

RESOLUTION 2011-06

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PUBLIC UTILITY EASEMENT CONTAINED WITHIN THE EAST SIDE OF WESEMANN DRIVE IN OAKVIEW CORPORATE PARK

WHEREAS, The Village of West Dundee, Kane County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6 of the Constitution of the State of Illinois, and the adoption of this Resolution constitutes an exercise of the Village's home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, the owner, Oakview, LLC has petitioned the Village to accept a public utility easement which is located within a portions of Lot C in the Oakview Corporate Park and Lot 1 of Resubdivision 1 in Oakview Corporate Park; and

WHEREAS, a portion of the gas line supplying the building located on Lot 1 was installed outside the original easement requiring an additional easement to be dedicated, and said area is depicted in Exhibit A prepared by Jacob Hefner Associates, Inc, dated April 18, 2011; and

WHEREAS, it is within the best interests of the Village to have said public utilities within a dedicated public utility easement; and

NOW THEREFORE BE IT RESOLVED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF WEST DUNDEE, KANE COUNTY, ILLINOIS, as follows:

That the Village of West Dundee, hereby accepts the dedication of public utility easements located within the properties commonly known Lot C in the Oakview Corporate Park and Lot 1 of Resubdivision 1 in Oakview Corporate Park in the Village of West Dundee, Kane County, Illinois, with the public utility easements as indicated on the easement location plat hereto described as Exhibit A located within the property legally described as follows;

Lot C in Oakview Corporate Park, being a subdivision in the northwest fractional quarter of the northwest fractional quarter and the east half of the northwest fractional quarter of Section 19, Township 42 North, Range 8 east of the third principal meridian, according to the plat thereof recorded January 23, 2007 as Document Number 2007K009757, in the township of Dundee, Kane County, Illinois, and

Lot 1 in Oakview Corporate Park Resubdivision No. 1, being a resubdivision of part of Oakview Corporate Park, being a subdivision in the northwest fractional quarter of the northwest fractional quarter and the east half of the northwest fractional quarter of Section 19, Township 42 North, Range 8 east of the third principal meridian, according to

the plat thereof recorded February 13, 2008 as Document number 2008K011226 in the Township of Dundee, Kane County, Illinois.

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

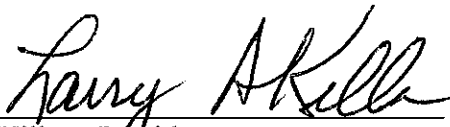
PASSED by the Board of Trustees of the Village of West Dundee, Kane County, Illinois, and approved by the President of said Village this 6th day of June, 2011.

AYES: Trustees Voss, Gillam, Price, Osth, Hanley and Yuscka

NAYES:

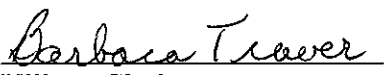
ABSENT:

Larry Keller


Village President

ATTEST:

Barbara Traver


Village Clerk

Document Prepared by and
After Recorded Return to:

O'Brien, O'Rourke & Hogan
10 South LaSalle Street, Suite 2900
Chicago, Illinois 60603
Attention: Howard I. Goldblatt, Esq.

(Space Above this Line for County Recorder's Use Only)

Grant of Public Utility Easement

This Grant of Public Utility Easement ("**Grant of Easement**") is made as of this ____ day of _____, 2011, by Oakview, L.L.C., a Delaware limited liability company ("**Grantor**").

RECITALS:

A. Grantor is the owner of record of a certain parcel of real estate located in the Oakview Corporate Park in West Dundee, Illinois that is legally described on Exhibit A attached hereto and made a part hereof ("**Parcel**").

B. Subject to and in accordance with the terms and provisions of this Grant of Easement, Grantor desires to convey to the Village of West Dundee, Illinois ("**Grantee**") a public utility easement on, in, under and across a certain strip of land on the Parcel ("**Easement Parcel**") that is legally described on Exhibit B-1 hereto and depicted on Exhibit B-2 hereto.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and agrees as follows:

1. Grant of Easement. Subject to the terms, covenants, conditions and restrictions contained in this Grant of Easement, Grantor hereby declares, grants, and establishes for the benefit of Grantee a non-exclusive, perpetual easement ("**Utility Easement**") on, in, under and across the Easement Parcel to construct, operate, maintain, renew, relocate and remove, from time to time, such underground pipes, wires, cables, conduits, manholes, transformers, pedestals and other facilities used in connection with the underground transmission and distribution of public utilities, including without limitation the transmission of natural gas, together with right of access over and across such limited portions of the Parcel that are reasonably necessary to undertake the foregoing in and under the Easement Parcel. Grantee shall permit NICOR or any successor gas company authorized to provide natural gas service in the Village of West Dundee, Illinois, from time to time, to use the Easement Parcel for the purposes permitted in this Grant of Easement. Any such gas company, by using the Easement Parcel, agrees to be responsible for the repair and maintenance of any natural gas lines located in the Easement Parcel.

