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O2012-1405

Office of the City Clerk

City Council Document Tracking Sheet

Meeting Date:	3/14/2012
Sponsor(s):	Burns, William D. (4)
Type:	Ordinance
Title:	Intergovernmental easement agreement with Chicago Housing Authority for stormwater drainage pipes
Committee(s) Assignment:	Committee on Transportation and Public Way

ORDINANCE

*Applicant: Chicago Housing Authority
Lake Park Crescent Project – Northeast Corner of S. Lake Park Ave. & E. 42nd St.
Easement Agreement for Stormwater Drainage Pipes*

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The Commissioner of the Department of Water Management and the Commissioner of the Department of Transportation, or their respective designees, are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver an Easement Agreement between the Chicago Housing Authority and the City, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Easement Agreement, in the form attached hereto as **Exhibit A**, with such changes, deletions and insertions as shall be approved by the persons executing the Easement Agreement. Such Easement Agreement shall relate to the installation of eight-inch perforated PVC pipes under and across certain public alleys abutting the Lake Park Crescent subdivision serving an interconnected stormwater drainage and management system located within said subdivision, which is located at the northeast corner of South Lake Park Avenue and East 42nd Street

SECTION 2. This ordinance shall take effect upon its passage and approval.



*Honorable William Burns
Alderman, 4th Ward*

EXHIBIT A
FORM OF EASEMENT AGREEMENT

This space reserved for Recorder's use only.

GRANT OF EASEMENT AGREEMENT

This instrument prepared by:	PINs:	20-02-115-045
	20-02-115-015	20-02-115-046
Karen Bielarz	20-02-115-016	20-02-115-047
Senior Counsel	20-02-115-017	
City of Chicago	20-02-115-018	20-02-118-025
Department of Law	20-02-115-019	20-02-118-026
Real Estate and Land Use	20-02-115-020	20-02-118-027
Division	20-02-115-021	20-02-118-028
121 North La Salle Street	20-02-115-022	20-02-118-029
Room 600	20-02-115-023	20-02-118-030
Chicago, Illinois 60602	20-02-115-024	20-02-118-031
	20-02-115-025	20-02-118-032
After recording please return to:	20-02-115-026	20-02-118-033
	20-02-115-027	20-02-118-035
Jesse Dodson, Esq.	20-02-115-028	20-02-118-036
DLA Piper LLP (US)	20-02-115-029	20-02-118-037
203 North LaSalle Street	20-02-115-030	20-02-118-038
Suite 1900	20-02-115-031	20-02-118-039
Chicago, Illinois 60601	20-02-115-032	20-02-118-040
	20-02-115-033	20-02-118-041
Address:	20-02-115-034	20-02-118-042
	20-02-115-035	20-02-118-043
South Lake Park Avenue & East	20-02-115-036	20-02-118-044
42nd Street, Chicago, Illinois	20-02-115-037	20-02-118-045
	20-02-115-038	
	20-02-115-039	20-02-127-010
	20-02-115-040	20-02-127-011
	20-02-115-041	20-02-127-012
	20-02-115-042	20-02-127-013
	20-02-115-043	20-02-127-028
	20-02-115-044	

GRANT OF EASEMENT AGREEMENT

This Grant of Easement Agreement (this "**Agreement**") is made and entered into as of this ____ day of _____, 2012, by and between the **CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of government, by and through its Department of Water Management and Department of Transportation ("**Grantor**"), and **CHICAGO HOUSING AUTHORITY**, an Illinois municipal corporation ("**Grantee**"). Grantor and Grantee are collectively referred to herein as the "**Parties**."

WHEREAS, Grantee is the owner of 5.037 acres of land generally located on the north and south sides of East 42nd Street east of South Lake Park Avenue, located in Chicago, Illinois and legally described as follows:

LOTS 10, 11, 12, 13 AND OUTLOT C IN BLOCK 2, ALL OF BLOCK 3, EXCEPTING LOT 1, AND ALL OF BLOCK 4, IN LAKE PARK CRESCENT, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 2003, AS DOCUMENT NUMBER 0030468270, IN COOK COUNTY, ILLINOIS,

