

ORDINANCE 2020 -25

**AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT
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, 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, the Developer has advised the Village that due to conditions arising from the COVID-19 pandemic, delays have occurred and the Developer has now requested an 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 Amendment to the Original Agreement 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 Amendment to the Development Agreement 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 Development Agreement 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 14th day of September, 2020.

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

NAYS: None

ABSENT: Trustee Hanley

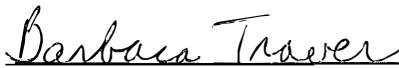
ABSTAIN: None

APPROVED:



Christopher Nelson, Village President

Attest:



Barbara Traver, Village Clerk

Published in pamphlet form:

September 15, 2020

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

THIS AMENDMENT TO THE DEVELOPMENT AGREEMENT dated March 16, 2020, (the "*Original Agreement*") 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 14th day of September, 2020.

WHEREAS, 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, pursuant to Article II of the Original Agreement, 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; have commenced construction of the Project on or before March 31, 2021; and, have received a certificate of occupancy for the Subject Property on or before March 31, 2023; and,

WHEREAS, the Developer has advised the Village that due to conditions arising from the COVID-19 pandemic, delays have occurred and the Developer has now requested an 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 the extension as there is no dispute as to the cause of the delay to acquire title to the Subject Property and 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.

Section 3. Section 2.1(a) of the Original Agreement, requiring the Developer to deliver a commitment for construction financing for the Project on or before October 30, 2020, is hereby amended by replacing this date with December 31, 2020.

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

Section 5. Section 2.1(b) of the Original Agreement, requiring the Developer to complete construction and receive a certificate of occupancy for the Project on or before March 31, 2023, is hereby amended by replacing this date with May 31, 2023.

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

Section 7. This 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 Agreement 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: September 15, 2020

Westbrook at Canterfield, LLC, an Iowa limited liability company

By:  _____

Date: September 15, 2020