

RESOLUTION NO. 38 - 24

**A RESOLUTION OF THE VILLAGE OF EAST DUNDEE,  
COOK AND KANE COUNTIES, ILLINOIS,  
APPROVING PAYMENT OF A LIEN AND A SETTLEMENT AGREEMENT  
REGARDING ASSESSMENTS AND LITIGATION AT 611 E. MAIN ST., EAST  
DUNDEE, ILLINOIS, SUMMIT SQUARE OWNER'S ASSOCIATION**

**WHEREAS**, the Village is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

**WHEREAS**, the Constitution of the State of Illinois, 1970, Article VII, Section 10, authorizes units of local government to contract or otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or ordinance; and

**WHEREAS**, the Village is the owner of certain units (113, 121, 221) within the property commonly known as 611 E. Main Street, in the Village of East Dundee, Illinois ("**Property**"); and

**WHEREAS**, on November 7, 2022, the Village Board approved Ordinance 22-51 authorizing the sale of the Property to the Dundee Township Foundation, Inc. ("**Foundation**") pursuant to a Purchase and Sales Agreement ("**PSA**") for a purchase price of \$110,000.

**WHEREAS**, on November 28, 2022, the Dundee Township ("**Township**"), an owner within the Summit Square Owner's Association ("**Association**") caused to be recorded a lien on the Property on behalf of the Association in the amount of \$180,000 (plus late fees) alleging unpaid condominium association dues by the Village ("**Lien**").

**WHEREAS**, the Village of East Dundee disputes the Lien amount; and

**WHEREAS**, the Foundation filed a complaint in the Circuit Court of Kane County, Illinois (Case No. 2023 CH 000076), against the Village alleging counts for specific performance and breach of contract alleging that the Village was in violation of the PSA for failing to close on the Property and conveying clear title; and

**WHEREAS**, the Foundation has for several years occupied the Property based upon a licensing agreement, and the Foundation has paid zero dollars to the Village for use of the Property, while the Village has expended time and resources into the Property; and

**WHEREAS**, the Village filed a third-party complaint against the Township and Association, alleging multiple counts, including, without limitation, slander of title, accounting, and quiet title; and

**WHEREAS**, the Parties have attempted over the last several months to mediate the litigation; and

**WHEREAS**, the Foundation filed a motion for partial summary judgment as to count 1 of its complaint, specific performance, which was granted by the Court; and

**WHEREAS**, the Association and Township have come to terms with the Village regarding the Lien and a Right of First Refusal claimed on the Property pursuant to a settlement agreement attached hereto as Exhibit A ("**Settlement Agreement**"); and

**WHEREAS**, the Village Board has previously determined that it is in the best interests of the Village to convey the Property as the Property does not produce any viable income for the Village, but rather, has been a consistent liability; and

**WHEREAS**, the Village Board finds that it is not in the best interests of the Village to continue the current posture of the litigation, which include significant costs to the Village, and to convey the Property to the Foundation; and

**WHEREAS**, the President and the Village Board of Trustees find that it is in the best interests of the Village and its residents to approve the Settlement Agreement and payment of the Lien and certain fees and costs in order to close on the sale of the Property, to reserve any rights of reimbursement, and to convey title.

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

**SECTION 1: Recitals.** The recitals set forth above are incorporated into this Section 1 by this reference as findings of the Village Board of Trustees.

**SECTION 2: Approval of payment of the Lien, Settlement, Indemnity and Escrow.** The Village Board hereby approves payment of the Lien in an amount not-to-exceed \$210,000 directly to the Association ("**Settlement Payment**") on or before the closing at the Property, and an additional \$30,000 to be held in escrow with Chicago Title Insurance Company at the closing for any additional payments or costs to facilitate closing on the Property with the Foundation. Additionally, the Board approves any and all documents to be executed by the Village Administrator, her designee and/or the Village President, including, without limitation, the Settlement Agreement, any proxy votes for the Association and any indemnity agreements approved by the Village Attorney. A true and correct copy of the Settlement Agreement is attached to this Resolution as **Exhibit A**.

**SECTION 3: Litigation.** The Village Board hereby approves the Village Attorney to take all necessary action to resolve the litigation, including, without limitation, filing any counterclaims or additional claims for reimbursement to the Village.

