

Project: Chapel Hill Farms  
Line of Credit Loan

5000 454429 80g  
Lawrence Eppley  
31st Natl Plaza  
70W Madison Suite 3200  
Chp Hill 60602

**92040052 ASSIGNMENT OF SALE CONTRACTS AND SALES PROCEEDS**

THIS ASSIGNMENT OF SALE CONTRACTS AND SALES PROCEEDS (the "Assignment") made as of this 31st day of May, 1992, from BURNSIDE CONSTRUCTION COMPANY, an Illinois corporation ("Assignor"), whose mailing address is 2400 Wisconsin Avenue, Downers Grove, Illinois 60515 to CONTINENTAL BANK N.A., a national banking association ("Assignee"), whose mailing address is 231 South LaSalle Street, Chicago, Illinois 60697.

W I T N E S S E T H:

WHEREAS, pursuant to a Revolving Construction Line of Credit Loan Agreement of even date herewith between Assignor, as borrower, and Assignee, as lender (the "Loan Agreement"), Assignor has issued and delivered to Assignee a Revolving Credit Promissory Note of even date herewith in the principal amount of TWO MILLION DOLLARS (\$2,000,000), bearing interest as specified therein (said note together with any and all renewals, modifications and extensions hereof, hereinafter collectively called the "Note"), evidencing that certain loan (the "Loan") to be made in advances in an aggregate amount not to exceed TWO MILLION DOLLARS (\$2,000,000); and

WHEREAS, Assignor has executed and delivered to Assignee a Revolving Credit Mortgage, Security Agreement and Assignment of Leases, Rents and Profits of even date herewith (the "Mortgage") as additional security for the Loan. The Mortgage conveys Assignor's interest in that certain tract of land described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"), upon which Property Assignor is to develop the first phase of 113 Lot ("Lot") single family residential detached dwelling subdivision financed by the Loan (the developed Lot and single-family home to be built on said Lot are referred to hereinafter as "Unit"); and

THIS INSTRUMENT WAS PREPARED BY:

Lawrence C. Eppley, Esq.  
Bell, Boyd & Lloyd  
70 West Madison  
Suite 3300  
Chicago, Illinois 60602

Permanent Index Nos.:  
15-119-25; 15-128-1;  
15-128-2 and 15-128-25  
(Future PIN: 16-607-1 6b 53)

Address:  
Burnside's Chapel Hill  
Farms  
Town of Merrillville,  
Lake County, Indiana

AFTER RECORDING RETURN TO:

Continental Bank  
Real Estate Dept. (231/15)  
231 S. LaSalle Street  
Chicago, Illinois 60697  
Attn: Cathy Sahagian

2nd Cont 92040053

July 92040051

CHICAGO TITLE INSURANCE COMPANY  
INDIANA DIVISION

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WHEREAS, Assignor may enter into contracts and agreements for the sale of the Lots and Units;

WHEREAS, in order to induce Assignee to make the Loan, Assignor desires to assign to Assignee, as additional security for the Loan, all of Assignor's rights under any and all contracts and agreements for the sale by Assignor of the Lots and Units (all such contracts and agreements, whether now made or hereafter entered into, together with any and all renewals, modifications or extensions thereof and substitutions or replacements therefor, being hereinafter collectively referred to as the "Contracts"), including all of Assignor's rights to receive payments, receipts, revenues, interest and income of any kind under the Contracts less reasonable closing costs (hereinafter collectively referred to as the "Proceeds").

NOW, THEREFORE, in consideration of the above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Assignor, Assignor hereby covenants and agrees with Assignee as follows:

1. Assignment of Rights Under the Contracts. Assignor hereby sells, assigns, transfers and sets over unto Assignee, its successors and assigns, all of Assignor's right, title and interest in, to and under the Contracts, including but not limited to (a) any and all rights of Assignor to receive the Proceeds; and (b) any and all rights and remedies which Assignor may have against any other party to any of the Contracts, whether related to the payment of any portion of the Proceeds or otherwise. The assignment set forth in this paragraph shall include, without limitation, a security interest for purposes of the Uniform Commercial Code and Assignor agrees to execute such financing statements as Assignee may require.

2. Assignment of Security Under the Loan. This Assignment is given to additionally secure (a) payment of the Loan and all accrued interest and principal from time to time outstanding thereon as evidenced by the Note and the payment of all other sums which Assignor is or may from time to time be obligated to pay or cause to be paid to Assignee; (b) performance of all obligations under the Note, the Loan Agreement, the Mortgage and any other instrument evidencing or securing the Loan; and (c) payment of the indebtedness and performance of the obligations under the Acquisition and Development Mortgage Note and Loan Agreement and related Mortgage and other "Loan Instruments" as defined therein, all of even date herewith (collectively, the "A&D Loan Documents").