EXHIBIT C

3798174v3

2. Restoration of Easement Parcel. If the exercise by Grantee of its rights under this Grant of Easement causes a disturbance, destruction or removal of any gardens, shrubs, landscaping, paving or other improvements permitted to be located on an Easement Parcel pursuant to Section 4 hereof or otherwise located on the Parcel, then Grantee will restore the affected portion of the Easement Parcel and/or the Parcel to its prior condition; provided, however, that Grantee may reasonably cut or trim any tree, shrub or other plant that interferes with the construction, operation, maintenance, renewal, relocation or removal of the underground pipes, wires, cables, conduits, manholes, transformers, pedestals and other facilities in the Easement Parcel as is permitted to Grantee pursuant to the terms of this Agreement.

3. Relocation. Grantor hereby reserves the right to terminate all rights hereby granted, provided that Grantor grants to Grantee a substitute utility location and easement and reimburses Grantee for the costs associated with relocation of any such utility installations in and under the Easement Parcel that are then owned by Grantee.

4. Additional Easements - Limitation of Improvements. Grantor reserves the right to construct, maintain, operate and relocate paving, (including without limitation, access drives, sidewalks, parking areas and curbing), light poles and other lighting, landscaping and landscaping irrigation systems, signage and electrification or illumination of signage in, on or over the Easement Parcel. In addition, Grantor reserves the right to grant additional easements in, on, over or under the Easement Parcel, provided, however, any such grant of additional easements shall not unreasonably interfere with the rights granted hereunder to Grantee. Notwithstanding the foregoing, Grantor shall not permit any permanent buildings or other permanent structures not set forth above to be constructed or placed on the Easement Parcel.

5. Miscellaneous.

(a) Recitals. The foregoing Recitals are deemed to form a part of this Grant of Easement as if restated herein.

(b) Governing Law. This Grant of Easement will be interpreted and construed in accordance with the internal laws of the State of Illinois, without regard to conflict of law rules.

(c) Binding Effect and Priority of Grant. All of the covenants and rights declared and established hereunder will be considered as covenants and rights running with the land and not conditions, and the same will be binding upon and inure to the benefit of the parties hereto.

(d) Partial Invalidity. If any term, covenant or condition of this Grant of Easement or the application thereof to any person or circumstance will, to any extent, be invalid or unenforceable, the remainder of this Grant of Easement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term, covenant and condition of this Grant of Easement will be valid and enforceable to the fullest extent permitted by law.

EXHIBIT C

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed as of the day and year first above written.

OAKVIEW, L.L.C., a Delaware limited liability company

By: ODP OAKVIEW, L.L.C., a Delaware limited liability company, its Managing Member

By: OPUS PROPERTIES, L.L.C., a Delaware limited liability company, its Manager

By: _____
Name: _____
Title: _____

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EXHIBIT C

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ACKNOWLEDGMENT

STATE OF MINNESOTA)
)SS
COUNTY OF HENNEPIN)

I, _____, a notary public in and for said County, in the State of aforesaid, DO HEREBY CERTIFY THAT _____ is personally known to me to be the _____ of Opus Properties, L.L.C., a Delaware limited liability company which is the Manager of OPD Oakview, L.L.C., a Delaware limited liability company, which is the Sole Member of Oakview, L.L.C., a Delaware limited liability company; that the aforementioned person is personally known to me to be the same person whose name is subscribed to the foregoing instrument and appeared before me this day in person and severally acknowledged that as such _____ he/she signed and delivered this Declaration on behalf of Oakview, L.L.C., as his/her free and voluntary act, and as the authorized and free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal as of this _____ day of _____, 2011.

Notary Public

My Commission expires:

EXHIBIT C

Exhibit A

Legal Description of Parcel

LOT C IN OAKVIEW CORPORATE PARK, BEING A SUBDIVISION IN THE NORTHWEST FRACTIONAL QUARTER OF THE NORTHWEST FRACTIONAL QUARTER AND THE EAST HALF OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 19, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 23, 2007 AS DOCUMENT NUMBER 2007K009757, IN THE TOWNSHIP OF DUNDEE, KANE COUNTY, ILLINOIS.

PIN: _____

Commonly known as: Vacant land near Wesemann Drive, West Dundee, Illinois 60118.

EXHIBIT C

3798174v3

Document Prepared by and
After Recorded Return to:

O'Brien, O'Rourke & Hogan
10 South LaSalle Street, Suite 2900
Chicago, Illinois 60603
Attention: Howard I. Goldblatt, Esq.

(Space Above this Line for County Recorder's Use Only)

Grant of Public Utility Easement

This Grant of Public Utility Easement ("Grant of Easement") is made as of this ____ day of _____, 2011, by The Realty Associates Fund IX, L.P., a Delaware limited partnership ("Grantor").