(the "**Property**"); and

WHEREAS, Grantee has requested permanent easements for five (5) eight-inch (8") stormwater drainage pipes that cross under and fall within certain public alleys that are located contiguous to the Property, as legally described and depicted on **Group Exhibit 1**, made a part hereof, and are identified therein as "Sewer Easement A", "Sewer Easement B", "Sewer Easement C", "Sewer Easement D" and "Sewer Easement E" (individually, the "**Easement**" and collectively, the "**Easements**") for the purpose of installing stormwater management and detention facilities that will serve the Property as an interconnected stormwater management system (the "**Facilities**"). The Easements shall run to the benefit of, and be appurtenant to, the Property. The Easements shall allow for the Grantee's installation, maintenance, operation, repair, renewal, and replacement of said Facilities with all necessary attachments and appurtenances under public alleys contiguous to the Property at Grantee's sole costs and expense; and

WHEREAS, by ordinance adopted by the City Council of the City of Chicago (the "**City Council**") on _____, 2012 and published in the Journal of Proceedings of the City Council (the "**Journal**") for such date at pages _____ through _____ (the "**Easement Ordinance**"), the City Council approved a grant of easement agreement, namely this Agreement, to allow for the placement of the Facilities in the Easements; and

WHEREAS, Grantor is willing to grant to Grantee such Easements on the terms and conditions set forth in this Agreement and Grantee is willing to accept such Easements.

NOW, THEREFORE, for and in consideration of the foregoing recitals, the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by this reference and shall be deemed terms and provisions hereof, the same as if fully set forth in this Section 1.

2. Easements Grant. Grantor hereby grants to Grantee the permanent Easements for the purpose of installing, maintaining, operating, repairing, renewing and replacing the Facilities. Grantee hereby accepts such grant of the Easements from Grantor subject to the terms herein.

3. Cost Obligations. Grantee shall be solely responsible for the cost and expense of installing, maintaining, operating, repairing, renewing and/or replacing the Facilities.

4. Right of Access. In furtherance of this Agreement, Grantor grants to Grantee, its agents, employees, contractors, subcontractors, licensees and invitees (collectively the "**Grantee Parties**") the right, permission and authority to enter from time to time upon such portions of the public alleys contiguous to the Property as may be reasonably necessary for the purpose of installing, maintaining, repairing, replacing and operating the Facilities and exercising the rights and performing the obligations of Grantee in accordance with the terms of this Agreement and in compliance with all applicable laws; provided, however, except for emergencies involving threats to public health, safety or welfare, Grantee shall notify Grantor in writing at least three (3) business days prior to any such entry and of the length of necessary for any entry upon the public alleys subject to the respective Easement. Grantor also grants to the Grantee Parties the right, permission and authority to enter in a reasonable manner upon such portions of the public alleys contiguous to the Property approved by the Grantor, which approval shall not be unreasonably withheld, as shall be reasonable and necessary for the purpose of access to the Easements to exercise the rights and perform the obligations of this Agreement.

5. Grantee's Obligations.

a. The Grantee, at its own cost and expense, shall design, construct and diligently pursue completion of the Facilities substantially in accordance with plans approved by Grantor and in accordance with subsection "b" below. The Grantee expressly warrants that the Facilities shall be designed and constructed in compliance with all federal, state and local laws and regulations.

b. The Grantee shall be responsible for obtaining permits and approvals of and paying for any and all removals, relocations, alterations, additional maintenance and restorations of or to any utility or public service structures or facilities, or any structures or facilities located in or adjacent to any of the Easements which are owned by the Grantor, including public streets and alleys, pavements, bridges, poles and other facilities and utilities, which are or may be necessary or appropriate to facilitate construction of or work related to the Facilities. The Grantee shall be responsible for obtaining the consent of and making suitable arrangements with all entities owning and having an interest in such structures and facilities, including any department of the Grantor.

c. The Grantee shall secure all necessary building, public way, and other permits.

d. Prior to commencement of the construction of the Facilities, Grantee shall prepare and deliver to the Commissioner of the Department of Transportation for his review and approval proposed plans and specifications of the Facilities which shall be in compliance with this Agreement.

6. Uses Within the Easements. Subject to the approval of the Grantor, Grantee may from time to time install, maintain, operate, repair, renew, and replace all or any portion of the Facilities provided, however, that the work does not affect any portion of the public right-of-way other than the Easement.

