ORDINANCE NO. 2019-XX

SUPPLEMENTAL ORDINANCE REQUESTING THE COUNTY TO TRANSFER FIVE ADDITIONAL TAX-DELINQUENT PARCELS IN SPECIAL SERVICE AREAS 4 - 8 TO THE TOWN OF CORTLAND AND ESTABLISHING AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY

WHEREAS, several years ago, the Town of Cortland created Special Service Areas 4 - 8 at the request of owners and developers who wished the areas contained within those Special Service Areas to be served by Cortland with sanitary sewer and water service; and

WHEREAS, without the creation of these Special Service Areas, Cortland would not have been able to cancel its contract with the DeKalb Sanitary District, construct a state-of-the-art Sheaffer Sewage Treatment Facility and expand its potable water services; and

WHEREAS, the Town of Cortland, using funds received from the sale of bonds constructed in a timely manner and within budget, the facilities to assist in granting the special services requested by the property owners; and

WHEREAS, a serious decline in the economy commencing in 2008 prevented the anticipated construction of residential and other units within Special Service Areas 4 – 8 and little or no construction has taken place within those areas; and

WHEREAS, the developers and owners of land within Special Service Areas 4 – 8 have, in many cases, been unable to purchase additional land, required in Annexation Agreements and other documents to allow for spray irrigation of treated water from the Sheaffer System necessary to allow that System to reach its full capacity; and

WHEREAS, as a result of continuing adverse economic conditions, individuals with a financial interest in the land within Special Service Areas 4 – 8 have in many instances been unable to pay real estate taxes to the County, including those portions of the real estate taxes

which incorporated funds to pay principal and interest associated with the bonds issued to fund the now completed municipal improvements; and

WHEREAS, Chapter 35, Section 200/21-90 of the Illinois Compiled Statutes, provides that under such circumstances, the County is authorized to take ownership of the property as a Trustee for the taxing bodies which have not received real estate tax payments; and

WHEREAS, under the same statutory provision, the County is authorized to transfer the ownership of such lots, free from all prior claims and liens, to a governmental body which requests the ownership transfer; and

WHEREAS, the Town of Cortland believes that the transfer of the tax delinquent and undeveloped lots to the Town would bring about the ultimate use of that land in accordance with the best planning standards; and

WHEREAS, the Town recognizes that the County has paid funds or owes funds to an administrator to administer the actions required to be taken when real estate taxes are unpaid and the County should not itself without its agreement have to make the payments for that work and if the property is transferred to the Town, the administrator will have no further work associated with that process; and

WHEREAS, the Town is prepared to reimburse the County for the administrative costs due relating to the specific parcels listed in Appendix A named and attached hereto and made a part of this Ordinance and believes that such fees will be quickly paid to Cortland by private parties (Bondholders and Simpsons) who will receive title from Cortland of much of these parcels; and

WHEREAS, the County, previously transferred tax-delinquent lots to the Town of Cortland with regards to Special Service Areas 9 and 10 and such transfer terminated all disputes between the parties and ended the threat of litigation; and

WHEREAS, the Town of Cortland as provided for below, is prepared, to defend and indemnify the County from any claim, demand, suit or costs incurred by the County as a result of its exercise of clear statutory power in transferring the land to the Town of Cortland at its specific request; and

WHEREAS, the Town of Cortland passed Ordinance 2019-12 on June 10, 2019, making essentially this same request for certain other parcels for these same purposes and this Ordinance is intended to supplement such request by adding five more parcels identified on Appendix "A" hereto necessary to effect the settlement of pending litigation, which parcels are currently listed as owned by DeKalb County as Trustee.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF TRUSTEES OF THE TOWN OF CORTLAND, DE KALB COUNTY, ILLINOIS, as follows:

SECTION 1: Pursuant to 35 ILCS 20/21-90, the Town of Cortland respectfully requests that DeKalb County, which has acquired title as a Trustee for all taxing districts to the property set forth in Appendix A transfer without cost to the Town of Cortland legal title to these properties in Special Service Areas 4 - 8 which are tax delinquent for two years or more. The County may not have yet acquired title as a Trustee to all of these properties and the request from Cortland should be understood as relating for particular parcels for such time as the County has in fact acquired title as Trustee to properties in Appendix A. It is the understanding of the Town of Cortland that the properties would be transferred to the Town in fee simple and that the transfers would come to the Town free and clear of any previous liens, mortgages, tax

obligations or other financial claims preventing full and complete transfer of ownership of the property. Upon the transfer to the Town, the Town hereby requests, subject to any forms or applications requested in writing, that these properties shall be shown as being exempt from real estate taxation as being owned by a municipality within its corporate boundaries. The Town requests that the transfer be made to the Town promptly after the service upon the County of a certified copy of this adopted ordinance, and the payment of the administrative fees which will be paid within 90 days of the date of the County will transfer the parcels to Cortland. Such date may be extended by the County. In the meanwhile, the Town requests that the County not sell or transfer in any manner any tax-delinquent lots contained within Special Service Areas 4 – 8 to any other party.

SECTION 2: The Town of Cortland appreciates the fact that, in part because of the absence of long-time historic adverse economic conditions, the County of DeKalb has not often previously exercised its rights and powers under 35 ILCS 200-21-90. The Town believes that the County is entirely within its rights and is encouraged by the statute to make the transfer herein requested, but it acknowledges that the County has some concern over the possibility of third-party claim, demands or suits, seeking to question or overturn this transfer. In the event that a lawsuit is filed seeking to invalidate this transfer, the Town of Cortland will defend, at its cost, the County in such a lawsuit. If the Town of Cortland fails to exercise its responsibility to defend the County, it acknowledges that the County may choose not to defend or may seek to settle such lawsuit, which would result in a reconveyance by the Town of Cortland of such land which continues to remain under its ownership which had been previously transferred by the County. In the event that such claim, demand or suit should at any point result in any financial judgment against the County associated with its transfer of the land, the Town shall reimburse

the County for amounts paid pursuant to a judgment out of any net profits earned by the Town of Cortland as a result of its sale of any of the land conveyed or connection fees to the sewer and water utility system. The terms and conditions of this Ordinance shall, upon the transfer of the land by the County, be considered a binding intergovernmental agreement between the Town of Cortland and DeKalb County.

SECTION 3: The Town of Cortland is aware that the County has incurred administrative costs in employing an independent contractor to administer tax sales of real estate tax delinquent property and that historically it has not transferred such property without the purchaser agreeing to pay or have others pay an amount of a fixed sum per transferred lot or parcel. The Town of Cortland will at the time of transfer pay to the County such administrative amounts in the sum now generally charged by the County per parcel. The Town intends through such payments to fully reimburse the County for its external administrative costs as specified above and acknowledged herein as being appropriate.

SECTION 4: This Ordinance, being a matter of urgency, shall be in full force and effect immediately upon its passage.

PASSED THIS ____ day of ____, 2019.

AYES:

NAYS:

ABSENT

_____
Town President

ATTEST:

_____
Town Clerk

APPENDIX A
to
SUPPLEMENTAL ORDINANCE REQUESTING THE COUNTY TO TRANSFER FIVE ADDITIONAL TAX-DELINQUENT PARCELS IN SPECIAL SERVICE AREAS 4-8 TO THE TOWN OF CORTLAND AND ESTABLISHING AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY

09-17-200-021
09-17-200-015
09-17-400-002
09-17-400-010
09-29-276-011