3. Representations, Warranties and Affirmative and Negative Covenants. Assignor hereby represents, warrants and agrees that:

(a) Assignor has the right, power and capacity to make this Assignment and that no person, firm or corporation other than Assignor has or will have (i) any right, title or interest in, to or under the Contracts as seller thereunder, or (ii) any right to receive the Proceeds or any part thereof;

(b) Assignor will, at Assignor's sole cost and expense, perform and discharge all of Assignor's obligations and undertakings as seller under the Contracts. Assignor will use all reasonable efforts to enforce or secure the performance of each and every obligation and undertaking of the purchasers under the Contracts and will appear in and prosecute or defend any action or proceeding arising under, or in any manner connected with, the Contracts or the obligations and undertakings of the purchasers thereunder;

(c) Assignor will not without the prior written consent of Assignee (i) pledge, transfer, mortgage or otherwise encumber or assign any portion of the Proceeds or any of Assignor's rights under any of the Contracts, except any assignment by Assignor to Assignee pursuant to any assignment now or hereafter given as security for any acquisition and development loan from Assignee to Assignor is a permitted assignment under this Assignment; (ii) waive, excuse, condone or in any manner release or discharge any purchaser under any of the Contracts except in the ordinary course of business according to generally accepted practice in the residential real estate field; (iii) disaffirm, cancel, terminate or consent to any surrender of any of the Contracts except in the ordinary course of business according to generally accepted practice in the residential real estate field; or (iv) modify, extend or in any way alter the terms of any of the Contracts so as to reduce or diminish or postpone Assignor's receipt of any portion of the Proceeds except for any such modifications which alter the terms of any Contract in an amount of Ten Thousand Dollars (\$10,000.00) as to any particular Contract for which Assignor's prior written consent is not required;

(d) Any material default by Assignor in the performance of any obligation or undertaking hereunder shall constitute and be deemed to be an Event of Default as defined in the Loan Agreement, the Mortgage, and under any other instrument securing the Loan so as to entitle Assignee to exercise any and all of the rights and remedies thereunder, including the right to declare all sums payable under the Note to be immediately due and payable without notice or demand;

(e) Neither Assignor, nor, to the best of Assignor's knowledge after due inquiry, any other party to the Contracts is in default under any of the Contracts and that Assignor has performed any act or executed any instrument which might prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation; and

(f) Without further notice or demand from Assignee, Assignor will deliver to Assignee copies of each of the Contracts within seven (7) business days of the execution of each of the Contracts.

4. Actions of Assignee; Obligations of Assignor.

This Assignment shall not be deemed or construed to constitute Assignee as mortgagee in possession of the Property or the Lots or Units or to obligate Assignee to take any action hereunder, to incur expenses or to perform or discharge any obligation, duty or liability hereunder or under the Contracts. Until the Loan and all indebtedness evidenced by the property of have been paid in full, Assignor will execute and deliver to Assignee upon demand any and all writings that Assignee may reasonably deem necessary or desirable to carry out the purpose and intent hereof, or to enable Assignee to enforce any right or rights hereunder.

5. Events of Default. The term "Event of Default" as used herein shall mean the occurrence of any one of the following:

(a) If Assignor shall fail to comply with any of the covenants, duties or obligations of Assignor herein;

(b) If at any time any representation or warranty made by Assignor herein shall be materially incorrect;

(c) If an Event of Default shall occur under the Loan Agreement;

(d) If a default shall occur under any other instrument evidencing or securing the Loan and such default is not cured within any cure period applicable thereto; or

(e) If an Event of Default shall occur under the A&D Loan Documents.

6. Remedies. From and after the occurrence of an Event of Default and so long as such Event of Default shall be continuing (whether or not Assignee shall have exercised its option to declare the Note immediately due and payable), all Proceeds assigned hereunder shall be paid directly to Assignee for application against the outstanding principal balance of, and all accrued but unpaid interest, on the Note, in such order as Assignee shall elect in its sole and absolute discretion. Assignee may notify the purchasers under the Contracts (or any

other parties in possession of the Lots or Units) to pay all of the Proceeds directly to Assignee at the address specified in Paragraph 13 hereof, for which this Assignment shall be sufficient warrant. All Proceeds so paid to Assignee shall be applied by Assignee, in its sole discretion, to the payment of the costs and expenses of the operation and development of the Property, to the payment of accrued interest and principal on the Loan and/or to the prepayment of the Loan, all in such order and in such respective amounts as Assignee shall from time to time determine.