**SECTION 4: Execution.** The President, Village Administrator and/or her designee, Village Clerk and Village Attorney are hereby authorized and directed to execute and attest, on behalf of the Village, any documents necessary to effectuate the Settlement

Payment to the Association and to close on the sale of the Property, all in final form subject to approval by the Village Administrator and Village Attorney.

**SECTION 5: Effective Date.** This resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS 2nd DAY OF December 2024.

pursuant to a roll call vote as follows:

AYES: Mahony, Kunze, Brittin, Saviano and Sauder

NAYES: Ø

ABSENT: Treiber

APPROVED by me this 2nd of December 2024.



\_\_\_\_\_  
Jeffrey Lynam, Village President

ATTEST:

Katherine Diehl  
Katherine Diehl, Village Clerk

**EXHIBIT A**

**SETTLEMENT AGREEMENT**

## **RELEASE OF ALL CLAIMS AND SETTLEMENT AGREEMENT**

This Release of All Claims, and Settlement Agreement (hereinafter, the “Release and Agreement”) is entered into by and between the Village of East Dundee (the “Village”), an Illinois municipal corporation, the Township of Dundee (the “Township”), a body politic and corporate of the State of Illinois, and the Summit Square Owners Association (the “Association”), an Illinois not-for-profit corporation. The Village, the Township, and the Association may hereinafter be referred to, individually, as a “Party” and, collectively, as the “Parties.”

**WHEREAS**, a dispute (the “Dispute”) arose between the Parties, arising out the Village’s ownership of units 113, 121, 222 in the Summit Square Condominiums located at 611 East Main Street in East Dundee, Illinois (the “Property”), including, but not limited to, the matters alleged in the Notice of Lien For Unpaid Assessments recorded with the Kane County, Illinois, Recorder of Deeds as Document No. 2022-K-056401 (the “Lien”) and the lawsuit filed in the Circuit Court for the Sixteenth Judicial Circuit, Kane County, Illinois, entitled, *Dundee Township Foundation, Inc., v. the Village of East Dundee; the Village of East Dundee v. Dundee Township and Summit Square Owner’s Association*, Case No. 23-CH-000076 (the “Lawsuit”); and

**WHEREAS**, the Parties acknowledge and agree that it would be in their best interest to avoid the time and expense of further litigating their claims against each other, and desire to buy their peace and enter into this Release and Agreement; and

**WHEREAS**, the Parties agree to fully and expeditiously resolve, compromise, and settle any and all disputes, claims, controversies, and issues of law or fact, including, but not limited to, all claims involved in the Dispute, which could have been raised by any Party against any other Party as provided herein; and

**NOW, THEREFORE**, in consideration of the foregoing and the promises, covenants, consideration, and payment set forth herein, along with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agrees as follows:

1. **Incorporation of Recitals:** The Parties adopt the foregoing recitals as if fully incorporated herein.

2. **Settlement Consideration:**

a. **Settlement Payment:** As consideration for the promises in this Release and Agreement, the Village will make a lump sum payment of *One Hundred and Eighty Thousand Dollars and Zero Cents (\$180,000.00)* to “Summit Square Owners Association” (the “Settlement Payment”). The Settlement Payment will be made within thirty (30) days of the closing of the transaction (the “Transaction”) contemplated in the “Real Estate Purchase and Sales Agreement (611 East Main Street, Units 113, 121 and 221, East Dundee, Illinois 60118)” dated November 15, 2022 (the “Sales Contract”), between the Village and the Dundee Township Foundation, Inc. (the “Foundation”). Thereafter, the Association will retain *One Hundred and Ten Thousand Dollars and Zero Cents (\$110,000.00)* of the Settlement Payment, and will make a lump sum payment of *Seventy Thousand Dollars and Zero Cents (\$70,000.00)*, subject to potential adjustments of no more than 10%, to “Township of Dundee” (the “Fee Reimbursement”).

b. **Release of Lien and Right of First Refusal:** Prior to the closing of the Transaction, the Association will release the Lien, and provide a release in a form acceptable to the Kane County Recorder of Deeds to the Village. Further, the Association will simultaneously withdraw and release the Right of First Refusal it has claimed regarding the Property.

