration, and all rights, benefits, and privileges of every character hereby

granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

**Section 6. Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for development.

**Section 7. Perpetuities and Other Rules of Property.** If any of the options, privileges, covenants, or rights created by this Declaration would otherwise violate (a) the rule against perpetuities or an analogous statutory provision, or (b) any other statute or common law rule imposing time limits, then such provisions shall continue in the case of (a) only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the incumbent Governor of the State of Illinois, and the incumbent President of the United States, and in the case of (b) for the maximum period permitted.

**Section 8. Title in Land Trust.** In the event title to any lot is conveyed to a title-holding trust, under the terms of which all powers of management, operation, and control of the lot remain vested in the trust beneficiary or beneficiaries, then the beneficiary or beneficiaries thereunder from time to time shall be

responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants, and undertakings, chargeable or created under this Declaration against such lot. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the lot and the personal obligation of the beneficiaries of such trust at the time such charge or lien is incurred, notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such lot.

**Section 9. Assignment of Declarant's Rights.** Declarant, its successors or assigns, shall have the right to transfer and assign all or any of the rights, privileges, easements, powers, and duties herein retained or reserved by the Declarant, its successors or assigns, by written instrument or instruments in the nature of an assignment which shall be effective when recorded in the office of the Recorder of Deeds of Kane County, Illinois, and Declarant, its successors or assigns, shall thereupon be relieved and discharged from every duty so vested in the transferee.

**Section 10. Exceptions.** Declarant, for itself and its successors and assigns, hereby reserves the right to enter into written agreements without the consent of any lot owner to deviate

from any or all of the provisions set forth herein in the event there are practical difficulties or particular hardships evidenced by any grantee of any lot in the Subject Property.

**Section 11. Remedies and Breach of Covenants, Restrictions, and Regulations.**

a. **Default.** In the event of any default of any owner under the provisions of this Declaration, or any amendment thereof, the Declarant and the City shall have each and all of the rights which may be respectively provided for them in this Declaration, or which may be available at law or in equity and may prosecute any action or other proceeding for enforcement of any lien or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the Declarant or the City in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, shall be charged to and assessed against such defaulting owner.

b. **No Waiver of Rights.** The failure to enforce any right, provision, covenant, or condition which may be granted by this Declaration shall not constitute a waiver of the right or of continuing right to

enforce such a right, provision, covenant, or condition in the future, irrespective of the number of violations, defaults, or breaches which may occur.

**c. Remedies Cumulative.** All rights, remedies, and privileges granted to the Declarant or the City pursuant to any terms, provisions, covenants, or conditions of this Declaration shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the Declarant or the City thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to the Declarant or the City at law or in equity.

**Section 12. Limited Application.** Nothing contained in this Declaration shall be construed to apply to any property other than the Knolls Subdivision Unit (1), nor to require the application of restrictions and covenants of a similar nature to any other unit of the Knolls Subdivision. In addition thereto, Sections 1, 5, and 10 of Article III of this Declaration shall not apply to the existing residential structure located on Lot 54 of Knolls Subdivision Unit 1; providing that at such time as the existing structure on said lot 54 is razed or otherwise destroyed, the entirety of this Declaration, without exception, shall apply to all structures thereafter constructed on said lot.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed, acknowledged, and attested by its undersigned, duly authorized officers on the day and date first above written.

Illinois Regional Bank NA Elmhurst  
Trust Number 5460 under Trust  
Agreement dated April 17, 1985

By Edward J. Vertovec  
Title EDWARD J. VERTOVEC, JR.  
ASST. VICE PRESIDENT

Attest

Jeffrey C. Scheiner  
Jeffrey C. Scheiner  
Trust Officer  
PERMANENT INDEX NUMBERS:

This instrument is executed by ILLINOIS REGIONAL BANK N.A., ELMHURST, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by ILLINOIS REGIONAL BANK N.A., ELMHURST are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against ILLINOIS REGIONAL BANK N.A., ELMHURST by reason of any of the covenants, statements or representations contained in this instrument.

Prepared by and mail to:

Henry S. Stillwell III  
Rathje, Woodward, Dyer & Burt  
203 East Liberty Drive  
PO Box 786  
Wheaton, Illinois 60187  
312-668-8500

EXHIBIT "A"

LEGAL DESCRIPTION


LOTS 1 THRU 54 OF THE KNOLLS OF BATAVIA UNIT 1, A SUBDIVISION  
OF PARTS OF SECTIONS 23 AND 26, TOWNSHIP 39 NORTH RANGE 8 EAST  
OF THE THIRD PRINCIPAL MERIDIAN, KANE COUNTY, ILLINOIS



State of Illinois  
County of ~~Kane~~ DuPage

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Edward J. Vertovec, Jr., Jeffrey C. Scheiner and Ass't. Vice President, Financial Services Officer of Illinois Regional Bank NA Elmhurst, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Jeffrey C. Scheiner then and there acknowledged that as custodian of the corporation, he did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 23rd day of July, 1987.

  
Notary Public

Commission expires 6/3/89.

