

**ELK RAPIDS TOWNSHIP
ANTRIM COUNTY, MICHIGAN
Resolution No. 2022 - 11**

At a special meeting of the Elk Rapids Township Board held on December 15, 2022 at 9:00 a.m., at the Township office, the following Resolution was offered for adoption by Township Board Member **R. Hults** and was seconded by Township Board Member **D. Amos**:

**A RESOLUTION APPROVING LAWSUIT SETTLEMENT AND PROPERTY
TRANSFER AGREEMENT**

WHEREAS, on or about February 24, 2022, the Village of Elk Rapids (the "Village") filed a Complaint against Elk Rapids Township (the "Township," and, together with the Village, the "Parties") in the Circuit Court for Antrim County, State of Michigan, thereby commencing the lawsuit titled *Village of Elk Rapids v. Elk Rapids Township*, Case No. 2022-9299-CH (the "Lawsuit").

WHEREAS, the Village has an interest in real property located at 400 River Street, Elk Rapids, MI 49629 (with additional addresses 129 N Cedar Street, Elk Rapids, MI 49629 and 300 Isle of Pines, Elk Rapids, MI 49629), in Antrim County, Michigan, with a Parcel ID Number of 05-43-020-005-00, and as legally described in Ex. A in the Property Transfer Agreement (the "Property");

WHEREAS, the Township also has an interest in the Property;

WHEREAS, by way of its Lawsuit, the Village sought an order from the Court requiring the Township to convey its interest in the Property to the Village;

WHEREAS, if the Village had prevailed on its claims, the Court could have ordered the transfer of the Township's interest in the Property without any liability protection or other consideration;

WHEREAS, the Parties attended a settlement conference and private mediation in an effort to resolve the Lawsuit;

WHEREAS, in order to avoid the time, cost, uncertainty, and risk of further litigation proceedings, the Parties have agreed to enter into the property transfer agreement attached hereto as **Exhibit 1** (the "Property Transfer Agreement"), which includes the following provisions:

1. An indemnification and hold harmless provision, under which the Village agrees to defend, indemnify, and hold harmless the Township from any loss, damages, costs, expense (including reasonable counsel fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, demands or claims, including any such suits, actions, legal or administrative proceedings, demands or claims that pre-date this Agreement, arising or resulting from (1) the transfer of the Township's interest in the Property, (2) any activity undertaken pursuant to this Agreement, (3) any use, access, or activities on the Property or (4) any claimed breach or violation of any of the covenants, restrictions, or agreements described in the April 29, 1948 McCormick deed recorded at Liber 103 Page 298, Antrim County Records.
2. The Village's agreement to reimburse the Township in the amount of \$4,780.75 for the costs associated with the survey of the Property.
3. The agreement by the Village to provide and keep in force for a minimum of fifteen (15) years the following insurance related to the Property: (i) a commercial general liability insurance policy providing coverage for bodily injury, personal injury, sickness and death, and property damage, loss and destruction, resulting from each occurrence on the Property, with the limits of at least Two Million Dollars (\$2,000,000) per occurrence, and (ii) an umbrella liability policy with limits of at least Five Million Dollars (\$5,000,000), with such policies naming the Township as an additional named insured.
4. The agreement by the Township to convey its one-half undivided interest in the Property to the Village, which transfer shall also include all accreted lands associated with the Property, whether natural or manmade.

WHEREAS, upon full execution of the Property Transfer Agreement, the Parties have agreed to file a stipulation to dismiss the Lawsuit, without fees or costs awarded to either party.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. Entry Into Property Transfer Agreement. The Township Board hereby agrees to execute and enter into the Property Transfer Agreement in the form attached hereto as **Exhibit 1**.

2. Dismissal of Lawsuit. The Township Board hereby agrees that, upon receiving a copy of the Property Transfer Agreement executed by the Village, the Township Board authorizes its litigation counsel, the firm of Varnum LLP, to stipulate to the dismissal of the Lawsuit, without an award of costs or fees to either party.

YEAS: M. Szymanski, D. Amos, S. Boisvert, and R. Hulst

NAYS: 0

ABSENT: M. Soper

RESOLUTION DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of a resolution adopted by the Elk Rapids Township Board at the time, date, and place specified above pursuant to the required statutory procedures.

Respectfully submitted,

Dated: December 15, 2022

By: Shelley Boisvert
Shelley Boisvert
Elk Rapids Township Clerk