

ORDINANCE NUMBER 13-44

ORDINANCE OF THE VILLAGE OF EAST DUNDEE, KANE AND COOK COUNTIES, ILLINOIS,
APPROVING A LEASE AGREEMENT FOR WILLIAM C. BARTELS PARK WITH
THE DUNDEE TOWNSHIP PARK DISTRICT

WHEREAS, the President and Board of Trustees of the Village of East Dundee, Kane and Cook Counties, Illinois (the "Village") have determined that it is advisable, necessary and in the public interest that the Village enter into and authorize the execution of a Lease Agreement for William C. Bartels Park with the Dundee Township Park District, as authorized by the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*).

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

Section One. The Village hereby approves the Lease Agreement for the William C. Bartels Park with the Dundee Township Park District in the form attached hereto and made a part hereof, and the President be and is hereby authorized and directed to sign, and the Village Clerk is directed to attest thereto.

Section Two. The Triangle Park Lease Agreement is hereby repealed to be replaced by the aforesaid Lease.

Section Three. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

Section Four. Publication. This Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

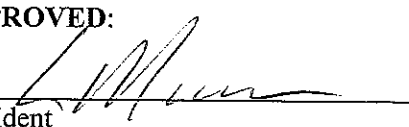
Adopted this 18 day of November, 2013, pursuant to a roll call vote as follows:

AYES: Trustees Gorman, Lynam, Skillicorn, Selep and Wood

NAYS: Ø

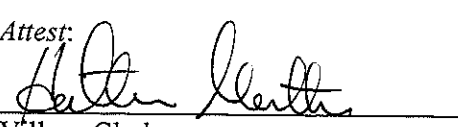
ABSENT: Trustee Ruffalo

APPROVED:



President

Attest:



Village Clerk

WILLIAM C. BARTELS PARK LEASE AGREEMENT

THIS LEASE, made and entered into this 18 day of November 2013, by and between the VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, a municipal corporation, (hereinafter referred to as "Lessor") and the DUNDEE TOWNSHIP PARK DISTRICT, KANE COUNTY, ILLINOIS, an Illinois Special District organized pursuant to 70ILCS 1205/1-1 *et seq.* (hereinafter referred to as "Lessee");

RECITALS

WHEREAS, the Lessor and the Lessee have previously entered into the *Triangle Park Lease Agreement* dated May 17, 1995 that leased the Lessor's property to the Lessee to operate, control and maintain as a public park and recreational area; and,

WHEREAS, it is the desire of the Lessor and Lessee to terminate the *Triangle Park Lease Agreement* and enter into this Agreement for the Lessee's continued use of the Triangle Park now known as William C. Bartels Park ("*Bartels Park*") for the operation and maintenance of a public park; and,

WHEREAS, the Lessee and the Lessor are public agencies which are within the meaning of the Illinois Intergovernmental Cooperation Act as specified in the Illinois Compiled Statutes (5 ILCS 220/1 *et seq.*) and are authorized by Article VII, Section 10 of the 1970 Constitution of the State of Illinois to enter into such agreements of cooperation; and,

WHEREAS, the purposes of the Intergovernmental Cooperation Act and Article VII, Section 10 of the 1970 Constitution of the State of Illinois include fostering cooperation among units of local government in planning and providing services to their citizens; and,

WHEREAS, the Lessee desires to lease Bartels Park and the Lessor agrees to lease Bartels Park to the Lessee pursuant to the terms and conditions of this Lease Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and agreements contained herein, the Lessor and Lessee agree as follows:

1. The Lessor does hereby demise and lease to the Lessee Bartels Park to be used as a public park and recreational area only, and for no other purpose, for a term of twenty (20) years commencing upon execution of this Lease Agreement and terminating on the 20th anniversary of its execution.

2. Lease of Bartels Park

The Lessor, for and in consideration of ten dollars (\$10.00) per year, receipt of which is hereby acknowledged, and the covenants and conditions contained in this Agreement, agrees to lease to the Lessee the property commonly known as Bartels Park legally described on *Exhibit A* attached hereto and made a part hereof by reference.

