

FINAL

**3/11/14
RESOLUTION
#2014 - 1**

To Fund Excess Property Value Guarantees for Eligible Owners in the Superior Silica Sand Eligibility Area from Revenues Generated from the Annual Annexation Penalty Payments Received from the Village of New Auburn.

WHEREAS, the Town of Dovre has adopted a Nonmetallic Mining Ordinance, which calls for the guaranteeing by Nonmetallic Mine Operators of real property values under circumstances described in the ordinance, and as further enumerated herein, for real property on which is situated a single-family or multiple family residence as of December 19, 2012, which residences are situated no farther than one-half (1/2) mile from the borders of any given nonmetallic mine site; and

WHEREAS, the Town of Dovre and Superior Silica Sand did not enter into an Operations Agreement as provided for in the Ordinance; and

Whereas, in 2013 Superior Silica Sand entered into an Annexation Agreement with the Village of New Auburn thereby removing the Superior Silica Processing Plant and all other property owned by Superior Silica Sand from the Town of Dovre; and

Whereas, as a result of the annexation under Wisconsin State Statutes, the Town of Dovre will receive annual payments from the Village of New Auburn in an amount equal to the property taxes which were paid to the Town in the year of the annexation (hereinafter referred to as the "Penalty Payment"); and

Whereas, the Penalty Payments will continue, under law, for a period of five (5) years following the year of annexation, and such annual Penalty Payments from the Village of New Auburn are anticipated to be approximately \$64,000 per year;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Dovre that the Town Board is willing to commit monies, not to exceed 80% of the amount received from its annual receipt of such Penalty Payments, to make up for a reduction in Market Value (as defined and used in this Resolution) to Eligible Owners of property in the affected area surrounding the Superior Silica Processing Plant Site as the borders of the Superior Silica Processing Plant existed on the effective date of Superior Silica's annexation to the Village of New Auburn; and

BE IT FURTHER RESOLVED that any such payment shall be provided only in instances where a diminution of "Market Value" has occurred as a result of the location of the Superior Silica Processing Plant; and

BE IT FURTHER RESOLVED that in no instance shall the Town of Dovre's payment to an Eligible Owner under the Property Value Guarantee Program exceed \$25,000 or 10% of the appraisal derived Market Value, whichever is less; and

BE IT FURTHER RESOLVED that for purposes of this Resolution and any payment made under this Resolution that following definitions shall apply:

1. Superior Silica Sand, LLC., Eligibility Area: An area that includes all legally described property parcels that are located within one-half ($\frac{1}{2}$) mile of the borders of the Superior Silica Sand, LLC., processing plant as of December 19, 2012, as shown on the attached map.
2. Superior Silica: Superior Silica means Superior Silica Sand, LLC.
3. Town: Town means the Town of Dovre.
4. Town of Dovre Board or Board: Means the then Board of Supervisors of the Town of Dovre, Barron County, Wisconsin.
5. Annual Penalty Payment: The Annual Penalty Payment means the monetary amount the Town receives each year from the Village of New Auburn due to the annexation of the Superior Silica property under Section 66.0217(14), Wis Stats. Such Annual Penalty Payment shall be received for a period of five (5) years following the effective date of the annexation.
6. Appraiser. An individual, properly trained, licensed and certified by the State of Wisconsin to establish Market Value of Eligible Properties pursuant to this Resolution.
7. Appraisal Report: The report prepared by an appraiser properly trained, licensed and certified by the State of Wisconsin at the direction of the Town Board.
8. Improvements: Improvements means the "residence" but does not include any additions, changes, alterations, remodeling or other activities that modify the interior or exterior of the residence after December 19, 2012.
9. Market Value: Market Value is the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
 - a. Buyer and seller are typically motivated;
 - b. Both parties are well informed or well advised, and acting in what they consider to be their own best interests;
 - c. A reasonable time is allowed for exposure in the open market;
 - d. Payment is made in terms of cash in US dollars or in terms of financial arrangements comparable thereto; and
 - e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.
 - f. The price represents the amount the property will sell for in an arms-length transaction on the open market between a willing seller not obliged to sell the property and a willing buyer not obliged to buy the property.

