

RESOLUTION NO. 8788-R2

A RESOLUTION FOR FORFEITURE

WHEREAS, Henry Merkelo (hereinafter sometimes called "Developer") originally began the subdivision of the property known as the Birchcrest First, Second and Third Subdivisions in 1971, and submitted performance bonds as required by Urbana City Ordinance for Birchcrest Subdivision First in 1971, Birchcrest Subdivision Second in 1976 and Birchcrest Subdivision Third in 1979; and

WHEREAS, the three subdivision performance bonds were combined into one bond in 1981 and the separate bonds released. The Developer conveyed through a trust deed lots 24 and 25 of Birchcrest Third Subdivision to the City of Urbana for the purpose of securing performance of the covenants and agreements stated in the performance bond so posted in 1981 as aforesaid; and

WHEREAS, on August 6, 1984, the City Council voted to partially release the combined bond, and the Developer posted a new bond in which the City retained lot 24 of Birchcrest Third Subdivision as security for the \$13,963.00 amount due to the City upon nonperformance of the conditions stated in said bond; and

WHEREAS, the date for completion of the provisions stated in the 1984 bond was extended one year on July 15, 1985, and then again for one year on July 7, 1986; and

WHEREAS, the bond required completion of all the improvements and other acts required by Chapter 21 of the Urbana City Code of Ordinances and of each item of all improvements as shown on the approved plans and specifications on file with the City Clerk of Urbana; and

WHEREAS, 3,270 square feet of 6-inch thickness of sidewalk remains to be constructed as required by Urbana City Ordinance §21-8; and

WHEREAS, the Developer did not act in conformance with Urbana City Ordinance §21-3(a) which requires that "all plans and specifications for any subdivision shall be prepared by a professional engineer and before the completed improvements are approved or accepted by the City, such engineer shall furnish the City a complete certificate stating that such improvements comply with all the requirements of such plans and specifications" as to sidewalks constructed in the last year along lots 23 and 27; and

WHEREAS, the bond agreement provides for forfeiture of \$13,963.00, or the sum necessary to correct any deficiency, defective construction or omission, whichever is less, if the

extension period expires and all of the required improvements have not been completed or there is no certification of completion of construction by a City Engineer; and

WHEREAS, the City of Urbana Engineering Department estimates the cost of completion to be \$8,175.00 plus administration costs of \$1,635, for a total of \$9,810.00; and

WHEREAS, the estimated cost of completion stated above is less than the \$13,963.00 amount of the bond.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council, on behalf of the said City, does declare the subdivision performance bond for Birchcrest First, Second and Third Subdivisions to be forfeited, and the same is hereby declared in forfeiture.

Section 3. That the Principal, The First National Bank in Champaign, Illinois, and/or the Surety, Henry Merkelo, pay over to the City the sum of \$9,810.00. If the Principal and Surety shall fail to pay the above-stated amount, the City Council, on behalf of the said City, shall direct Jack Waaler, Corporation Counsel, to take the steps necessary to sell lot 24 of the Birchcrest Third Subdivision and use the proceeds therefrom to construct the sidewalks not built to date.

PASSED by the City Council this 20th day of July, 1987.

Ruth S. Brookens
Ruth S. Brookens, City Clerk

APPROVED by the Mayor this 23rd day of July, 1987.

Jeffrey T. Markland
Jeffrey T. Markland, Mayor