



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
www.chicityclerk.com

## Legislation Details (With Text)

**File #:** O2014-8965  
**Type:** Ordinance      **Status:** Passed  
**File created:** 11/5/2014      **In control:** City Council  
**Final action:** 11/19/2014

**Title:** Intergovernmental agreement with Chicago Park District for construction, development and operation of new Morgan Park-Beverly Sports Center

**Sponsors:** Emanuel, Rahm

**Indexes:** Intergovernmental

**Attachments:** 1. O2014-8965.pdf

Date	Ver.	Action By	Action	Result
12/4/2014	1	City Council	Signed by Mayor	
11/19/2014	1	City Council	Passed	Pass
11/18/2014	1	Committee on Finance	Recommended to Pass	Pass
11/5/2014	1	City Council	Referred	

CHICAGO November 19, 2014

**To the President and Members of the City Council:**

**Your Committee on Finance having had under consideration**

A communication recommending a proposed ordinance concerning the authority to enter into and execute an Intergovernmental Agreement with the Chicago Park District for the redevelopment of the Morgan Park - Beverly Sports Center.

02014-8965

Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass

the proposed Ordinance Transmitted Herewith

**This recommendation was concurred in by  
of members of the committee with**

(signed'

**Respectfully submitted**

**Chairman**

**Document No.**

**REPORT OF THE COMMITTEE ON FINANCE TO THE CITY COUNCIL CITY OF CHICAGO**

**OFFICE OF THE MAYOR**

CITY OF CHICAGO

RAHM EMANUEL MAYOR

November 5, 2014

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 an

ordinance authorizing the execution of an intergovernmental agreement with the Chicago Park District regarding the Morgan Park-Beverly Sports Center.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

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### ORDINANCE

WHEREAS, the City of Chicago (the "City") is a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 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 the owner of two parcels of certain real property legally described on Exhibit A attached hereto and generally depicted on Exhibit B attached hereto, comprising of approximately 2.3 acres (the "City Property" or "Project Site"); and

WHEREAS, the Project Site is depicted on the survey attached hereto as Exhibit C; and

WHEREAS, the Project Site is located at the northeast and southeast corners of the intersection of South Western Ave and 115<sup>th</sup> Street, at 11505 S. Western Avenue and 2330 W. 115<sup>th</sup> Street; and

WHEREAS, the Park District wishes to build, develop, and operate a new sports facility on the Project Site, which will include an indoor ice rink and a gymnastics center (the "Project"); and

WHEREAS, the City wishes to assist the Park District with the Project by: (1) conveying the City Property to the Park District; and (2) providing certain City Funds (as hereinafter defined); and

WHEREAS, the City is authorized to convey title to or other interests in City-owned real estate to other municipalities in accordance with the provisions of the Local Government Property Transfer Act, 50 ILCS 605/0.01 et seq.; and

WHEREAS, the Project Site lies wholly within the boundaries of the Western Avenue/Rock Island Redevelopment Area (as hereinafter defined); and

WHEREAS, the use of the Project Site for the Project is consistent with the purposes and objectives of the Western Avenue/Rock Island Redevelopment Plan (as defined below); and

WHEREAS, the City has established the Community Development Commission ("CDC") to, among other things, designate redevelopment areas, approve redevelopment plans, and recommend the sale of parcels located in redevelopment areas, subject to the approval of the City Council; and

WHEREAS, by Resolution No. 14-CDC-35, adopted on September 9, 2014, the CDC authorized the Department of Planning and Development ("DPD") to advertise its intent to negotiate a sale with the Park District for disposition of the City Property and to request alternative

proposals for redevelopment, and recommended the sale of the City Property to the Park District if no responsive alternative proposals were received at the conclusion of the advertising period, or if alternative proposals were received, if DPD determined in its sole discretion that it was in the best interest of the City to proceed with the Park District proposal; and

WHEREAS, public notices advertising DPD's intent to enter into a negotiated sale of the City Property with the Park District and requesting alternative proposals appeared in the Chicago Sun-Times on September 13, September 21, and September 28, 2014; and

WHEREAS, no alternative proposals were received by the deadline indicated in the aforesaid notices; and

WHEREAS, by ordinance adopted on September 12, 2014, the Board of Commissioners of the Park District authorized the acceptance of title to the City Property from the City; and

WHEREAS, by Resolution No. 14-093-21 adopted on October 16, 2014, the Chicago Plan Commission recommended the transfer of the City Property to the Park District; and

WHEREAS, the City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blight conditions and conservation factors that could lead to blight through the use of tax increment allocation financing for redevelopment projects; and