7. Actions and Awards Under Contracts. Anything to the contrary notwithstanding, (a) Assignor hereby assigns to Assignee any award made hereinafter to Assignor in any court proceeding involving any of the purchasers under the Contracts, in any bankruptcy, insolvency or reorganization proceeding in any state or federal court, and any and all payments made by said purchasers in lieu of payment of Proceeds; and (b) Assignor hereby appoints Assignee as Assignor's irrevocable attorney-in-fact to appear in any action and/or proceeding of any such award or payment, any such assignment and appointment to become operative upon the occurrence of an Event of Default and to remain in full force and effect so long as any such Event of Default continues.

8. Management and Operation of Property by Assignee. Upon the occurrence of an Event of Default, Assignor hereby authorizes Assignee, at its option, (a) to enter and take possession of the Property and the Lots and Units and to manage, operate and repair the same; (b) to collect as herein provided all or any Proceeds payable under the Contracts; (c) to consummate the transactions contemplated by the Contracts; (d) to bring or defend any suits in connection with the possession of the Property and the Lots and Units, in Assignor's name or Assignee's own name; (e) to make repairs as Assignee deems appropriate; and (f) to perform such other acts in connection with the management and operation of the Property and the Lots and Units as Assignee, in its sole discretion, may deem proper.

9. Effect of Receipt of Proceeds on Foreclosure Action. The receipt by Assignee of any Proceeds pursuant to this Assignment after the institution of foreclosure proceedings under the Mortgage shall not cure any such Event of Default or affect such proceedings or any sale pursuant thereto.

10. Closings Under the Contracts. Each of the Contracts will cover one or more Lots and/or Units and will be in a form satisfactory to Assignee. Upon the closing of the sale of each Lot or Unit, the "Proceeds" shall be immediately delivered by Assignor to Assignee as set forth in the Loan Agreement. When such payments are delivered by Assignor to Assignee in accordance with the provisions of the Loan Agreement and this Assignment, Assignor agrees to accompany the remittance of such Proceeds with a written statement indicating the specific Contract involved, an executed copy of such Contract (if not previously furnished), and

a copy of the seller's closing statement prepared by the closing agent in conjunction therewith.

11. Indemnity and Hold Harmless. Assignee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Assignor under any of the Contracts. Assignor hereby agrees to indemnify Assignee for, and to save Assignee harmless from, any and all liability arising from any of the Contracts or from this Assignment. This Assignment shall not place responsibility for the control, care, management or repair of the Lots or Units upon Assignee, or make Assignee responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Lots or Units resulting in loss or damage or injury or death to any party; provided, however, the aforesaid indemnity and save harmless obligations of Assignor shall not apply to any liability caused by Assignee's negligence or willful misconduct occurring while Assignee has actual possession of the Lots or Units and is operating same pursuant hereto upon foreclosure or otherwise.

12. Enforceability. The failure of Assignee to enforce any of the Lake County Recorder conditions hereof shall not be construed or deemed to be a waiver of any rights or remedies hereunder. Assignee shall have the full right, power and authority to enforce this Assignment, or any of the terms, covenants or conditions hereof, at any time or times that Assignee shall deem fit.

13. Notice. All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if (i) personally delivered to the offices at the mailing addresses set forth above, in which case they shall be deemed delivered on the date of delivery to said offices, (ii) sent by certified or registered mail, return receipt requested, in which case they shall be deemed delivered three (3) business days after deposit in the U.S. mail, certified or registered, postage prepaid, return receipt requested, on the third business day after deposit in the mail, (iii) if telexed, telegraphed or telecopied, six (6) hours after being dispatched by telex, telegram or telecopy, if such sixth hour falls on a business day within the hours of 9:00 a.m. through 5:00 p.m. of the time in effect at the place of receipt, or at 9:00 a.m. on the next business day thereafter if such sixth hour is later than 5:00 p.m., or (iv) if delivered by reputable overnight express courier, freight prepaid, the next business day after delivery to such courier. Notices shall be given to the intended recipient at its address set forth above. Notices to Assignee are to be directed to the attention of Joseph Ross, Real Estate Department. Any party may change the address to which notices are given by notice as provided herein.