7. Indemnity. Except with respect to the wrongful intentional acts of Grantor (to the extent the same are the cause of an injury or loss to a third person), Grantee hereby indemnifies and agrees to hold harmless and defend Grantor from and against any and all claims, demands, damages, lawsuits, legal proceedings, losses, liens, liabilities, judgments, orders or decrees, and all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees, court costs, and other reasonable expenses related to litigation), arising from or as a result of the death of, or any accident, injury, loss or damage whatsoever caused to any natural person, or the property of any person, arising out of, or occurring in any manner relating to the use of any of the respective Easements and Facilities by Grantee and/or any Grantee Parties. In the event any legal action is taken against Grantor or its agents relating to any of the Easements or any claim is made relating to the use of any of the Easements and/or Facilities by Grantee and/or any Grantee Parties, the Grantor may, but is not obligated to, elect to tender said defense to Grantee which shall and must defend such action or claim at Grantee's own expense and Grantor shall cooperate with Grantee in the defense thereof. Grantor shall have the right, but not the obligation, to join Grantee as a party defendant in any such legal action. This indemnity shall not be the exclusive remedy of the Grantor, and Grantor shall maintain whatever other legal and equitable rights, including the right of indemnity, it may have under federal, state, local laws, regulations, common law, by statute, or by ordinance.

8. Maintenance.

a. The Grantee shall maintain the Easements and Facilities at its sole cost and expense.

b. Grantee shall maintain the Easements and Facilities so that the Easements and Facilities do not unduly interfere with any use and occupancy of the public way by the Grantor, the public, or any person or entity authorized to use or occupy the public way.

c. Grantee shall cooperate with the Grantor concerning the coordination of uses of the public way, including reasonable responses to inquiries and attending meetings and site visits necessary to ensure the use of any of the Easements by Grantee does not interfere with the use of the public way.

d. The Grantee shall pay for all utility expenses incurred with respect to the operation of the Easements and Facilities.

e. Grantor Has No Operational Duties. The Grantee acknowledges that Grantor is not responsible for the operation, maintenance, repair of or security in any of the Easements and Facilities, and Grantor has no obligations with respect thereto (other than the provision of Grantor services available to all similarly situated improvements).

9. Insurance.

a. The Grantee shall procure and maintain, and cause any and all of its Contractor (defined herein) to procure and maintain, at all times, including but not limited to, prior to commencement of construction of the Easements and Facilities, all of the types and coverages of insurance specified below, with insurance companies authorized to do business in the State of Illinois, covering all operations of this Agreement, whether performed by the Grantee or its contractor or subcontractors ("**Contractor**"). Grantee shall procure and maintain, or shall cause any/all Contractors to procure and maintain, all of the types and coverages of insurance specified below, with insurance companies authorized to do business in the State of Illinois, covering all operations under this Agreement, whether performed by the Grantee or its Contractor.

b. The kinds and amounts of insurance required are as follows:

i. Workers' Compensation and Employers Liability. Workers' Compensation Insurance, as prescribed by applicable law, covering all employees who are to provide work under this Agreement and Employers' liability coverage with limits of not less than One Million Dollars (\$1,000,000) each accident, illness or disease.

ii. Commercial General Liability (Primary and Umbrella).

Commercial General Liability Insurance, or equivalent, with limits of not less than Five Million Dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property damage liability. All premises and operations, products/completed operations, independent contractors, explosion, collapse, underground, separation of insureds, defense and contractual liability coverages are to be included. The Grantor is to be named as an additional insured on a primary non-contributory basis for any liability related directly or indirectly to this Agreement.

Contractors performing work for Grantee must maintain limits of not less than \$2,000,000 with the same terms herein.

iii. Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with Work to be performed, the Grantee must provide or cause to be provided, Automobile Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage. The Grantor is to be named as an additional insured on a primary, non-contributory basis.

Contractor performing work for Grantee must maintain limits of not less than \$1,000,000 with the same terms herein.

c. Additional Requirements

At least thirty (30) days prior to the commencement of any construction in or use of any of the Easements, the Grantee must provide and cause its contractor to provide the Grantor at Department of Transportation, 30 North LaSalle Street, 5th

Floor, Chicago, Illinois 60602-2570, original Certificates of Insurance, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the Grantor that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the Grantor to obtain certificates or other insurance evidence from Grantee and Contractor is not a waiver by the Grantor of any requirements for the Grantee to obtain and maintain the specified coverages. The Grantee and Contractor must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Grantee and Contractor of the obligation to provide insurance as specified herein. Non-fulfillment of the insurance conditions may constitute a violation of the Agreement, and the Grantor retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

The insurance must provide for 30 days prior written notice to be given to the Grantor in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Grantee and Contractor.

The Grantee hereby waives and agrees to require their insurers to waive and will cause its Contractor to agree that insurers waive their rights of subrogation against the Grantor (City of Chicago), its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Grantee and Contractor in no way limit the Grantee's and Contractor's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Grantee and Contractor under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Grantee or Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Grantee must require the Contractor to provide the insurance required herein. All Contractors are subject to the same insurance requirements of Grantee unless otherwise specified in this Agreement.

