

## Resolution No. 2019-02

### A RESOLUTION OF THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS, APPROVING A SETTLEMENT AGREEMENT AND RELEASE (Springs at Canterfield)

**WHEREAS**, the Village of West Dundee, Kane County, Illinois (the "*Village*") is a home-rule municipality pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and,

**WHEREAS**, the Fox River Water Reclamation District, Kane and Cook Counties, Illinois (the "*District*") is a municipal corporation and sanitary district organized pursuant to the Sanitary District Act of 1917 (70 ILCS 2405/11 *et seq.*); and,

**WHEREAS**, HLC Partners ("*HLC*") is the sole beneficiary under a land trust identified as Chicago Land Trust Company, Successor Trustee, Under the Provisions of a Trust Agreement Dated May 24, 1954 and Known as Trust No. 811, which land trust is the record owner of approximately 184 acres of land as legally described and depicted on Exhibit A attached hereto (the "*HLC Property*"); and,

**WHEREAS**, on November 9, 1984, HLC's predecessor in interest, the Village, and the District entered into a Sewer Easement Grant which, among other things, granted an easement to the District and Village through a portion of the HLC Property for the construction of a "gravity" sewer line (the "*Easement Grant*"); and,

**WHEREAS**, on or about July 9, 1993, the HLC Property was annexed to the Village but has never been annexed to the District; and,

**WHEREAS**, around May 31, 2017, a dispute arose between HLC and the Village, on the one hand, and the District, on the other, when the District imposed charges against HLC in the total amount of \$96,587.80 pursuant to the Easement Grant after HLC sought to directly connect a sewer line from the District's North Interceptor Sewer ("*NIS*") in order to serve the *Springs of Canterfield*, an apartment development to be constructed upon the HLC Property; and,

**WHEREAS**, the Village and HLC believe that no payment was due from HLC to the District because the Village owned that part of the NIS connecting to the Springs of Canterfield property and, even if payment were due, it had already been paid by the Village to the District under a separate Termination and Release Agreement dated June 28, 2017; and,

**WHEREAS**, notwithstanding the aforementioned position, HLC paid the District the disputed sum whereupon the District agreed to execute an IEPA permit to allow the development of the Springs at Canterfield property to proceed; and,

**WHEREAS**, HLC and the Village continue to dispute the costs imposed by the District and further assert that no additional charges or fees are, or should be, paid by HLC to the District for any future development of the HLC Property, despite the District's claim to the contrary; and,

**WHEREAS**, HLC, the Village, and the District have negotiated the terms of a settlement agreement and release to resolve any and all disputes between them involving the Easement Grant and the current and future use and connection of the HLC Property to the District's NIS, including ownership of that part of the NIS located within the Village (the "Settlement Agreement"); and,

**WHEREAS**, the President and Board of Trustees of the Village believe it to be in the best interests of the Village and its residents to settle the outstanding disputes in accordance with the terms of the Settlement Agreement; thereby eliminating certain litigation costs.

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

**Section 1.** That the Settlement Agreement by and between the Village, District, and HLC, 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 and undertake any and all actions as may be required to implement the terms of the Settlement Agreement on behalf of the Village.

**Section 2.** This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

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**Passed** by the Village President and Board of Trustees of the Village of West Dundee, Kane County, Illinois, this 18<sup>th</sup> day of March, 2019, pursuant to a roll call vote, as follows:

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

**NAYS:** None

**ABSENT:** Trustee Yuscka

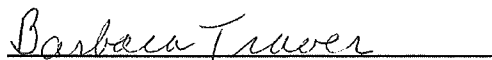
**APPROVED** by me, as Village President of the Village of West Dundee, Kane County, this 18<sup>th</sup> day of March, 2019.



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Christopher Nelson  
Village President

*Attest:*



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Barbara Traver  
Village Clerk