WHEREAS, to induce certain redevelopment pursuant to the Act, the City Council adopted the following ordinances on February 8, 2006, and published in the Journal of Proceedings of the City Council of the City of Chicago (the "Journal") for such date at pages 69481 to 69641: (1) An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan (the "Western Avenue/Rock Island Redevelopment Plan") for the Western Avenue/Rock Island Redevelopment Project Area (the "Western Avenue Rock Island Redevelopment Area"); (2) An Ordinance of the City of Chicago, Illinois Designating the Western Avenue/Rock Island Redevelopment Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act; and (3) An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Western Avenue/Rock Island Redevelopment Area (the "Western Avenue/Rock Island TIF Ordinances"); and

WHEREAS, under 65 ILCS 5/11-74.4-3(q)(7), such incremental ad valorem taxes, which pursuant to the Act have been collected and are allocated to pay redevelopment project costs and obligations incurred in the payment thereof ("Increment"), may be used to pay all or a portion of a taxing district's capital costs

resulting from a redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs (Increment collected from the Western Avenue/Rock Island Redevelopment Area shall be known as the "Western Avenue/Rock Island Increment"); and

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WHEREAS, the Park District is a taxing district under the Act; and

WHEREAS, the Western Avenue/Rock Island Redevelopment Plan contemplates that tax increment financing assistance would be provided for public improvements, such as the Project, within the boundaries of the Western Avenue/Rock Island Redevelopment Area; and

WHEREAS, subject to the availability of Western Avenue/Rock Island Increment, the City desires to use a portion of the Western Avenue/Rock Island Increment (the "City Funds") for the Project; and

WHEREAS, the City agrees to use the City Funds to reimburse the Park District for a portion of the costs of the TIF-Funded Improvements (as defined in the Recitals of Exhibit A hereto) for the Project, pursuant to the terms and conditions of this Agreement; and

WHEREAS, in accordance with the Act, the TIF-Funded Improvements shall include such of the Park District's capital costs necessarily incurred or to be incurred in furtherance of the objectives of the Western Avenue/Rock Island Redevelopment Plan, and the City has found that the TIF-Funded Improvements consist of the cost of the Park District's capital improvements that are necessary and directly result from the redevelopment project constituting the Project and, therefore, constitute "taxing districts' capital costs" as defined in Section 5/11-74.4-03(u) of the Act; and

WHEREAS, pursuant to Section 5/11-74.4-4(q) of the Act, the City can use Increment from one redevelopment project area for eligible redevelopment project costs in another redevelopment project area that is either contiguous to, or is separated only by a public right of way from, the redevelopment project area from which the Increment is received so long as the applicable redevelopment plans permit such use (the "Transfer Rights"); and

WHEREAS, it is anticipated that the City may, in its discretion, exercise its Transfer Rights pursuant to the Act and use the transferred Increment as part of the City Funds; and

WHEREAS, the City, by and through DPD, wishes to make available to the Park District City Funds in an amount not to exceed \$10,000,000 for the purpose of funding the TIF-Funded Improvements to the extent and in the manner provided in the Agreement (as hereinafter defined); and

WHEREAS, the City and the Park District wish to enter into an intergovernmental agreement in substantially the form attached hereto as Exhibit D (the "Agreement"), whereby the City shall pay for or reimburse the Park District for a portion of the TIF-Funded Improvements; and

WHEREAS, DPD has recommended that the City Council (i) approve the use of the City Funds for the purposes set forth in this ordinance; (ii) approve the conveyance of the City

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Exhibit A - Legal Description of City Property Exhibit B - Depiction of Property Ownership Exhibit C - Survey of Project Site Exhibit D - Intergovernmental Agreement

**EXHIBIT A**

**LEGAL DESCRIPTION OF CITY PROPERTY**

(SUBJECT TO FINAL SURVEY AND TITLE COMMITMENT)

LOT 8, LOT 9 AND THE WEST HALF OF LOT 10 IN ROBERTS' SUBDIVISION OF ORIGINAL LOTS 1, 2 AND 3, AND THE SOUTH 93 FEET OF ORIGINAL LOTS 4 AND 5; AND ALSO A RESUBDIVISION OF LOTS 31, 32, 33, 38, 39 AND 40 IN SHELDON'S RESUBDIVISION OF THE SOUTH HALF OF LOTS 14 AND 15, ALL OF LOTS 6 TO 13, INCLUSIVE, AND THE NORTH 57 FEET OF ORIGINAL LOTS 4 AND 5; ALL IN BLOCK "E" IN BLUE ISLAND LAND AND BUILDING COMPANY'S RESUBDIVISION OF CERTAIN LOTS AND BLOCKS IN MORGAN PARK, WASHINGTON HEIGHTS, IN SECTION 19, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; IN COOK COUNTY, ILLINOIS.