RECITALS:

A. Grantor is the owner of record of a certain parcel of real estate located in the Oakview Corporate Park in West Dundee, Illinois that is legally described on Exhibit A attached hereto and made a part hereof ("Parcel").

B. Subject to and in accordance with the terms and provisions of this Grant of Easement, Grantor desires to convey to the Village of West Dundee, Illinois ("Grantee") a public utility easement on, in, under and across a certain strip of land on the Parcel ("Easement Parcel") that is legally described on Exhibit B-1 hereto and depicted on Exhibit B-2 hereto.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and agrees as follows:

1. Grant of Easement. Subject to the terms, covenants, conditions and restrictions contained in this Grant of Easement, Grantor hereby declares, grants, and establishes for the benefit of Grantee a non-exclusive, perpetual easement ("Utility Easement") on, in, under and across the Easement Parcel to construct, operate, maintain, renew, relocate and remove, from time to time, such underground pipes, wires, cables, conduits, manholes, transformers, pedestals and other facilities used in connection with the underground transmission and distribution of public utilities, including without limitation the transmission of natural gas, together with right of access over and across such limited portions of the Parcel that are reasonably necessary to undertake the foregoing in and under the Easement Parcel. Grantee shall permit NICOR or any successor gas company authorized to provide natural gas service in the Village of West Dundee, Illinois, from time to time, to use the Easement Parcel for the purposes permitted in this Grant of Easement. Any such gas company, by using the Easement Parcel, agrees to be responsible for the repair and maintenance of any natural gas lines located in the Easement Parcel.

EXHIBIT C

3798174v3

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3. Relocation. Grantor hereby reserves the right to terminate all rights hereby granted, provided that Grantor grants to Grantee a substitute utility location and easement and reimburses Grantee for the costs associated with relocation of any such utility installations in and under the Easement Parcel that are then owned by Grantee.

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5. Miscellaneous.

(a) Recitals. The foregoing Recitals are deemed to form a part of this Grant of Easement as if restated herein.

(b) Governing Law. This Grant of Easement will be interpreted and construed in accordance with the internal laws of the State of Illinois, without regard to conflict of law rules.

(c) Binding Effect and Priority of Grant. All of the covenants and rights declared and established hereunder will be considered as covenants and rights running with the land and not conditions, and the same will be binding upon and inure to the benefit of the parties hereto.

(d) Partial Invalidity. If any term, covenant or condition of this Grant of Easement or the application thereof to any person or circumstance will, to any extent, be invalid or unenforceable, the remainder of this Grant of Easement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term, covenant and condition of this Grant of Easement will be valid and enforceable to the fullest extent permitted by law.

[Signature Page Follows]

EXHIBIT C

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed as of the day and year first above written.

THE REALTY ASSOCIATES FUND IX, L.P.,
a Delaware limited partnership

By: Realty Associates Fund IX, LLC,
a Delaware limited liability company,
its general partner

By: Realty Associates Advisors, LLC,
a Delaware limited liability company,
its manager

By: Realty Associates Advisors Trust,
a Massachusetts business trust,
its manager

By: _____
Name: _____
Title: _____

EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

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§
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COUNTY OF SUFFOLK

This instrument was acknowledged before me on this ____ day of _____, 2011 by _____ of Realty Associates Advisors Trust, a Massachusetts business trust, the manager of Realty Associates Advisors LLC, a Delaware limited liability company, the manager of Realty Associates Fund IX, LLC, a Delaware limited liability company, in its capacity as general partner of The Realty Associates Fund IX, L.P., a Delaware limited partnership, on behalf of such partnership.

My Commission Expires:

Notary Public in and for the aforesaid State

Printed Name of Notary:

COMMONWEALTH OF MASSACHUSETTS

§
§
§

COUNTY OF SUFFOLK

This instrument was acknowledged before me on this ____ day of _____, 2011 by _____ of Realty Associates Fund IX Texas Corporation, in its capacity as REIT general partner of The Realty Associates Fund IX, L.P., a Delaware limited partnership, on behalf of such partnership.

My Commission Expires:

Notary Public in and for the aforesaid State

Printed Name of Notary:

EXHIBIT C

Exhibit A

Legal Description of Parcel

LOT 1 IN OAKVIEW CORPORATE PARK RESUBDIVISION NO. 1, BEING A RESUBDIVISION OF PART OF OAKVIEW CORPORATE PARK, BEING A SUBDIVISION IN THE NORTHWEST FRACTIONAL QUARTER OF THE NORTHWEST FRACTIONAL QUARTER AND THE EAST HALF OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 19, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 13, 2008 AS DOCUMENT NUMBER 2008KO11226 IN THE TOWNSHIP OF DUNDEE, KANE COUNTY, ILLINOIS.

PIN: 03-19-180-031

Commonly known as: 901-907 Wesemann Drive, West Dundee, Illinois 60118.

EXHIBIT C

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