c. **Loan Relief:** As consideration for the promises in this Release and Agreement, the Village will forgive *Thirty Thousand Dollars and Zero Cents (\$30,000.00)* of the amount loaned to the Township pursuant to the “Intergovernmental Funding Agreement Between the Village of East Dundee and Dundee Township in Regard to the Construction of a Fence to Secure a Portion of the Dundee Township East Cemetery, 460 Dundee Avenue, East Dundee, Illinois,” dated October 20, 2022 (the “Loan Agreement”), and Section 2.3 of the Loan Agreement entitled, “Fund Repayment Schedule,” is hereby amended by striking the number “\$37,500.00” from Column 2, Row 9 of the table set forth therein and replacing the number “\$7,500.00” therefor as follows:

December 1, 2023	\$37,500
December 1, 2024	\$37,500
December 1, 2025	\$37,500
December 1, 2026	\$37,500
December 1, 2027	\$37,500
December 1, 2028	\$37,500
December 1, 2029	\$37,500
December 1, 2030	<del>\$37,500</del> \$7,500
Total Repayment	<del>\$300,000</del> \$270,000

d. **Escrowed Payment for Foundation.** The Village agrees to place an additional \$30,000 in escrow for payment to the Foundation for any attorneys’ fees and costs. Any surplus in escrow will be returned to the Village.

3. **Disposition of the Dispute:**

a. **Village’s Release and Waiver:** The Village does hereby for itself, and for its representatives, elected and appointed officials, successors, employees, members, attorneys, insurers, predecessors, and assigns, release, acquit, hold harmless, and forever discharge the Association (except for a separately-executed Indemnification Agreement between the Association and the Village), the Township, and each of their respective current and former officers, managers, directors, trustees, members, owners, employees, agents, representatives, attorneys, insurers, predecessors, successors, and assigns (collectively, the “Village’s Releasees”), of and from any and all claims, controversies, demands, causes of action, charges, suits, judgments, liabilities, damages, costs, expenses, and other obligations of every nature, character, or kind that the Village has, has had, or which may hereafter accrue against the Village’s Releasees, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, matured or contingent, existing or hereafter discovered, damages, including, without limitation, any claims for damages, equitable relief, or attorney fees or costs (collectively, the “Claims”). This release includes, without limitation, any and all claims arising out of or related in any way to the Dispute, the Lien, or the Village’s ownership of the Property in the Summit Square Condominiums located at 611 East

Main Street in East Dundee, Illinois, including, but not limited to, those which the Village raised, or which the Village could have raised, in the Litigation.

b. **Association's Release and Waiver:** The Association does hereby for itself, and for its representatives, elected and appointed officials, managers, employees, attorneys, directors, successors, and assigns, release, acquit, hold harmless, and forever discharge the Village, the Township, and each of their respective current and former officers, elected and appointed officials, managers, directors, trustees, members, owners, employees, agents, representatives, attorneys, insurers, predecessors, successors, and assigns (collectively, the "Association's Releasees"), of and from any and all claims, controversies, demands, causes of action, charges, suits, judgments, liabilities, damages, costs, expenses, and other obligations of every nature, character, or kind that Association has, has had, or which may hereafter accrue against the Association's Releasees, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, matured or contingent, existing or hereafter discovered, damages, including, without limitation, any claims for damages, equitable relief, or attorney fees or costs (collectively, the "Claims"). This release includes, without limitation, any and all claims arising out of or related in any way to the Dispute, the Lien, or the Village's ownership of the Property in the Summit Square Condominiums located at 611 East Main Street in East Dundee, Illinois, including, but not limited to, those which the Association raised, or which the Association could have raised, in the Litigation.

c. **Township's Release and Waiver:** The Township does hereby for itself, and for its representatives, elected and appointed officials, managers, employees, attorneys, directors successors, and assigns, release, acquit, hold harmless, and forever discharge the Village, the Association, and each of their respective current and former elected and appointed officials, officers, managers, directors, trustees, members, owners, employees, agents, representatives, attorneys, insurers, predecessors, successors, and assigns (collectively, the "Township's Releasees"), of and from any and all claims, controversies, demands, causes of action, charges, suits, judgments, liabilities, damages, costs, expenses, and other obligations of every nature, character, or kind that Township has, has had, or which may hereafter accrue against the Township's Releasees, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, matured or contingent, existing or hereafter discovered, damages, including, without limitation, any claims for damages, equitable relief, or attorney fees or costs (collectively, the "Claims"). This release includes, without limitation, any and all claims arising out of or related in any way to the Dispute, the Lien, or the Village's ownership of the Property in the Summit Square Condominiums located at 611 East Main Street in East Dundee, Illinois, including, but not limited to, those which the Association raised, or which the Association could have raised, in the Litigation.

d. **Village's Dismissal:** Village will, immediately upon tender of the Settlement Payment and receipt of the release of Lien and Right of First Refusal for the Property dismiss its Third-Party Complaint filed in connection with the Lawsuit with prejudice.

e. **Costs and Fees.** Aside from the payments to be distributed pursuant to Section 2 herein, each Party shall bear its own attorneys' fees and costs in resolving this litigation.