ALSO

LOTS 53 TO 59, INCLUSIVE, IN BLOCK "D" IN WALKER'S RESUBDIVISION OF BLOCKS "A," "B" AND "D" IN MORGAN PARK IN SECTION 19, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 2330 W 115<sup>TH</sup> STREET AND

11505 S WESTERN AVENUE

CHICAGO, ILLINOIS 60643

PINS: 25-19-109-039-0000 25-19-300-001-0000

**EXHIBIT B**

**DEPICTION OF PROPERTY OWNERSHIP**



J. To induce certain redevelopment pursuant to the Act, the City Council adopted the following ordinances on February 8, 2006, and published in the Journal of Proceedings of the City Council of the City of Chicago (the "Journal") for such date at pages 69481 to 69641: (1) An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan(the "Western

Avenue/Rock Island Redevelopment Plan") for the Western Avenue/Rock Island Redevelopment Project Area (the "Western Avenue Rock Island Redevelopment Area"); (2) An Ordinance of the City of Chicago, Illinois Designating the Western Avenue/Rock Island Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act; and (3) An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Western Avenue/Rock Island Redevelopment Project Area (the "Western Avenue/Rock Island TIF Ordinances").

K. Under 65 ILCS 5/11-74.4-3(q)(7), such incremental ad valorem taxes which pursuant to the Act have been collected and are allocated to pay redevelopment project costs and obligations incurred in the payment thereof ("Increment") may be used to pay all or a portion of a taxing district's capital costs resulting from a redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs (Increment collected from the Western Avenue/Rock Island Redevelopment Area "Western Avenue/Rock Island Increment").

L. The Park District is a taxing district under the Act.

M. The Western Avenue/Rock Island TIF Ordinances contemplate that tax increment financing assistance would be provided for public improvements, such as the Project, within the boundaries of the Western Avenue/Rock Island Redevelopment Area.

N. Subject to the availability of Western Avenue/Rock Island Increment, the City desires to use a portion of the Western Avenue/Rock Island Increment (the "City Funds") for the Project.

O. The City agrees to use the City Funds to reimburse the Board for a portion of the costs of the TIF-Funded Improvements (as defined below) for the Project, pursuant to the terms and conditions of this Agreement.

P. In accordance with the Act, the TIF-Funded Improvements shall include such of the Park District's capital costs necessarily incurred or to be incurred in furtherance of the objectives of the Western Avenue/Rock Island Redevelopment Plan, and the City has found that the TIF-Funded Improvements consist of the cost of the Park District's capital improvements that are necessary and directly result from the redevelopment project constituting the Project and, therefore, constitute "taxing districts' capital costs" as defined in Section 5/11-74.4-03(u) of the Act.

Q. Pursuant to Section 5/11-74.4-4(q) of the Act, the City can use Increment from one redevelopment project area for eligible redevelopment project costs in another redevelopment project area that is either contiguous to, or is separated only by a public right of way from, the redevelopment project area from which the Increment is received so long as the applicable redevelopment plans permit such use (the "Transfer Rights").

R. It is anticipated that the City may, in its discretion, exercise its Transfer Rights pursuant to the Act and use the transferred Increment as part of the City Funds.

S. The City and the Park District wish to enter into this Agreement whereby the Park District shall undertake the Project and the City shall (1) convey the City Property to the Park District; (2) reimburse or pay the Park District for funding the Project costs (the "TIF-Funded Improvements") in an amount not to exceed \$10,000,000 (the "Project Assistance").

T. On September 12, 2014 the Park District's Board of Commissioners passed a resolution expressing its desire to cooperate with the City in the completion of the Project and authorizing the execution of this Agreement (the "Park District Ordinance").

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the above recitals which are made a contractual part of this Agreement, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **TERMS AND CONDITIONS**

#### **SECTION 1. THE PROJECT.**

1 The Park District will purchase the City Property in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto, including but not limited to 70 ILCS 1505/0.01 et seq. Upon the City's request, the Park District shall provide evidence satisfactory to the City of such compliance

2 No later than 12 months after the Closing Date, or later as the Commissioner of DPD (the "Commissioner") may agree in writing, the Park District shall let one or more contracts for the construction and/or development of the Project in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

3 The Project shall at a minimum meet the requirements set forth in the Project Description in Exhibit C attached hereto and hereby made a part hereof, and comply with plans and specifications to be provided to and approved by DPD prior to the commencement of the Project ("Plans and Specifications") in order for the Park District to qualify for the disbursement of City Funds. No material deviation from the Plans and Specifications may be made without the prior written approval of the City. The Park District shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

4 The Park District shall also provide the City with copies, if any shall apply, of all governmental licenses and permits required to construct the Project and to use, occupy and operate the Project Site as a public park from all appropriate governmental authorities,

5 The Park District shall include a certification of compliance with the requirements of Sections 1.2, 1.3, and 1.4 hereof with each request for City Funds hereunder and at the time the Project is completed. The City shall be entitled to rely on this certification without further inquiry. Upon the City's request, the Park District shall provide evidence satisfactory to the City of such compliance.

