



City of
SANDWICH, ILLINOIS

144 E. Railroad St – Sandwich, IL 60548

Phone: (815) 786-9321 Fax: (815) 786-7012
E-mail: city.clerk@sandwich.il.us

August 31, 2021

WSPY News Media via e-mail / FOIA 21-031 (B)

To Whom It May Concern:

In response to your Freedom of Information Act Request from 11:39 AM. on Tuesday, August 24, 2031, please see below. This response is being provided electronically in accordance with the means of communication of your original request. Specifically, the following was your request with the City of Sandwich:

“WSPY makes this FOIA request for copies of the following documents:

1. Final versions of Settlement Agreement discussed by “the head of the public body” and vote and approved in public session by the Sandwich City Council on August 23, 2021 meeting.

ANSWER: Your request has been approved and is attached herein

Sincerely,

A handwritten signature in black ink, appearing to read "Denise L. A." It is a cursive script with a large, stylized initial 'D'.

Denise L. A., FOIA Officer

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF LIABILITY

THIS AGREEMENT ("Agreement") is effective beginning the 23 day of August 2021. It is made by and on behalf of OLD SECOND NATIONAL BANK ("Old Second") and CITY OF SANDWICH ("Sandwich"), FORMER MAYOR TOM THOMAS, and RALPH WEBB ("the individual Defendants" and referred to along with Sandwich collectively as "Defendants"), hereinafter all referred to collectively as the "Parties."

WHEREAS, a dispute ("the Dispute") has arisen between the Parties relating to the zoning and buildability of the property commonly known as Lot 7 of Phase I of the Bohnstedt Addition to the City of Sandwich ("the Subject Property"), a full legal description of the subject property is attached hereto as Exhibit "A" ("the Dispute"); and

WHEREAS, the Parties desire to settle and compromise their dispute by entering into this Agreement; and

WHEREAS, this Agreement constitutes the settlement of all disputed claims. It does not and shall not constitute an admission of liability by any Party and shall not be used by any Party or any other person or entity in any litigation or proceeding for that purpose; and

WHEREAS, on or about January 8, 2021, Old Second filed a Second Complaint against the Defendants in the Circuit Court of the Twenty-Third Judicial Circuit, Kendall County, Illinois, Case Number 2019 ED 001, and Defendants filed an Answer in said action that remains pending and undetermined; and

WHEREAS, the Parties wish to resolve any and all disputes, and the Parties have fully reached a resolution as described herein; and

WHEREAS, the above recitals are expressly incorporated into and made part of the Parties' Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and mutual promises and covenants made herein, the value and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Settlement Consideration.

- a. Sandwich agrees that within 30 days of execution of this Agreement or such other timeframe as the Parties may agree, it shall pay to Old Second the sum of Forty-Two Thousand Five Hundred and 0/100 Dollars (\$42,500.00), as well as any reasonable, necessary and customary costs of closing as and for the purchase of the Subject Property.
- b. At closing, Old Second shall transfer the subject property to Sandwich by General Warranty Deed consistent with the laws of the State of Illinois.
- c. Sandwich and its attorneys agree to reasonably cooperate with Old Second and its attorneys in a pending tax appeal concerning the Subject Property.
- d. The Parties release any and all claims they may have against one another in connection with the Dispute, pursuant to the mutual releases set forth in Paragraph 2 below.

2. Mutual Releases.

- a. The Parties hereby release and forever discharge all other Parties and any employees, tenants, insurers, agents, representatives, officers, Board of Directors, successors, assigns, and affiliates from any and all claims, actions, causes of action, costs, damages, debts, demands, expenses, fees (including without limitation attorneys' fees and expenses, except those expenses expressly set forth in Paragraph 1 above), liabilities, obligations, and suits of any kind, from the beginning of time to the Effective Date of this Agreement, whether known or unknown, suspected, or unsuspected, arising out of or relating to the Dispute (collectively "Claims"). This release of Claims specifically releases Claims that the Parties do not know or suspect to exist in their favor as of the Effective Date, that if known, might have materially affected their decision to enter into this Agreement, more specifically but not by way of limitation:
 - i. Defendants hereby release and discharge Old Second and its members, insurers, agents, representatives, successors, assigns, and affiliates from all Claims.
 - ii. Old Second hereby releases and discharges Sandwich and its members, insurers, agents, representatives, successors, assigns, and affiliates from all Claims.
 - iii. Old Second hereby releases and discharges the individual Defendants and their insurers, agents, representatives, successors, assigns, and affiliates from all Claims.