- g. For purposes of establishing the Market Value of any Eligible Property subject to this Resolution, such value shall be limited to no more than the value of improvements located on up to two (2) acres of the Eligible Property.
 - h. For purposes of establishing the Market Value of the two (2) acres land included in the Market Value of any Eligible Property subject to this Resolution, the Town shall use a value of \$5,500 per acre.
10. Single Family Residence:
- a. A building, or portion thereof, in the Eligible Area which existed as of the date of annexation and which is owner occupied and includes services such as water and sewer, provisions for heat and lighting and other amenities so as to make the building suitable for human habitation by one family unit designed and used exclusively for residential occupancy. A residence, as used in this paragraph, shall also be the Eligible Owner's permanent home as supported by the qualification of the Property Parcel for the Wisconsin Homestead Credit Program. A residence is also the location listed on the Eligible Owner's Wisconsin Driver's License and the address used by the Eligible Owner for purposes of voting in Federal, State and local elections;
11. Multi-Family Residence:
- a. A building, or portion thereof, in the Eligible Area which existed as of the date of annexation of the Superior Silica property and which may be owner occupied and which and included services such as water and sewer, provisions for heat and lighting and other amenities so as to make it suitable for human habitation and which is suitable for occupancy by more than one (1) family unit designed and used exclusively for residential occupancy. Such residence does not include hotels, motels, boarding or rooming houses. Such multi-family residence may, but is not required to be, the location listed on the Eligible Owner's Wisconsin Driver's License and the address used by the Eligible Owner for purposes of voting in Federal, State and local elections;
12. Family Unit: Family unit means an individual or two or more persons related by blood or marriage, adoption or legal guardianship, or evidence of a stable family relationship or a group of not more than four (4) persons unrelated by blood or marriage, living together for single housekeeping purposes in a residence.
13. Residential Unit: Residential unit means one or more rooms in a building designed for occupancy by a single family unit for living purposes and having its own permanently installed water, sewer, heat, lighting and other amenities so as to make it suitable for human habitation.
14. Eligible Property: Any legally described and recorded property parcel, or portion thereof, in the Town of Dovre, as of the date of the annexation of the Superior Silica property to the Village of New Auburn and on which was located a "residence" as of that date, and continues to exist in the Town of Dovre as of the effective date of this Resolution, and which legally described and recorded property parcel, or portion thereof, was located within ½ mile of the borders of the Superior Silica Sand LLC., processing plant.
15. Eligible Owner: The legal owner of record of any Eligible Property as of the date of the first sale of the Eligible Property after December 19, 2012.
16. Eligible Property Selling Price: The selling price of any Eligible Property as contained in the Sales Contract. The selling price of any Eligible Property shall not include any personal property, seller concessions or incentives such as contributions towards closing costs or other items so as to increase the selling price.

17. Town Property Value Guarantee Payment: The calculated payment which the Town of Dovre may provide to an Eligible Owner if the sale of an Eligible Property is completed pursuant to the provisions and procedures of this Resolution and if a diminution of Market Value has occurred due to the Eligible Property's location within one-half (1/2) mile of the borders of the Superior Silica LLC., processing plant borders as such borders existed as of the date of the annexation of the Superior Silica property to the Village of New Auburn.
18. Village or Village of New Auburn: Means the Village of New Auburn, Barron and Chippewa County, Wisconsin.

BE IT FURTHER RESOLVED that the definition and calculation of "Market Value" shall not include the value of additions, remodeling or the construction of new residences which occurred after the date of the annexation of the Superior Silica property to the Village of New Auburn.