#### **SECTION 2. FUNDING.**

1. The City shall, subject to the Park District's satisfaction of the conditions precedent for disbursement described in this Section 2 and such other conditions contained in this Agreement, disburse the Project Assistance to the Park District.

2. The Park District may request that a certificate(s) of expenditure in the form of Exhibit D attached hereto and hereby made a part hereof ("Certificates of Expenditure") be processed and executed periodically. The City shall not execute Certificates of Expenditure in the aggregate in excess of the actual costs of the Project that are TIF-Funded improvements. Prior to each execution of a Certificate of Expenditure by the City, the Park District shall submit documentation regarding the applicable expenditures to DPD. Delivery by the Park District to DPD of any request for execution by the City of a Certificate of Expenditure hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for execution of a Certificate of Expenditure, that:

- a) the total amount of the request for the Certificate of Expenditure represents the actual amount payable to (or paid to) the general contractor, subcontractors, and other parties who have performed work on or otherwise provided goods or services in connection with the Project, and/or their payees;
- b) all amounts shown as previous payments on the current request for a Certificate of Expenditure have been paid to the parties entitled to such payment;
- c) the Park District has approved all work and materials for the current request for a Certificate of Expenditure, and such work and materials conform to the Plans and Specifications previously approved by DPD; and
- d) the Park District is in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

3. The City shall have the right, in its discretion, to require the Park District to submit further documentation as the City may require in order to verify that the matters certified to in Section 2.2 are true and correct, and any execution of a Certificate of Expenditure by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Park District.

4. The current estimate of the cost of the Project is \$18,236,206. The Park District has delivered to the Commissioner a project budget for the Project attached as Exhibit E attached hereto and hereby made a part hereof. The Park District certifies that it has identified sources of funds (including the Project Assistance) sufficient to complete the Project. The Park

District agrees that the City will only contribute the Project Assistance to the Project and that all costs of completing the Project, including, but not limited to, costs relating to the Project Site, over the Project Assistance shall be the sole responsibility of the Park District. If the Park District at any point does not have sufficient funds to complete the Project, the Park District shall so notify the City in writing, and the Park District

may narrow the scope of the Project (the "Revised Project") as agreed with the City in order to complete the Revised Project with the available funds.

5. Exhibit E contains a preliminary list of capital improvements and other costs, if any, recognized by the City as being eligible redevelopment project costs under the Act with respect to the Project, to be paid for out of the Project Assistance. To the extent the TIF-Funded Improvements are included as taxing district capital costs under the Act, the Park District acknowledges that the TIF-Funded Improvements are costs for capital improvements and the City acknowledges it has determined that these TIF-Funded Improvements are necessary and directly result from the Plan. Prior to the expenditure of Project Assistance on the Project, the Commissioner, based upon the project budget, may make such modifications to Exhibit E as he or she wishes in his or her discretion to account for all of the Project Assistance to be expended under this Agreement; provided, however, that all TIF-Funded Improvements shall (i) qualify as redevelopment project costs under the Act, (ii) qualify as eligible costs under the Plan; and (iii) be improvements that the Commissioner has agreed to pay for out of Project Assistance, subject to the terms of this Agreement.

6. The Park District hereby acknowledges and agrees that the City's obligations hereunder with respect to the Project Assistance are subject in every respect to the availability of funds as described in and limited by this Section 2.6 and Section 2.1. If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for disbursements of the Project Assistance, then the City will notify the Park District in writing of that occurrence, and the City may terminate this Agreement on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for disbursement under this Agreement are exhausted. The City may defer payments, up to 10 years after the execution of this Agreement, as funds become available.

7. If the aggregate cost of the Project is less than the amount of the Project Assistance contemplated by this Agreement, the Park District shall have no claim to the difference between the amount of the Project Assistance contemplated by this Agreement and the amount of the Project Assistance actually paid by the City to the Park District and expended by the Park District on the Project.

### SECTION 3. TERM. CONVEYANCE AND RIGHTS OF ENTRY.

3.1 The term of this Agreement shall commence on the Closing Date and shall expire on the date on which the Western Avenue/Rock Island Redevelopment Area is no longer in effect, or on the date of termination of this Agreement according to its terms, whichever occurs first.

2 The Park District shall complete the construction and development of the Project within five (5) years following the Closing Date, or later as the Commissioner may agree in writing.