KNOLLS SUBDIVISION UNIT 2

REPLACEMENT PAGES

If your lot number is 1-54 you may discard these pages.

If your lot number is 55-94 please replace the corresponding pages in the First Declaration with these pages.

**DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS  
KNOLLS SUBDIVISION UNIT 2**

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THIS DECLARATION, made this 16<sup>th</sup> day of June, 1988, by Illinois Regional Bank NA Elmhurst Trust Number 5460 under Trust Agreement dated April 17, 1985, hereinafter referred to as "Declarant".

**WITNESSETH:**

WHEREAS, Declarant is the owner in fee simple of a certain parcel of real estate in the County of Kane, State of Illinois, and legally described in Exhibit "A" attached hereto and made a part hereof, hereinafter referred to as "Knolls Subdivision Unit 2"; and

WHEREAS, Declarant is desirous of subjecting Knolls Subdivision Unit 2 to certain covenants and restrictions pertaining to the size, design, and type of materials to be utilized in the construction of the single family dwelling units to be constructed thereon, as well as the prior approval by Declarant of all architectural, building, and other plans and

specifications for buildings, structures, and improvements proposed to be constructed in Knolls Subdivision Unit 2; and

**WHEREAS**, Declarant further is desirous of establishing certain easements for storm water management within Knolls Subdivision Unit 2, and the care and maintenance of such easements; and

**WHEREAS**, Declarant is further desirous of impressing all of the lots in Knolls Subdivision Unit 2 with certain additional restrictions and covenants as herein provided; and

**WHEREAS**, Declarant desires and intends that the several owners, mortgagees, occupants, and other persons acquiring any interest in Knolls Subdivision Unit 2, or in any portion thereof, shall at all times hold their interests subject to the rights, priorities, easements, covenants, conditions, restrictions, liens, and charges hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the attributes of Knolls Subdivision Unit 2 for the use and enjoyment of the residents and owners thereof.

**NOW THEREFORE**, Declarant hereby declares that Knolls Subdivision Unit 2 is, and shall be held, transferred, sold, conveyed, and occupied, subject to the conditions, covenants, restrictions, easements, charges, and liens hereinafter set forth, hereinafter referred to as "Covenants".

from any or all of the provisions set forth herein in the event there are practical difficulties or particular hardships evidenced by any grantee of any lot in the Subject Property.

**Section 11. Remedies and Breach of Covenants, Restrictions, and Regulations.**

**a. Default.** In the event of any default of any owner under the provisions of this Declaration, or any amendment thereof, the Declarant and the City shall have each and all of the rights which may be respectively provided for them in this Declaration, or which may be available at law or in equity and may prosecute any action or other proceeding for enforcement of any lien or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the Declarant or the City in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, shall be charged to and assessed against such defaulting owner.

**b. No Waiver of Rights.** The failure to enforce any right, provision, covenant, or condition which may be granted by this Declaration shall not constitute a waiver of the right or of continuing right to

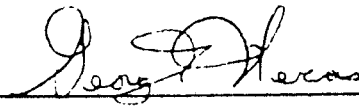
enforce such a right, provision, covenant, or condition in the future, irrespective of the number of violations, defaults, or breaches which may occur.

c. **Remedies Cumulative.** All rights, remedies, and privileges granted to the Declarant or the City pursuant to any terms, provisions, covenants, or conditions of this Declaration shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the Declarant or the City thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to the Declarant or the City at law or in equity.

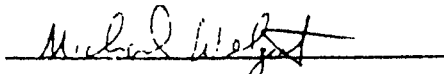
**Section 12. Limited Application.** Nothing contained in this Declaration shall be construed to apply to any property other than the Knolls Subdivision Unit 2, nor to require the application of restrictions and covenants of a similar nature to any other unit of the Knolls Subdivision.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed, acknowledged, and attested by its undersigned, duly authorized officers on the day and date first above written.

Illinois Regional Bank NA Elmhurst  
Trust Number 5460 under Trust  
Agreement dated April 17, 1985

By   
Title GEORGE T. NECAS  
VICE PRES. & TRUST OFFICER

Attest

  
Michael Wolgat  
Senior Vice President

This instrument is executed by ILLINOIS REGIONAL BANK N.A., ELMHURST, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by ILLINOIS REGIONAL BANK N.A., ELMHURST are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be incurred or be enforceable against ILLINOIS REGIONAL BANK N.A., ELMHURST by reason of any of the covenants, statements or representations contained in this instrument.

LEGAL DESCRIPTION

Lots 55 through 94 of THE KNOLLS OF BATAVIA UNIT 2, a Subdivision of Parts of Sections 23 and 26, Township 39 North Range 8 East of the Third Principal Meridian, Kane County, Illinois.

Exhibit "A"



State of Illinois  
County of ~~Kane~~ DEARBORN

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that George J. Nesser, Vice President and Michael Wilgat, Assistant Secretary of Illinois Regional Bank NA Elmhurst, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that as custodian of the corporation, h did affix the corporate seal of said corporation to said instrument as h own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 16<sup>th</sup> day of

June, 1988.

Wanda H. Mrozek  
Notary Public

Commission expires 11-10-91