4. **Non-Admission of Liability:** The Parties understand and agree that this Release and Agreement is a compromise of disputed claims, and that this settlement and the Settlement Payment made pursuant thereto are not to be construed as an admission of liability or wrongdoing on the part of any Party, and that the Parties deny any and all liability with respect to the allegations in the Dispute and intend merely to avoid further litigation and buy their peace.

5. **Binding Nature of the Agreement:** This Release and Agreement shall inure to the benefit of, and be binding upon, any successor, assignee, or heir of the respective Parties.

6. **Modifications:** No modification, amendment, or waiver of any provisions of this Release and Agreement shall be effective unless approved in writing by the Parties.

7. **Waiver and Enforceability:** A waiver by any Party of a breach of any provision hereof does not constitute a waiver of any succeeding breach of the same or any other provision, nor constitute a waiver of the responsibility or obligation itself.

8. **Severability:** Should any provision of this Release and Agreement be declared or be determined by any court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term, or provision shall be deemed not be a part of this Release and Agreement. The Parties expressly empower a court of competent jurisdiction to modify any term or provision of this Release and Agreement to the extent necessary to comply with existing law and to enforce the Release and Agreement as modified.

9. **Governing Law and Jurisdiction:** This Release and Agreement shall be interpreted in accordance with the laws of the State of Illinois or Federal law, where applicable, without regard to principles of conflicts of law. In the event of a breach of any provision of this Release and Agreement, the parties hereby submit to and consent to the exclusive jurisdiction of the State of Illinois and agree that any and all litigation arising out of or relating to this Release and Agreement shall be conducted only in the courts of Kane County, Illinois, or the federal courts for the United States for the Northern District of Illinois, and no other courts. In any action brought pursuant to the provisions of this Agreement, the prevailing Party shall be entitled to an award of all costs and expenses (including, without limitation, reasonable attorney's fees and expenses) in connection with the exercise of any rights and remedies under this Agreement.

10. **Entire Agreement:** This Release and Agreement is the entire agreement between the Parties with respect to the subject matter hereof and merges and supersedes all prior discussions, correspondence, proposals, understandings, and agreements, whether written or oral.

11. **Counterparts:** This Release and Agreement may be executed in counter-parts and shall have the same force and effect as original signatures on one document.

12. **Effective Date:** This Release and Agreement shall become effective immediately after execution by all Parties executes this Release and Agreement by signing below (hereinafter, the "Effective Date").

13. **Complete Defense:** It is expressly understood and agreed by the Parties that this Release and Agreement may be pled as a complete defense to any action or proceeding against any of the Parties brought or maintained by any of the Parties arising out of the Dispute or Iacobellis's employment or separation from employment with Defendants.

14. **Construction:** This Release and Agreement has been subject to negotiations and discussions between the Parties and their counsel. It has been, and shall be construed to have been, drafted by all Parties to it, so that any rule construing ambiguities against the drafter shall have no force and effect.

15. **Headings:** The headings of paragraphs herein are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Release and Agreement.

**THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ AND FULLY UNDERSTAND THE FOREGOING PROVISIONS OF THIS AGREEMENT, HAVE HAD ADEQUATE TIME TO EVALUATE THE TERMS OF THIS AGREEMENT, HAVE CONSULTED WITH COUNSEL BEFORE SIGNING THIS AGREEMENT, HAVE RECEIVED AND REVIEWED ALL INFORMATION PROVIDED TO THEM IN CONNECTION WITH THIS AGREEMENT, AND FREELY AND WITHOUT RESERVATIONS ENTER INTO THIS AGREEMENT.**

**AGREED AND ACCEPTED TO BY THE AUTHORIZED SIGNATORIES BELOW:**

X Village of East Dundee

By: [Signature]

Its: Village Administrator

Dated: 12/2/24

Township of Dundee

By: [Signature]

Its: Township Supervisor

Dated: 12/4/24

**Summit Square Owners Association**

By: [Signature]

Its: Summit Square Owners Association President

Dated: 12/5/24