3 The City shall convey the City Property to the Park District by quitclaim deed for the sum of One Dollar (\$1.00) on the Closing Date. The City shall prepare all necessary transfer documents and cause the conveyance of the parcels agreed to be transferred to the Park District. Without limiting the generality of the quitclaim nature of the City's deed, such conveyance and title shall, in addition to the provisions of this Agreement, be subject to:

- a) the Redevelopment Project and Plan for the Western Avenue/Rock Island

- Redevelopment Project Area;
- b) the standard exceptions in an ALTA title insurance policy;
- c) general real estate taxes;
- d) special assessments or other taxes, if any;
- e) all easements, encroachments, covenants and restrictions of record and not shown of record;
- f) any liens thereon;
- g) such other title defects as may exist; and
- h) any and all exceptions caused by the acts of the Park District or its agents.

4 Subject to the terms and conditions set forth herein, the City hereby grants to the Park District a right of entry to the Property for the sole purpose of allowing the Park District to commence, manage, perform, and, after completion, but before conveyance of the Property from the City to the Park District, maintain the Project pursuant to this Agreement. The right of entry granted hereunder extends to, and the Park District shall be responsible for, its agents, employees, contractors, subcontractors and consultants. This right-of entry is non-assignable. The Park District agrees to notify the City at least five (5) days prior to commencing the Project. The Park District further agrees to notify the City promptly upon completing the Project. The Park District shall require its contractor to provide the City evidence of the types and amounts of insurance as shall be determined by the City and to indemnify the City against all liabilities resulting from the commencement, management, performance, and, after completion, but before conveyance of the Property from the City to the Park District, maintenance of the Project.

5 The City shall use reasonable efforts to obtain the waiver or release of any delinquent real estate taxes or tax liens on the City Property prior to the Closing Date, to the extent such taxes or tax liens can be waived or released through submission of an abatement letter to the Cook County Treasurer, a motion to vacate a tax sale or a petition for exemption, but shall have no further duties with respect to any such taxes. Furthermore, the Park District shall be responsible for all taxes accruing on the City Property after the Closing Date.

#### **SECTION 4. ENVIRONMENTAL MATTERS**

1. The Park District shall, in its sole discretion, determine if any environmental remediation is necessary, and any such work that the Park District determines is necessary shall be performed using the Project Assistance funding provided herein. The City's financial obligation shall be limited to an amount not to exceed \$10,000,000 with respect to the matters contained in this Agreement, including this Section 4. The City makes no covenant, representation or warranty as to the environmental condition of the City Property or the suitability of the City Property as a park or for any use whatsoever.

2. The Park District agrees to carefully inspect the City Property prior to commencement of any remediation or development on the City Property to ensure that such activity shall not damage surrounding property, structures, utility lines or any subsurface lines or cables. The Park District shall be solely responsible for the safety and protection of the public. The City reserves the right to inspect the work being done on the City Property. The Park District agrees to keep the Project Site free from all liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for the Park District.

3. The Park District or its contractor must obtain all necessary permits, and applicable insurance as described in Section 5 hereof.

4.4 In addition, the City Property shall be conveyed to the Park District in its "as is, where is" condition, with no warranty, express or implied, by the City as to the condition of the soil, its geology, or the presence of known or unknown faults. It shall be the sole responsibility of the Park District to investigate and determine the soil and environmental condition of the City Property. If the soil conditions are not in all respects entirely suitable for the use or uses to which the City Property is intended to be utilized for under this Agreement, then it shall be the sole responsibility and obligation of the Park District to take such action as may be necessary to place the soil and environmental condition of the City Property in a condition entirely suitable for the intended uses under this Agreement. After the City's conveyance of the City Property to the Park District, the Park District shall have no recourse whatsoever against the City under any Environmental Laws or any other laws, rules or regulations for the environmental, soil or other condition of the City Property. For purposes of the foregoing, "Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code, including but not limited to Sections 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560 thereof, whether or not in the performance of this Agreement.

## **SECTION 5. INSURANCE.**

5.1 The Park District must provide and maintain, at Park District's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement:

### **A. INSURANCE PROVIDED BY THE PARK DISTRICT**

In connection with the execution and delivery of this Agreement.

#### **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 \$100,000 each accident, illness or disease.

#### **ii) Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$1,500,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

iii) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with this Agreement, the Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

iv) Self Insurance

To the extent permitted by law, the Park District may self insure for the insurance requirements specified above, it being expressly understood and agreed that, if the Park District does self insure for the above insurance requirements, the Park District must bear all risk of loss for any loss which would otherwise be covered by insurance policies, and the self insurance program must comply with at least the insurance requirements as stipulated above.

## B. INSURANCE PROVISIONS OF THE CONTRACTOR

The Contractor must provide and maintain at Contractor's own expense, until Contract completion and during the time period following final completion if Contractor is required to return and perform any additional work, the minimum insurance coverage and requirements specified below, insuring all operations related to the Contract.

i) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Contract and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverage must include the following: All premises and operations, products/completed operations, (for minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The Park District and the City of Chicago are to be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the Agreement.