3. No Admission of Liability.

- a. This Agreement includes a full, final, and complete compromise, settlement, and release of all Claims and fully resolves the Dispute. It is not an admission of fault, wrongdoing, or liability by any Party. By this Agreement, each Party fully, finally, and forever settles and releases all Claims and disputes, notwithstanding the possibility of discovering later any additional Claims or facts related to the Dispute. This Agreement shall not be admissible in any proceeding as evidence of liability or wrongdoing by any Party.

4. Representations and Warranties.

- a. Each of the Parties represents that it has the power and authority to execute and deliver this Agreement and perform all of its obligations hereunder. Each individual executing this Agreement on behalf of a Party represents and warrants that they have the capacity and have been duly authorized to execute this Agreement.
- b. Each of the Parties represents that it has entered into this Agreement based solely upon its own investigation, and other than as expressly set forth herein, not in reliance on any representations or warranties of any other person, including any other Party. Each

of the Parties represents that it assumes the risk that the facts or the law may be different from what it understands them to be.

2. Dismissal of Proceedings.

- a. Following the closing described in Paragraph 1 above and full payment made by Sandwich to Old Second of the consideration set forth herein, Old Second shall promptly dismiss Kendall County Case Number 2019 ED 1, as well as any other litigation or demand for arbitration initiated in connection with the Dispute. Each Party covenants not to sue another in connection with any Claims. Each Party hereby expressly acknowledges that this Agreement shall constitute a complete and total defense of any action filed by either Party against the other concerning the subject matter of this Agreement and/or the Dispute.

3. Successors, Representatives, and Assigns.

- a. This Agreement shall be binding upon, and inure to the benefit of, the Settling Parties and their respective affiliates, agents, assigns, employees, officers, partners, representatives, and successors.

4. Entire Agreement.

- a. This Agreement contains the entire Agreement of the Settling Parties with respect to the resolution of the Dispute. No oral representation and no prior oral or written matters extrinsic to this Agreement shall have any force or effect as to the provisions of this Agreement.

5. Construction.

- a. The terms of this Agreement are contractual and are the result of negotiation. Each Party has cooperated in drafting and preparing this Agreement; accordingly, this Agreement shall not be construed against any Party as the "drafting Party" of the Agreement. Each Party has had the opportunity to consult with legal counsel prior to executing this Agreement. This Agreement shall not be amended, canceled, revoked, or otherwise modified except by a written agreement signed by each Party.

6. Confidentiality.

- a. Each of the Settling Parties agrees this Agreement was (a) entered into by the mutual satisfaction of the Parties under confidential terms; (b) the provisions of this Agreement are confidential; (c) they will treat the provisions of this Agreement in the strictest confidence; and (d) they will not disclose or permit anyone to disclose the terms and conditions of this Agreement to any person (other than to their respective attorneys, accountants, bank auditors/regulators or otherwise as required by law) without prior authorization of the other Party.

7. Disparaging Comments and Statements.

- a. Each of the Parties agrees to refrain from any disparaging comments or statements about the other and refrain from saying anything to any parties beyond the fact that the parties have reached an amicable agreement relative to all matters, including those expressly stated in this Agreement.

12. Governing Law.

- a. This Agreement is governed by and construed in accordance with the laws of the State of Illinois, and the venue for any action relating to this Agreement shall be in the County of Kendall, State of Illinois.

13. Attorneys' Fees.

- a. Each Party is responsible for their own attorneys' fees, legal costs, or expenses except the expenses expressly referred to in Paragraph 1a above, incurred as of the Effective Date.

14. Severability.

- a. Should any provision of this Agreement be declared or determined by any competent court 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 to be a part of this Agreement.

15. Execution.

- a. This Agreement may be executed in counterparts, and signatures may be delivered by electronic mail. If any party delivers an executed version of this Agreement via electronic mail, said Party shall promptly deliver the original signature page thereafter. Each of the Settling Parties shall maintain a copy of the final, executed version.