3. The Lessee shall operate, control and maintain Bartels Park as public park and recreational area in a proper and satisfactory manner and in accordance with the general standard of performance exercised by the Dundee Township Park District, and Lessee shall have sole and exclusive use, control and jurisdiction over the use and operation and maintenance of said park areas except as hereinafter provided.

4. Any activities, programs or events which are not part of the regularly sponsored Park District Program shall require the written consent and approval of both the Lessor and Lessee. Any person or organization requesting the use of Bartels Park shall be required to first secure authorization from the Lessor and then from the Lessee.

5. Insurance

A. The Lessee shall provide a certificate of coverage in a form acceptable to the Village during the lease terms of Bartels Park with limits no less than:

(1) *General Liability*: \$5,000,000 combined single limit for bodily injury, personal injury, and property damage.

(2) *Automobile Liability*: \$1,000,000 combined single limit per accident for bodily injury and property damage.

(3) *Worker's Compensation and Employee's Liability*: Worker's compensation coverage with statutory limits and employee's liability limits of \$1,000,000 per accident.

(4) General Liability and Automobile Liability Coverages

B. The Lessee, its officials, agents, employees, and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the District; products and completed operations of the Lessee; premises owned, leased, or used by the District; or vehicles owned, leased, hired, or borrowed by the District, except to the extent attributable to the negligence, recklessness, or intentional wrongful conduct of the Village.

C. The District's insurance coverage shall be primary as respects the Village, its officials, agents, employees, and volunteers. Any insurance or self-insurance maintained by the Lessor's, its officials, agents, employees, and volunteers shall be in excess of Lessee's insurance and shall not contribute with it, except to the extent a claim(s) is attributable to the negligence, recklessness, or intentional wrongful conduct of the Lessor.

D. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Lessor, its officials, agents, employees, and volunteers.

E. The Lessee's insurance shall contain a Severability of Interests/Cross Liability clause or language stating that Lessee's insurance shall apply separately to each insured against who claim is made or suit is brought, except with respect to the limits of the insurer's liability.

F. Workers' Compensation and Employers' Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Village, its officials, agents, employees, and volunteers for losses arising from work performed by the District for the Village; except to the extent caused by the sole negligence of the Village.

G. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage, or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Lessor.

H. District shall furnish the Village with certificates of insurance naming the Village, its officials, agents, employees, and volunteers as additional insured, and with original endorsements affecting coverage required by this paragraph.

I. The District shall require any of its contractors engaged in work on Bartels Park to have the same insurance coverage.

J. The Village reserves the right at any time during the term of this Agreement and upon written notice to amend the insurance requirements in this Agreement, and the District agrees to comply with those new requirements six months after receipt of the Village's notice.

6. Indemnification

To the fullest extent permitted by law, the Lessee hereby agrees to defend all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs, and expenses, which may accrue against the Lessor, its officials, agents, and employees, arising from the negligence, recklessness, or intentional wrongful conduct of the Lessee, its officers, agents, employees, volunteers, contractors, subcontractors, vendors, or of anyone acting on behalf of the Lessee, or which may result therefore, except to the extent attributable to the negligence, recklessness, or intentional wrongful conduct of the Lessor, its officers, employees, agents, volunteers, contractors, subcontractors, or vendors or anyone acting on behalf of the Lessor. The Lessee shall, at its own expense, appear, defend, and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and, if any judgment shall be rendered against the Lessor, its officials, agents, and employees, in any such action, the Lessee shall, at its own expense, satisfy and discharge the same.

7. The Lessee shall maintain and keep in repair all equipment located in Bartels Park and all permanent improvements and fixed equipment made and erected by Lessee in Bartels Park shall become the property of the Lessor upon expiration of this Lease Agreement or any extensions thereof.

