



# City of Chicago



O2019-292

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:** 1/23/2019

**Sponsor(s):** Emanuel (Mayor)

**Type:** Ordinance

**Title:** First Amendment to 2014 Intergovernmental Agreement with Chicago Park District for provision of additional Open Space Impact Fee funds for acquisition costs incurred regarding 4658 N Virginia Ave at Jacob Park

**Committee(s) Assignment:** Committee on Special Events, Cultural Affairs and Recreation

## ORDINANCE

**WHEREAS**, the City of Chicago (the "City"), is a home rule unit of government under Article VII, Section 6(a) of the Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the Chicago Park District (the "Park District"), is an Illinois municipal corporation and a unit of local government under Article VII, Section 1 of the 1970 Constitution, of the State of Illinois, and as such is authorized to exercise control over and supervise the operation of all parks within the corporate limits of the City; and

**WHEREAS**, the City is authorized under its home rule powers to regulate the use and development of land; and

**WHEREAS**, it is a reasonable condition of development approval to ensure that adequate open space and recreational facilities exist within the City; and

**WHEREAS**, on April 1, 1998, the City Council of the City (the "City Council") adopted the Open Space Impact Fee Ordinance codified at Chapter 18 of Title 16 (the "Open Space Ordinance") of the Municipal Code of Chicago (the "Code") to address the need for additional public space and recreational facilities for the benefit of the residents of newly created residential developments in the City; and

**WHEREAS**, the Open Space Ordinance authorizes, among other things, the collection of fees from residential developments that create new dwelling units without contributing a proportionate share of open space and recreational facilities for the benefit of their residents as part of the overall development (the "Fee-Paying Developments"); and

**WHEREAS**, pursuant to the Open Space Ordinance, the Department of Finance ("DOF") has collected fees derived from the Fee-Paying Developments (the "Open Space Fees") and has deposited those fees in separate funds, each fund corresponding to the Community Area (as defined in the Open Space Ordinance), in which each of the Fee-Paying Developments is located and from which the Open Space Fees were collected; and

**WHEREAS**, the Department of Planning and Development ("DPD") has determined that the Fee-Paying Developments built in the Lincoln Square Community Area have deepened the already significant deficit of open space in the Lincoln Square Community Area, which deficit was documented in the comprehensive plan entitled "The CitySpace Plan," adopted by the Chicago Plan Commission on September 11, 1997 and adopted by the City Council on May 20, 1998 pursuant to an ordinance published at pages 69309-69311 of the Journal of the Proceedings of the City Council (the "Journal") of the same date; and

**WHEREAS**, the Park District is the owner of a parcel of land at Jacob Park located at 4658 North Virginia Avenue, Chicago, Illinois 60625 and with the Property Index Number ("PIN") of 13-13-208-025 (the "Property"); and

**WHEREAS**, pursuant to an ordinance adopted by the City Council on January 15, 2014, and published in the Journal for said date at pages 73002 to 73021, the City Council authorized

a grant to the Park District of Open Space Fees in an amount not to exceed \$206,400 (the "Original Grant") to create open spaces and recreational facilities at the Property for the benefit and use of the general public and the Lincoln Square Community Area (the "Project"); and

**WHEREAS**, the City and the Park District entered into that certain Intergovernmental Agreement dated March 18, 2014 (the "Agreement"), wherein DPD agreed to provide the Original Grant to the Park District; and

**WHEREAS**, DPD now desires to provide to the Park District additional Open Space Fees in an amount not to exceed \$32,402 (the "Acquisition Grant") to reimburse the Park District, in part, for costs associated with acquiring the Property; and

**WHEREAS**, the Open Space Ordinance requires that the Open Space Fees be used for open space acquisition and capital improvements, which provide a direct and material benefit to the new development from which the fees are collected; and

**WHEREAS**, the Open Space Ordinance requires that the Open Space Fees be expended within the same or a contiguous Community Area from which they were collected after a legislative finding by the City Council that the expenditure of the Open Space Fees will directly and materially benefit the developments from which the Open Space Fees were collected; and

**WHEREAS**, DPD has determined that the use of the Open Space Fees to fund the Project will provide a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected; and

**WHEREAS**, DPD has determined that Open Space Fees to be used for the purposes set forth herein have come from the specific fund set up by DOF for the Lincoln Square Community Area; and

**WHEREAS**, the City and the Park District desire to amend the Agreement to allow the City to make the Acquisition Grant to the Park District; and

**WHEREAS**, DPD has recommended that the City Council make a finding that the expenditure of the Open Space Fees as described herein will directly and materially benefit the Fee-Paying Developments from which the Open Space Fees were collected; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** The above recitals are expressly incorporated in and made part of this ordinance as though fully set forth herein.

**SECTION 2.** The City Council hereby finds that the expenditure of the Open Space Fees will directly and materially benefit the residents of those Fee-Paying Developments from which the Open Space Fees were collected and approves the use of the Open Space Fees for the purposes described herein.

**SECTION 3.** The Commissioner of DPD (the "Commissioner") or a designee of the

Commissioner are each hereby authorized, subject to the approval of the Corporation Counsel, to enter into an amendment to the Agreement, in substantially the form attached hereto as Exhibit A, and to provide Open Space Fees proceeds to the Park District in an amount not to exceed \$32,402 from the corresponding fund to pay for expenses permitted under the Open Space Ordinance.