Subcontractors performing work for Contractor must maintain limits of not less than \$1,000,000 per occurrence 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 Contractor must provide Automobile Liability Insurance, with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The Park District and the City of Chicago are to be named as additional insureds on a primary, non-contributory basis.

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

(v) Professional Liability

When any architects, engineers, project/construction managers or any other professional consultants perform work in connection with this Contract, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000. When policies are renewed or replaced, the policy retroactive date

must coincide with, or precede, start of work on the Contract. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

(vi) Builders Risk

When Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor must provide or cause to be provided, All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. The Park District and the City of Chicago are to be named as additional insureds and loss payees (subject to the rights of any permitted mortgagee).

The Contractor is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools, and supplies) owned, rented, or used by Contractor.

5.2. On or before the Closing Date, the Park District must furnish the City evidence of self-insurance. The Park District must furnish the City at the address stated in Section 8.13, original Certificates of Insurance, or such similar evidence, to be in force on or before the Park District commences construction of the Project, and Renewal Certificates of Insurance, or such similar evidence, if the coverage has an expiration or renewal date occurring during the term of this Agreement. The Park District shall submit evidence of insurance on the City's Insurance Certificate form or equivalent prior to the commencement of construction of the Project. The receipt of any certificate does not constitute agreement by the City 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 requirements of Agreement. The failure of the City to obtain certificates or other insurance evidence from the Park District is not a waiver by the City of any requirements for the Park District to obtain and

maintain the specified coverage.

3 The Park District shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve the Park District of the obligation to provide insurance as specified herein. Non-fulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work and suspend this Agreement until proper evidence of insurance is provided, or this Agreement may be terminated.

4 The Park District must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

5 Any deductibles or self insured retentions on referenced insurance must be borne by Park District and other contractors, as applicable.

6 The Park District hereby waives and agrees to require their insurers to waive their rights of subrogation against the City, its employees, elected officials, agents, or representatives.

7 The insurance and limits furnished by the Park District in no way limit the Park District's or any other Contractors' liabilities and responsibilities specified within the Agreement or by law.

8 Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by the Park District under the Agreement.

5.9 Notwithstanding any provision in the Agreement to the contrary, the City's Risk Management Department maintains the rights to modify, delete, alter or change requirements.

## **SECTION 6. INDEMNITY / NO PERSONAL LIABILITY.**

1. To the extent of liability of a municipal corporation, as such is precluded by the Local and Governmental Tort Immunity Act or the common law of the state of Illinois, the Park District agrees to indemnify, defend (at the City's option), and hold the City, its officers and employees, harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses, including, without limitation, reasonable attorney's fees and court costs suffered or incurred by the City arising from or in connection with (i) the Park District's failure to comply with any of the terms, covenants and conditions contained in this Agreement; or (ii) the Park District's or any contractor's failure to pay general contractors, subcontractors or materialmen in connection with the Project. The defense and indemnification obligations in this Section 6.1 shall survive any termination or expiration of this Agreement.

2. No elected or appointed official or member or employee or agent of the City or the Park District shall be individually or personally liable in connection with this Agreement.

## **SECTION 7. DEFAULT.**

1. If the Park District, without the City's written consent fails to complete the Project within 36

months after the date of execution of this Agreement, then the City may terminate this Agreement by providing written notice to the Park District.

2. In the event the Park District fails to perform, keep or observe any of its covenants, conditions, promises, agreements or obligations under this Agreement not identified in Section 7.1 and such default is not cured as described in Section 7.3 hereof, the City may terminate this Agreement.

3. Prior to termination, the City shall give its 30-day prior notice of intent to terminate at the address specified in Section 8.13 hereof, and shall state the nature of the default. In the event Park District does not cure such default within the 30-day notice period, such termination shall become effective at the end of such period; provided, however, with respect to those defaults which are not capable of being cured within such 30-day period, the

Park District shall not be deemed to have committed such default and no termination shall occur if the Park District has commenced to cure the alleged default within such 30-day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

7.4. The City may, in any court of competent jurisdiction, by any proceeding at law or in equity, secure the specific performance of the agreements contained herein, or may be awarded damages for failure of performance, or both.

## **SECTION 8. GENERAL PROVISIONS.**

1. Authority. Execution of this Agreement by the City is authorized by the City ordinance passed on \_\_\_\_\_, 2014 (the "Ordinance"). Execution of this Agreement by the Park District is authorized by the Park District Ordinance. The Parties represent and warrant to each other that they have the authority to enter into this Agreement and perform their obligations hereunder.

2. Assignment . This Agreement, or any portion thereof, shall not be assigned by either Party without the prior written consent of the other.