14. Termination of Assignment. The full performance of the Mortgage and the duly recorded release or reconveyance of the property described therein shall render this Assignment of no

further force or effect from the date of such release or reconveyance forward.

15. Choice of Law; Severability. This Assignment shall be construed according to the laws of the State of Illinois. In case any of the provisions of this Assignment shall for any reason be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

16. Binding Effect. This Assignment shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, legal representatives, successors and assigns. Any provisions in any other agreement creating rights in Assignee other than those created herein shall be deemed incorporated herein by reference and made a part hereof for all purposes.

**Document is NOT OFFICIAL!**  
This Document is the property of the Lake County Recorder.

17. Defined Terms. The capitalized terms used herein that are not defined shall have the same meanings in this Assignment as in the Loan Agreement.

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed as of the date first above written.

ASSIGNOR:

BURNSIDE CONSTRUCTION COMPANY,  
an Illinois corporation



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

Its: \_\_\_\_\_

A handwritten signature in black ink, appearing to be "John J. [unclear]", written over a horizontal line.





EXHIBIT A

PHASE I

LEGAL DESCRIPTION

A part of the South Half of the Southwest Quarter of the Southwest Quarter of Section 20 and a part of the North Half of the Northwest Quarter of Section 29, both in Township 35 North, Range 8 West of the Second Principal Meridian, more particularly described as follows: Commencing at the Southwest corner of said Section 20, thence North  $00^{\circ} 19' 12''$  West along the West line thereof, a distance of 277.71 feet, thence North  $89^{\circ} 23' 55''$  East a distance of 357.64 feet, thence South  $00^{\circ} 36' 05''$  East a distance of 34.27 feet, thence North  $89^{\circ} 23' 55''$  East a distance of 250.92 feet to the West line of the East 721 feet (722.56 feet measured) of the South Half of the Southwest Quarter of the Southwest Quarter of said Section 20, thence South  $00^{\circ} 23' 21''$  East along said West line a distance of 247.03 feet to the South line of said Section 20 and to the North line of said Section 29, thence South  $00^{\circ} 36' 05''$  East along the West line of the East 2049.70 feet (2054.13 feet measured) of the North 330.00 feet of the North Half of the Northwest Quarter of said Section 29, a distance of 330.00 feet to the South line of the North 330.00 feet of the North Half of the Northwest Quarter of said Section 29, thence North  $89^{\circ} 44' 10''$  East along said South line, a distance of 2049.70 feet (2054.13 feet measured) to the East line of the Northwest Quarter of said Section 29, thence South  $00^{\circ} 36' 05''$  East along said East line a distance of 35.00 feet, thence South  $89^{\circ} 44' 10''$  West a distance of 368.80 feet, thence South  $00^{\circ} 30' 24''$  East, a distance of 374.60 feet, thence South  $89^{\circ} 44' 10''$  West a distance of 150.00 feet, thence North  $00^{\circ} 30' 24''$  West a distance of 187.30 feet, thence South  $89^{\circ} 44' 10''$  West a distance of 842.51 feet, thence South  $80^{\circ} 40' 58''$  West a distance of 276.95 feet, thence South  $71^{\circ} 54' 30''$  West a distance of 435.89 feet, thence South  $67^{\circ} 44' 10''$  West a distance of 30.00 feet, thence North  $22^{\circ} 15' 50''$  West a distance of 1.38 feet, thence South  $67^{\circ} 44' 10''$  West a distance of 428.33 feet, thence South  $35^{\circ} 46' 21''$  East a distance of 143.07 feet; thence Southwesterly along a curve that is concave to the Southeast with a chord that bears South  $62^{\circ} 39' 21''$  West, 149.62 feet with a radius of 2825.69 feet, an arc distance of 149.64 feet to a point of tangency, thence South  $61^{\circ} 08' 19''$  West a distance of 53.09 feet to a point of curve, thence Southwesterly along a curve that is concave to the Southeast, with a chord that bears South  $47^{\circ} 00' 11''$  West 117.58 feet with a radius of 240.74 feet, an arc distance of 118.78 feet to the West line of said Section 29, thence North  $00^{\circ} 38' 12''$  West along said West line a distance of 1189.54 feet to the Northwest corner of said Section 29 and to the point of beginning, containing 27.244 acres, more or less, in the Town of Merrillville, Lake County, Indiana.

Phase I is also legally described as lots 33 to 53, lots 67 to 95 and outlots A, B and C in Burnside's Chapel Hill Farms, Phase I, an addition to the Town of Merrillville, Lake County, Indiana, as shown in plat book 72, page 23.

