

ORDINANCE 2021 -01

AN ORDINANCE APPROVING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, AS AMENDED, BY AND BETWEEN THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS AND WESTBROOK AT CANTERFIELD, LLC

WHEREAS, the Village of West Dundee, Kane County, Illinois (the "*Village*") is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of 1970 and as such may utilize any power to further its governmental affairs; and,

WHEREAS, Westbrook at Canterfield, LLC, an Iowa limited liability company (the "*Developer*") submitted a proposal to the Village (the "*Project*") to acquire property to develop a senior housing development and requested financial assistance from the Village in order to make the Project financially feasible; and,

WHEREAS, on March 16, 2020 the Village and the Developer entered into a Development Agreement (the "*Original Agreement*") pursuant to which the Developer agreed to acquire the Subject Property on or before May 31, 2020; deliver a commitment for financing of the Project to the Village on or before October 30, 2020; commence construction of the Project on or before March 31, 2021; and, receive a certificate of occupancy for the Subject Property on or before March 31, 2023; and,

WHEREAS, on September 14, 2020 the Village and the Developer amended the Development Agreement (the "*First Amendment*") pursuant to which the Developer agreed to deliver a commitment for financing of the Project to the Village on or before December 31, 2020; commence construction of the Project on or before May 31, 2021; and, receive a certificate of occupancy for the Subject Property on or before May 31, 2023; and,

WHEREAS, the Developer has advised the Village that due to ongoing conditions resulting from the COVID-19 pandemic, additional delays have occurred and the Developer has now requested an additional extension of the dates to: (1) deliver to the Village a commitment for financing of the cost of the Project; (2) start construction for the Project; and (3), complete and receive a certificate of occupancy for the Project.

WHEREAS, the President and Board of Trustees of the Village have reviewed the Developer's request and are prepared to grant the extension as set forth in the **Second Amendment** to the Development Agreement, as amended, attached hereto.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of West Dundee, Kane County, Illinois, as follows:

Section 1. That the recitals in the preambles to this Ordinance are incorporated into this Section 1 as if fully set forth herein.

Section 2. That the Second Amendment to the Development Agreement, as amended, between the Village of West Dundee and Westbrook at Canterfield, LLC, attached hereto and made a part hereof, is hereby approved and the President, Village Clerk, and Village Manager

are hereby authorized to execute and deliver said Second Amendment and undertake any and all actions as may be required to implement its terms on behalf of the Village.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED this 15th day of February, 2021.

AYES: Trustees Price, Hanley, Yuscka, Anderley, Wilbrandt and Kembitzky


NAYS: None

APPROVED:



Christopher Nelson, Village President

Attest:



Barbara Traver, Village Clerk

Published in pamphlet form:

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT, AS AMENDED,
BY AND BETWEEN THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS
AND WESTBROOK AT CANTERFIELD, LLC**

THIS SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT dated March 16, 2020, (the "*Original Agreement*"), as amended September 14, 2020 (the "*First Amendment*") by and between the Village of West Dundee, Kane County, Illinois, an Illinois municipal corporation ("*Village*"), and Westbrook at Canterfield, LLC, an Iowa limited liability company ("*Developer*") is entered into this 15th day of February, 2021.

WHEREAS, on March 16, 2020 the Village and the Developer entered into the Original Agreement for the purpose of providing financial assistance to the Developer to develop approximately nine (9) acres (the "*Subject Property*") with the construction of a 126 unit senior housing facility to include an assisted living and memory care facilities (the "*Project*").

WHEREAS, on September 14, 2020, the Village and the Developer agreed to amend the Original Agreement for the purpose of extending the dates for the Developer to deliver a commitment for financing, commence construction, and receive a certificate of occupancy of the Project.

WHEREAS, pursuant to Article II of the First Amendment, the Developer agreed to deliver a commitment for financing of the Project to the Village on or before December 31, 2020; have commenced construction of the Project on or before May 31, 2021; and, have received a certificate of occupancy for the Subject Property on or before May 31, 2023; and,

WHEREAS, the Developer has advised the Village that due to ongoing conditions resulting from the COVID-19 pandemic, additional delays have occurred and the Developer has now requested an additional extension of the date to deliver to the Village a commitment for financing of the cost of the Project; and,

WHEREAS, the President and Board of Trustees of the Village have reviewed the Developer's request and are prepared to grant an additional extension as there is no dispute as to the cause of the delay to obtain a commitment for financing.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Village and the Developer hereby agree as follows:

Section 1. The foregoing recitals are hereby adopted as if fully restated herein.

Section 2. Any capitalized term used but not otherwise defined herein shall have the same meaning as given in the Original Agreement and the First Amendment.

Section 3. Section 2.1(a) of the First Amendment, requiring the Developer to deliver a commitment for construction financing for the Project on or before December 31, 2020, is hereby amended by extending this date to March 31, 2021.

Section 4. Section 2.1(b) of the First Amendment, requiring the Developer to commence construction for the Project in accordance with final plans on or before May 31, 2021, is hereby amended by extending this date to August 31, 2021.

Section 5. Section 2.1(b) of the First Amendment, requiring the Developer to complete construction and receive a certificate of occupancy for the Project on or before May 31, 2023, is hereby amended by extending this date to August 31, 2023.

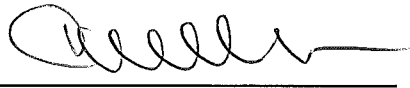
Section 6. All terms and conditions as set forth in the Original Agreement and the First Amendment other than as amended in Sections 3, 4, and 5 hereof, are hereby confirmed.

Section 7. This Second Amendment is to be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the dates set forth below their respective signatures, to be effective as of the date first written above.

VILLAGE OF WEST DUNDEE

Attest:

By: 
Village President

By: 
Village Clerk

Date: February 15, 2021

Westbrook at Canterfield, LLC, an Iowa limited liability company

By: 

Date: February 25, 2021