Notwithstanding any provisions in the Agreement to the contrary, the City of Chicago, Risk Management Department maintains the right to reasonably modify, delete, alter or change these requirements.

10. Default. Either party to this Agreement may, upon breach of any of the terms and provisions of this Agreement by the other party, send such other party written notice of such breach. In the event any breach is not cured within sixty (60) days after receipt of such notice of breach, then the party causing such breach shall be deemed in default in its obligations under this Agreement, and the non-defaulting party shall have such rights and remedies as shall be available to it at law or in equity; provided that in the event a default cannot reasonably be cured within sixty (60) days after written notice and the defaulting party is proceeding diligently to cure the default, the defaulting party shall have such additional time as may be reasonably necessary to cure said default.

11. Damage to the Easements or the public alleys contiguous to the Property. Grantee shall be responsible, at its sole cost and expense, for any damage to the Easements, the public alleys contiguous to the Property, or any improvements thereon caused by the entry onto or use of the Easements or the public alleys contiguous to the Property by the Grantee Parties or the exercise of any of Grantee's rights hereunder. In the event of any such damage Grantee shall immediately notify Grantor thereof, and thereafter Grantee shall file a claim for reimbursement under its insurance policies required under the insurance provisions set forth herein. Grantee shall use due care in exercising its rights under the Agreement.

12. Covenants Run with Land. All provisions of this Agreement, including the benefits and burdens, shall run with the land and are binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Property, the Easements, and/or the public alleys contiguous to the Property.

13. No Lien. Grantee shall not permit any lien to stand against any of the Easements, the public alleys contiguous to the Property or any improvements thereon for any labor or material in connection with work of any character performed on any of the Easements or the public alleys contiguous to the Property at the discretion or sufferance of Grantee.

14. Notices All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered on the first day following delivery to an overnight courier service or on the third day after deposit in the U.S. mail as registered or certified mail, return receipt requested, postage prepaid, as follows:

If to Grantor: City of Chicago
Department of Water Management
333 South State Street
Chicago, Illinois, 60604
Attn: Commissioner

And: City of Chicago
Department of Transportation
30 North LaSalle Street, 11th Floor
Chicago, Illinois, 60602
Attn: Commissioner

With a copy to: City of Chicago,
Department of Law
Real Estate and Land Use Division
121 N. LaSalle, Room 600
Chicago, IL 60602
Attn: Karen Bielarz,
Senior Counsel

If to Grantee: Chicago Housing Authority
60 East Van Buren Street, 12th Floor
Chicago, IL 60605
Attn: Chief Executive Officer

With a copy to: Chicago Housing Authority
Office of the General Counsel
60 East Van Buren Street, 12th Floor
Chicago, IL 60605
Attn: General Counsel

Addressees may be changed by the parties by notice given in accordance with the provisions hereof.

15. Transfer by Grantor or Grantee. Upon any transfer or conveyance of any of the Easements by Grantor or the Property by Grantee, the transferor shall be released from any liability for any of the transferee's acts or omissions occurring after the date of such transfer or conveyance under this Agreement relative to the real estate so transferred or conveyed, and the transferee shall be bound by and deemed to have assumed the rights and obligations of the transferor arising after the date of such transfer or conveyance.

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IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed and delivered as of the day and year first above written.

GRANTOR

CITY OF CHICAGO, an Illinois municipal corporation

By: _____

Name: Thomas H. Powers, P.E.

Title: Commissioner
Department of Water Management

CITY OF CHICAGO, an Illinois municipal corporation

By: _____

Name: Gabe Klein

Title: Commissioner
Department of Transportation

GRANTEE

CHICAGO HOUSING AUTHORITY, an Illinois municipal corporation

By: _____

Name:

Title:

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the said County and State aforesaid, do hereby certify that _____, in his/her position as _____ of Chicago Housing Authority, an Illinois municipal corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered said instrument as his/her own free and voluntary act and as the free and voluntary act of said corporation, as of said _____, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2012.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Thomas H. Powers, P.E., the Commissioner of the City of Chicago, Department of Water Management personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Commissioner, respectively, appeared before me this day in person, and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said City of Chicago, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2012.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Gabe Klein, the Commissioner of the City of Chicago, Department of Transportation personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Commissioner, respectively, appeared before me this day in person, and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said City of Chicago, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2012.

Notary Public