8. The Lessor shall not make alterations to Bartels Park, perform construction work or commit the use of Bartels Park without prior written notification to the Lessee. During any construction work performed by the Lessor it will attempt to minimize damage to the recreational areas. Further, it will be the responsibility of the Lessor to as nearly as possible restore the park to its original condition as soon as the work or construction has been completed.

9. The Lessor hereby agrees to pay to the Lessee those park impact fees collected by the Lessor to the date of this Lease Agreement, in the amount of \$136,566.30, and such additional park impact fees as may be collected arising from future development projects. The Lessee agrees to expend such funds only for recreational equipment within the corporate limits of the Village of East Dundee. In the event this Lease Agreement is terminated pursuant to the terms hereof, any such equipment purchased with impact fees as herein provided shall become the property of the Lessor and shall be excluded from the computation of the reimbursement under paragraphs 12 and 13 herein.

10. The Lessee shall not assign this lease without in each case obtaining the written consent and approval of the Lessor.

11. This Lease Agreement shall be binding upon the successors and assigns of the parties hereto.

12. If Lessee's operation, control or maintenance of the park is unsatisfactory to Lessor at any time during the term of this Lease Agreement, Lessor, provide Lessee with written notice of the unsatisfactory condition. Lessee shall have 30 days from receipt of said written notice to cure said condition, and in the event said condition has not been cured within said 30 pay period, this Lease Agreement shall terminate. In the event of termination of this Lease Agreement for unsatisfactory operation, control or maintenance by Lessee, Lessor shall be obligated to reimbursement to Lessee that pro-rata portion of the remaining unamortized cost of structures or fixtures which have been placed upon the park and which cannot be removed without damage to the park property or equipment. The period of amortization shall be that pro-rata portion of the life of said improvement remaining at the time of termination, as evidenced by the books and records of the Lessee, or twenty (20) years, which ever period is lesser.

13. If during any period of this lease, the Lessee determines it can no longer operate, control and maintain Bartels Park under the conditions of this lease, then upon at least thirty (30) days written notice being given by the Lessee to the Lessor, this Lease Agreement shall be terminated and Lessor shall reimburse to Lessee that pro-rata portion of the remaining unamortized cost of structures or fixtures which have been placed upon the park and which cannot be removed without damage to Bartels Park property. The period of amortization shall be that pro-rata portion of the life of said improvement remaining at the time of termination, as evidenced by the books and records of the Dundee Park District, or twenty (20) years, whichever period is lesser.

14. Notice

Any notice required herein shall be in writing and shall be served personally or by registered or certified mail, return receipt requested, sent postage prepaid as follows:

VILLAGE: Village of East Dundee
120 Barrington Avenue
East Dundee, IL 60118

Attention: Village President

DISTRICT: Dundee Township Park District
21 N. Washington Street
Carpentersville, IL 60110

Attention: District President

IN WITNESS WHEREOF, the parties hereto have, the day and year first above written, signed and executed this Lease by virtue of authority given and granted by the respective governing board of the parties hereto.

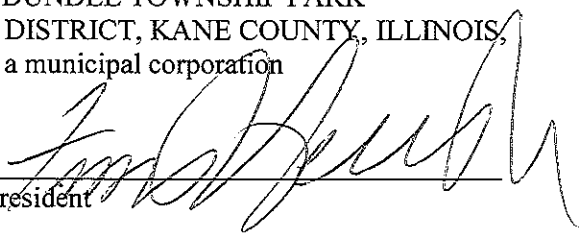
VILLAGE OF EAST DUNDEE KANE
COUNTY, ILLINOIS, a municipal
corporation

By: 
Village President

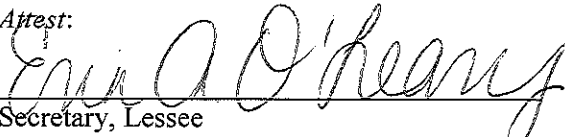
Attest:


Village Clerk

DUNDEE TOWNSHIP PARK
DISTRICT, KANE COUNTY, ILLINOIS,
a municipal corporation

By: 
President

Attest:


Secretary, Lessee