**SECTION 4.** Open Space Fees in the amount of \$32,402 from the Lincoln Square Community Area's Open Space Fees Fund are hereby appropriated for the purposes described herein.

**SECTION 5.** To the extent that any ordinance, resolution, rule, order or provision of the Code, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any other provisions of this ordinance.

**SECTION 6.** This ordinance shall be in full force and effect from and after the date of its passage.

**EXHIBIT A**  
**FIRST AMENDMENT TO**  
**INTERGOVERNMENTAL AGREEMENT**

(See attached)

**FIRST AMENDMENT TO  
INTERGOVERNMENTAL AGREEMENT  
(Jacob Park)**

This Amendment to Intergovernmental Agreement (this "First Amendment") is entered into as of \_\_\_\_\_, 2019, between the City of Chicago (the "City"), an Illinois municipal corporation, acting through its Department of Planning and Development ("DPD"), and the Chicago Park District ("Park District"), a body politic and Corporate of the State of Illinois ("Park District"). Park District and the City are sometimes referred to herein as the "Parties."

**RECITALS**

**WHEREAS**, the Open Space Impact Fee Ordinance, Chapter 18 of Title 16 of the Municipal Code of Chicago (the "Code"), authorizes the collection of fees (the "Open Space Fees") as a condition of issuance of a building permit for proposed new dwelling units to ensure that adequate open space and recreational facilities are available to serve residents of new developments in the City; and

**WHEREAS**, the Department of Finance has collected Open Space Fees (the "Lincoln Square Open Space Fees Proceeds") for new dwelling units built in the Community of Lincoln Square ("the Lincoln Square Community") and has deposited such Open Space Fees Proceeds in a separate fund identified by CAPS Code PS04 131 54 5004 2604; and

**WHEREAS**, the Park District acquired a parcel of land for \$101,734 (the "Acquisition") to expand Jacob Park and create new park space for the benefit and use of the general public and the Lincoln Square Community (the "Project"); and

**WHEREAS**, the Chicago Park District (the "Park District"), is an Illinois municipal corporation and a unit of local government under Article VII, Section 1 of the 1970 Constitution, of the State of Illinois, and as such is authorized to exercise control over and supervise the operation of all parks within the corporate limits of the City; and

**WHEREAS**, pursuant to an ordinance adopted by the City Council of the City on January 15, 2014, and published in the Journal of the Proceedings of the City Council (the "City Council") for said date at pages 73002 to 73021, the Parties entered into that certain Intergovernmental Agreement dated March 18, 2014 (the "Agreement"), wherein DPD agreed to provide to the Park District Open Space Fees Proceeds in an amount not to exceed \$206,400 (the "Original Grant") for reimbursement costs associated with the Project; and

**WHEREAS**, pursuant to the Agreement, DPD provided the Original Grant to the Park District, and the Park District completed the Project; and

**WHEREAS**, DPD now desires to reimburse the Park District for a portion of the costs of the Acquisition in an amount not to exceed \$32,402 from Lincoln Square Open Space Fees Proceeds (the "Acquisition Grant"); and

**WHEREAS**, on \_\_\_\_\_, 2019, the City Council of the City adopted an ordinance published in the Journal of the Proceedings of the City Council for said date at pages \_\_\_\_\_ to

Schedule pursuant to Section 2(c) of this Agreement and such modification extends beyond the term, the term will be adjusted accordingly. Furthermore, the expiration of the term of this Agreement shall not restrict the City's ability to disburse Grant funds to the Park District that may be required under this Agreement. Any Grant funds that have been approved by the City pursuant to a Certificate of Expenditure submitted by the Park District to DPD, and approved by DPD, may be disbursed to the Park District up to, and including, July 31, 2019."

Except as set forth herein, the Agreement is not amended.

*[The remainder of this page is intentionally blank.  
Signatures appear on the following page.]*

**IN WITNESS WHEREOF**, each of the Parties has caused this Amendment to be executed and delivered as of the date first set forth above.

**CITY OF CHICAGO**, an Illinois municipal corporation, acting by and through its Department of Planning and Development

By: \_\_\_\_\_  
David L. Reifman  
Commissioner

**CHICAGO PARK DISTRICT**, a body politic and Corporate of the State of Illinois

By: \_\_\_\_\_  
Michael P. Kelly  
General Superintendent and CEO

Attest: \_\_\_\_\_  
Kantrice Ogletree  
Secretary



EXHIBIT 1 TO THE AMENDMENT

**AMENDED EXHIBIT B TO THE AGREEMENT**

**Budget**

**Jacob Park: \$238,802**

<b>Cost</b>	<b>Item</b>
\$ 5,000.00	Site Preparation
\$ 24,800.00	Removal and Excavation
\$ 86,000.00	Landscaping
\$ 36,000.00	Fencing
\$ 15,000.00	Drainage
\$ 39,600.00	Design and Contingency
\$ 32,402.00*	Acquisition

\* Notwithstanding that the total cost for the acquisition of the Property is \$101,734.00, the total funds to be provided by the City to the Park District for acquisition shall not exceed \$32,402.00.

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OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

January 23, 2019

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the expenditure of Open Space Impact Fee Funds.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

Mayor

APPROVED



CORPORATION COUNSEL

DATED: 3/21/19

APPROVED



MAYOR

DATED: 3/21/19