3. Compliance with Laws. The Parties agree to comply with all federal, state and local laws, status, ordinances, rules, regulations, codes and executive orders relating to this Agreement.

4. Consents. Whenever the consent or approval of one or both Parties to this Agreement is required hereunder, such consent or approval will not be unreasonably withheld.

5. Construction of Words. As used in this Agreement, the singular of any word shall include the plural, and vice versa. Masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires.

6. Counterparts. This Agreement may be executed in several counterparts and by a different Party in separate counterparts, with the same effect as if all Parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.

7. Further Assurance. The Parties shall perform such acts, execute and deliver such instruments and documents, and do all such other things as may be reasonably necessary to accomplish the transactions contemplated in this Agreement.

8. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to the principles of conflicts of law thereof. If there is a lawsuit under this Agreement, each Party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois.

9. Integration. This Agreement constitutes the entire agreement between the Parties, merges all discussions between them and supersedes and replaces any and every other prior or contemporaneous agreement, negotiation, understanding, commitments and writing with respect to such subject matter hereof.

10. Parties' Interest/No Third Party Beneficiaries. This Agreement shall be binding upon the Parties, and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Parties, and their respective successors and permitted assigns (as provided herein). This Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a Party and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the Parties shall be deemed or construed by any of the Parties hereto or by third parties, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving any of the Parties.

11. Modification or Amendment. This Agreement may not be altered, modified or amended except by a written instrument signed by both Parties.

12. No Implied Waivers. No waiver by either Party of any breach of any provision of this Agreement will be a waiver of any continuing or succeeding breach of the breached provision, a waiver of the breached provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to, or demand on, either Party in any case will, of itself, entitle that Party to any further notice or demand in similar or other circumstances.

13. Notices. Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communications, whether by telex, telegram, facsimile (fax); (c) overnight courier or (d) registered or certified first class mail, return receipt requested.

To the City:           City of Chicago  
                              Department of Planning and Development  
                              Attention: Commissioner  
                              City Hall, Room 1006  
                              121 N. LaSalle Street  
                              Chicago, Illinois 60602  
                              (312)744-5777

(312) 744-6552 (Fax)

With copies to: City of Chicago  
Department of Law  
Attention: Finance and Economic Development Division &

Real Estate Division City Hall, Room  
600 121 N. LaSalle Street Chicago,  
Illinois 60602 (312)744-0200

To the Park District: Chicago Park District  
Attention: General Superintendent 541 North  
Fairbanks Chicago, Illinois 60611 (312)742-4200  
(312) 742-5276 (Fax)

With a copy to: Chicago Park District General Counsel 541 North  
Fairbanks, Room 300 Chicago, Illinois 60611  
(312)742-4602 (312) 742-5316 (Fax)

Such addresses may be changed by notice to the other Party given in the same manner provided above. Any notice, demand or request sent pursuant to either clause (a) or (b) above shall be deemed received upon such personal service or dispatch. Any notice, demand or request sent pursuant to clause (c) above shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to clause (d) above shall be deemed received two business days following deposit in the mail.

14. Remedies Cumulative. The remedies of a Party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such Party unless specifically so provided herein.

15. Representatives. Immediately upon execution of this Agreement, the following individuals will represent the Parties as a primary contact in all matters under this Agreement:

For the City: Nelson Chueng  
City of Chicago  
Department of Planning and Development  
City Hall, Room 1101  
121 N. LaSalle Street  
Chicago, Illinois 60602  
(312)744-5756  
(312) 744-7996 (Fax)

For the Park District: Rob Rejman  
Chicago Park District  
Director of Planning, Construction and Facilities 541 North  
Fairbanks Chicago, Illinois 60611 (312) 742-4682 (312) 742-5347  
(Fax)

Each Party agrees to promptly notify the other Party of any change in its designated representative, which notice shall include the name, address, telephone number and fax number of the representative for such Party for the purpose hereof.

16. Severability. If any provision of this Agreement, or the application thereof, to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein.

17. Survival of Agreements. Except as otherwise contemplated by this Agreement, all covenants and agreements of the Parties contained in this Agreement will survive the consummation of the transactions contemplated hereby.

18. Titles and Headings. Titles and headings to paragraphs contained in this Agreement are for convenience only and are not intended to limit, vary, define or expand the content of this Agreement.

19. Time. Time is of the essence in the performance of this Agreement.

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

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed and delivered as of the date first above written.