BE IT FURTHER RESOLVED that the following procedures shall be followed by any Eligible Owner within the Superior Silica Sand Processing Plant eligibility area when applying for any Town Payment under this Resolution:

1. The Eligible Owner shall notify the Town Clerk/Treasurer in writing of the desire to sell the eligible property, The date of receipt of the notification by the Town Clerk/Treasurer shall be determined to be the date of initial application for Town Payment;
 - a. Prior to notifying the Town Clerk/Treasurer of the desire to sell the Eligible Property, the Eligible Owner shall retain the services of a licensed, practicing real estate surveyor who shall prepare and provide a certified statement identifying the distance between the closest Superior Silica Sand, LLC., boundary included in an NR 135 Plan approved by the appropriate body (bodies) or sand processing plant and the Eligible Property.
2. The Town Board may waive the survey requirement in its sole discretion.
3. The Town of Dovre shall, in its sole discretion and within thirty (30) days of receipt of notification of the desire to sell an eligible property and the required survey statement, appoint an appraiser, properly licensed in the State of Wisconsin, to establish the Market Value of the Eligible Property. The Town of Dovre shall be responsible for payment of the services provided by the appraiser;
4. The appraiser shall appraise the Eligible Property as if the Superior Silica Processing Plant was not in existence.
5. The appraisal report shall include consideration of comparable properties in the area. The appraisal report shall include the market value of all improvements including water and sewer, the market value of a maximum of two (2) acres upon which the improvements are located, and the market value of all other vacant land included in the Eligible Property.
6. The Town of Dovre shall provide a copy of the appraisal report to the Eligible Owner within five (5) days of receipt by the Town Clerk/Treasurer.
7. If the Town of Dovre and the Eligible Owner agree that the "Market Value" as reflected in the appraisal report is accurate, such Market Value shall serve as the base value upon which any Town Payment shall be made.
8. If the Eligible Owner does not agree with the "Market Value" in the appraisal report, the Eligible Owner may seek a separate appraisal at the sole expense of the Eligible Owner.
9. The Town of Dovre may, in its sole discretion, consider the "Market Value" established in the appraisal report obtained in the separate appraisal report obtained by the Eligible Owner.

10. The Eligible Owner shall enter into a real estate listing with a licensed real estate broker, who is an active member of the Multiple Listing Service, for a period of not less than six (6) months or more than twelve (12) months in an effort to sell the Eligible Property. Such real estate listing shall be published and provide for public inspection of the property.
11. Upon the sale and closing of the Eligible Property, the Eligible Owner or the listing real estate agent shall provide a copy of the Purchase Agreement and closing documents to the Town Clerk/Treasurer.
12. The Town Clerk/Treasurer shall present the Purchase Agreement and closing documents to the Town Board and the Board shall calculate the Town Property Value Guaranty Program Payment as follows:

Market Value of Property	\$	
Less Selling Price of Eligible Property:	-\$.
Property Value Guarantee Payment	\$	
13. In no instance shall the Town Property Value Guarantee Payment exceed \$25,000 or ten percent (10%) of the Market Value established pursuant to the provisions of this Resolution.
14. If the difference between the Market Value and the selling price of the Eligible Property is less than \$25,000 or ten percent (10%) of the Market Value established pursuant to the Provisions of this Resolution, then the Town Property Value Guarantee Payment shall be limited to the difference between the Market Value and the selling price.
15. In any instance wherein the selling price is greater than the Market Value as established through the appraisal process, the Eligible Property shall not qualify for a Property Value Guarantee Payment from the Town.

BE IT FURTHER RESOLVED that any payment of sales commissions, finder's fees or other compensation which an Eligible Owner may agree to pay regarding the sale of an Eligible Property shall not be deducted from the Selling Price of the Eligible Property when calculating the Town Property Value Guarantee Payment. In addition, the Town of Dovre shall not be responsible for the payment of such sales commissions, finder's fees or other compensation paid as a result of the sale of an Eligible Property;

BE IT FURTHER RESOLVED that any property annexed to the Village of New Auburn in the period after the effective date of the annexation of the Superior Silica property shall not be eligible for any Town of Dovre Value Guarantee Payment under this Resolution.

BE IT FURTHER RESOLVED that the following additional conditions apply to the sale of any Eligible Property for which a Town Property Value Guarantee Payment is sought:

1. Upon the request of the Town of Dovre Board, an Eligible Owner making application for any Property Value Guarantee Payment from the Town of Dovre shall provide a certified statement from a licensed, practicing real estate surveyor identifying the distance between the boundary of the Superior Silica property as of the date of annexation of the Superior Silica property to the Village of New Auburn and the Eligible Property.
2. No Eligible Property may receive more than one (1) Town Property Value Guarantee Payment.