IN WITNESS WHEREOF, this Agreement is executed as of the ____ day of August 2021. The signatures below indicate the Parties' acceptance and understanding of the terms and conditions of this Agreement.

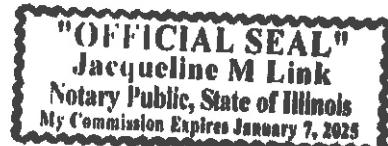
OLD SECOND NATIONAL BANK

By: Jean Johnson

VP, Its Authorized Agent

SUBSCRIBED and SWORN before
me this 19 day of August 2021.

Jacqueline M Link
Notary Public



CITY OF SANDWICH

By: *Todd Latham*

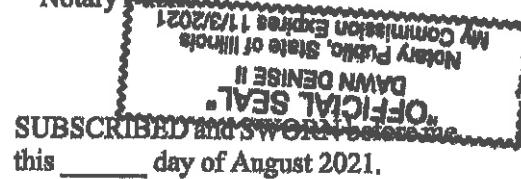
Todd Latham, Mayor, City of Sandwich

TOM THOMAS, Former Mayor

SUBSCRIBED and SWORN before
me this 23 day of August 2021.

Dawn Denise Wi

Notary Public



SUBSCRIBED and SWORN before
me this _____ day of August 2021.

Notary Public

RALPH WEBB

SUBSCRIBED and SWORN before me
this _____ day of August 2021.

By: Karen Bohnstedt, his attorney in fact
Pursuant to a durable power of attorney dated

Notary Public

Prepared by:
Tait J. Lundgren
ARDC# 6283417
Foster, Buick, Conklin & Lundgren, LLC
2040 Aberdeen Court
Sycamore, Illinois 60178
(815)758-6616
service@fosterbuick.com

CITY OF SANDWICH

By: _____
Todd Latham, Mayor, City of Sandwich

SUBSCRIBED and SWORN before
me this _____ day of August 2021.

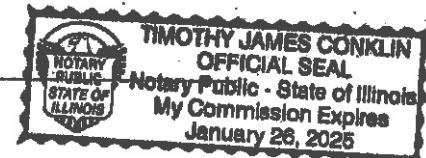
Notary Public

TOM THOMAS, Former Mayor



SUBSCRIBED and SWORN before me
this 25 day of August 2021.

Notary Public



RALPH WEBB

SUBSCRIBED and SWORN before me
this _____ day of August 2021.

Notary Public

By: Karen Bohnstedt, his attorney in fact
Pursuant to a durable power of attorney dated

Prepared by:
Tait J. Lundgren
ARDC# 6283417
Foster, Buick, Conklin & Lundgren, LLC
2040 Aberdeen Court
Sycamore, Illinois 60178
(815)758-6616
service@fosterbuick.com

CITY OF SANDWICH

By:

Todd Latham, Mayor, City of Sandwich

SUBSCRIBED and SWORN before
me this _____ day of August 2021.

TOM THOMAS, Former Mayor

SUBSCRIBED and SWORN before me
this _____ day of August 2021.

RALPH WEBB

✓ Karen Bohnslecht

By: Karen Bohnstedt, his attorney in fact
Pursuant to a durable power of attorney dated
7/13/2015

Notary Public

SUBSCRIBED and SWEARN before me
this 25 day of August 2021.

Prepared by:
Tait J. Lundgren
ARDC# 6283417
Foster, Buick, Conklin & Lundgren, LLC
2040 Aberdeen Court
Sycamore, Illinois 60178
(815)758-6616
service@fosterbuick.com

EXHIBIT "A"

LOT 7 IN BOHNSTEDT ADDITION TO THE CITY OF SANDWICH, KENDALL COUNTY, ILLINOIS AS PER THE FINAL PLAT OF BOHNSTEDT ADDITION RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF KENDALL COUNTY, ILLINOIS, ON OCTOBER 1, 2004 AS DOCUMENT NO. 200400027436, SITUATED IN THE CITY OF SANDWICH, KENDALL COUNTY, ILLINOIS.

PIN: 01-29-378-005

LOT 7 BOHNSTEDT, SANDWICH IL 60548