CITY OF CHICAGO, a municipal corporation,  
by and through its Department of Planning and Development

By:  
Andrew J. Mooney Commissioner

CHICAGO PARK DISTRICT, a body politic and corporate

By:  
Michael P. Kelly  
General Superintendent and CEO

Attest:

By:  
Kantrice Ogletree Secretary

*Exhibit A*  
**Legal Description of City Property**

(SUBJECT TO FINAL SURVEY AND TITLE COMMITMENT)

LOT 8, LOT 9 AND THE WEST HALF OF LOT 10 IN ROBERTS' SUBDIVISION OF ORIGINAL LOTS 1, 2 AND 3, AND THE SOUTH 93 FEET OF ORIGINAL LOTS 4 AND 5; AND ALSO A RESUBDIVISION OF LOTS 31, 32, 33, 38, 39 AND 40 IN SHELDON'S RESUBDIVISION OF THE SOUTH HALF OF LOTS 14 AND 15, ALL OF LOTS 6 TO 13, INCLUSIVE, AND THE NORTH 57 FEET OF ORIGINAL LOTS 4 AND 5; ALL IN BLOCK "E" IN BLUE ISLAND LAND AND BUILDING COMPANY'S RESUBDIVISION OF CERTAIN LOTS AND BLOCKS IN MORGAN PARK, WASHINGTON HEIGHTS, IN SECTION 19, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; IN COOK COUNTY, ILLINOIS.

ALSO

LOTS 53 TO 59, INCLUSIVE, IN BLOCK "D" IN WALKER'S RESUBDIVISION OF BLOCKS "A," "B" AND "D" IN MORGAN PARK IN SECTION 19, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 2330 W 11 5<sup>th</sup> STREET AND

11505                      S                      WESTERN                      AVENUE                      CHICAGO,  
  
ILLINOIS 60643

PINS: 25-19-109-039-0000 25-19-300-001-0000

**Exhibit B Depiction of Property Ownership**

(See Exhibit B to Ordinance)



1. Except as described in the attached certificate, the representations and warranties contained in the Agreement are true and correct and the Park District is in compliance with all applicable covenants contained herein.

2. No event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute a Default, exists or has occurred.

3. The Park District has approved all work and materials for the current request for a Certificate of Expenditure, and such work and materials conform to the Plans and Specifications.

4. The Park District is in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

All capitalized terms which are not defined herein have the meanings given such terms in the Agreement.

Chicago Park District

By:

Name

Title:

Subscribed and sworn before me this      day of

My commission expires:

Agreed and accepted:

Name Title:

City of Chicago

Department of Planning and Development

**Exhibit E Project Budget**  
*TIF-Funded Improvements*

**Park Development Uses Budget:**

**Estimated Sources Budget**

Chicago Park District	\$ 4,236,206.00
DCEO State Grant	\$ 4,000,000.00
<u>City TIF</u>	<u>\$10,000,000.00</u>
Total	\$18,236,206.00

**Uses Budget**

Design	\$ 1,047,706.00
<u>Construction</u>	<u>\$17,188,500.00</u>
Park Development Budget	\$18,236,206.00

The Commissioner may authorize changes to the preliminary budget set forth above, but may not increase the maximum amount of the budget nor materially change the nature of the Project.

\*Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City shall not exceed \$10,000,000.

Property from the City to the Park District; and (iii) authorize the City to enter into the Agreement; 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 a part of this ordinance as though fully set forth herein.

SECTION 2. The City hereby approves the conveyance of the City Property to the Park District in its "as is" condition for the sum of One and No/100 Dollar (\$1.00). The City Property shall be conveyed to the Park District subject to the Park District's execution of and in accordance with the terms and conditions of the

Agreement.

SECTION 3. The Mayor or his proxy is authorized to execute, and the City Clerk or Deputy City Clerk, is authorized to attest, a quitclaim deed or deeds conveying the City Property to the Park District. The quitclaim deed(s) shall include the following covenant running with the land, or language substantially similar and acceptable to the Corporation Counsel:

This conveyance is subject to the express condition that the City Property be used for park purposes. In the event that the above condition is not met, the City may re-enter and take possession of the City Property, terminate the estate conveyed to the Park District, and re-vest title to the City Property in the City.

SECTION 4. The City hereby finds that the TIF-Funded Improvements, among other eligible redevelopment project costs under the Act approved by the City, consist of the cost of the Park District's capital improvements that are necessary and directly result from the redevelopment project constituting the Project and, therefore, constitute "taxing districts' capital costs" as defined in Section 5/11-74.4-3(u) of the Act.

SECTION 5. Subject to the approval of the Corporation Counsel of the City as to form and legality, and the approval of the Chief Financial Officer or the City Comptroller, the Commissioner of DPD (or any successor department thereto) are authorized to execute and deliver the Agreement, and such other documents as are necessary, between the City and the Park District, which Agreement may contain such other terms as are deemed necessary or appropriate by the parties executing the same on the part of the City.

SECTION 6. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, 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 of the other provisions of this ordinance.

SECTION 7. This ordinance takes effect upon its passage and approval.