BE IT FURTHER RESOLVED that the willingness of the Town of Dovre to make up any difference between the Selling Price of an Eligible Property and the Fair Market Value of

the Eligible Property is limited to 80% of the Annual Penalty Payment received by the Town of Dovre from the Village of New Auburn for the two years after the effective date of the adoption of this Resolution; and

BE IT FURTHER RESOLVED that the Town shall maintain all penalty payments received from Village of New Auburn in a separate financial fund titled Village of New Auburn Penalty Payment Property Value Guarantee Fund. The Town Clerk/Treasurer shall provide a monthly report to the Board which identifies all receipts to the fund and all disbursements from the fund.

BE IT FURTHER RESOLVED that no monies deposited in the Village of New Auburn Property Value Guarantee Fund may be used for any other purpose other than the purpose stated in this Resolution including any transfer to the Town's General Fund, until two (2) years after the date of the adoption of this Resolution.

BE IT FURTHER RESOLVED that certain sales of otherwise Eligible Property shall not be deemed to qualify for the Property Value Guarantee Program and for any Property Value Guarantee Payment from the Town of Dovre. The following sales of otherwise Eligible Property shall not qualify:

- 1) Sales transactions which involve the sale of Eligible Property by foreclosure, deed in lieu of foreclosure or sheriff's sale and which occurred after December 19, 2012;
- 2) Sales transactions which involve any federal, state, county or local government agency or department as either the buyer or seller which occurred after December 19, 2012;
- 3) The sale of any property currently, or hereinafter, owned by Superior Silica Sand, LLC., or any of its subsidiaries, shall not be eligible for any Town Property Value Payment under this Resolution.

BE IT FURTHER RESOLVED that any Town Property Value Guarantee Payment shall be limited to only those Eligible Owners who file a Notice of Intent to seek such Town Property Value Payment with the Town Clerk within ninety (90) days of the effective date of this Resolution. Any Eligible Owner who fails to file such Notice of Intent within the time provided shall not be eligible for any Town Property Value Guarantee Payment. Further, only the Eligible Owner of the Eligible Property on the date of Superior Silica's annexation to the Village of New Auburn shall be eligible for the Town Property Value Guarantee Payment; and

BE IT FURTHER RESOLVED that the Town Property Value Guarantee Program for all Eligible Property within the Superior Silica Sand, LLC., Eligibility Area shall expire two (2) years from the effective date of this Resolution; and

BE IT FURTHER RESOLVED that any Eligible Property on which the Town of Dovre provides a Property Value Guarantee Payment shall not apply for annexation to the Village of New Auburn for a period of five (5) years from the date of such payment. If the then owner of any Eligible Property shall apply for annexation to the Village of New Auburn before five (5) years of such payment have expired, the then owner of the Eligible Property shall forfeit to the Town of Dovre an amount equal to the Property Value Guarantee Payment plus interest accrued at a rate of five percent (5%) per annum. This provision of this Resolution shall be part of any real estate listing contract, offer to purchase, counter-offer to purchase, addendum to offer to purchase and closing

statement involving the sale of Eligible Property for which a Town Property Value Guarantee Payment is sought.

Dated this 11th day of March, 2014.

TOWN OF DOVRE

This Resolution shall take effect upon adoption by the Town of Dovre Board of Supervisors and the posting of the Resolution as required by Section 60.80 of the Wisconsin Statutes.

RESOLUTION 2014-1

Dean Trowbridge, Chairperson: Dean Trowbridge

James Plummer, Supervisor: James Plummer

Bruce Tegels, Supervisor: Bruce Tegels

Dan North, Supervisor: Dan North - Abstained

Tim Nelson, Supervisor: Tim Nelson - Abstained

Attest:

Linda Reinolt, Clerk/Treasurer: Linda K. Reinolt