



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
[www.chicityclerk.com](http://www.chicityclerk.com)

## Legislation Details (With Text)

**File #:** O2013-9598  
**Type:** Ordinance  
**File created:** 12/11/2013  
**Status:** Passed  
**In control:** City Council  
**Final action:** 1/15/2014  
**Title:** Expenditure of Open Space Impact Fee funds for Penn Elementary School gardens  
**Sponsors:** Emanuel, Rahm  
**Indexes:** Open Space Impact Fees  
**Attachments:** 1. O2013-9598.pdf

Date	Ver.	Action By	Action	Result
2/5/2014	1	Office of the Mayor	Signed by Mayor	
1/15/2014	1	City Council	Passed	Pass
1/14/2014	1	Committee on Special Events, Cultural Affairs and Recreation	Recommended to Pass	Pass
12/11/2013	1	City Council	Referred	

## JOSEPH A. MOORE

Alderman, 49th Ward 7356 North Greenview Avenue Chicago, Illinois 60626 telephone 773-338-5796 [ward49@cityofchicago.org](mailto:ward49@cityofchicago.org) <<mailto:ward49@cityofchicago.org>>[www.ward49.com](http://ward49.com) <<http://ward49.com>>

## CITY COUNCIL

### CITY OF CHICAGO COUNCIL CHAMBER

City Hall, Room 300 121 North LaSalle Street Chicago, Illinois 60602 Telephone 312-744-3067

COMMITTEE MEMBERSHIPS

SPECIAL EVENTS, CULTURAL AFFAIRS AND RECREATION  
Chairman

Budget and Government Operations

Committees, Rules and Ethics

Finance

Health and Environmental Protection

Human Relations

October 15, 2014

To the President and Members of the City Council:

Your Committee on Special Events Cultural Affairs and Recreation, for which a meeting was held on January 14, 2014, having had under consideration the reappointment introduced by Mayor Rahm Emanuel on December 11, 2013, this being the expenditure of open space impact fee funds for Penn Elementary School gardens, begs leave to recommend that Your Honorable Body Approve said appointments transmitted herewith.

This recommendation was concurred in by a via voce vote of all committee members present with no dissenting votes.

Respectfully submitted,

Joseph A. Moore, Chairman  
Committee on Special Events,  
Cultural Affairs and Recreation

OFFICE OF THE MAYOR  
CITY OF CHICAGO  
RAHM EMANUEL MAYOR

December 11,2013

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

Ladies and Gentlemen:

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

Your favorable consideration of these ordinances will be appreciated.

Mayor

Very truly yours,

### **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 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 Housing and Economic Development ("HED") has determined that the Fee-Paying Developments built in the Community Area listed on Exhibit A attached hereto have deepened the already significant deficit of open space in that 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 Board of Education of the City of Chicago, commonly known as the Chicago Public Schools ("CPS"), is the owner of the parcel of land on the campus of the Penn Elementary School, legally identified and described on Exhibit A hereto (the "Property"); (collectively, the "Property");

WHEREAS, Openlands, a 501(C)(3) Illinois not-for-profit corporation, is dedicated to preserving and creating open space;

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WHEREAS, the City and Openlands desire to create school gardens at the above mentioned school (the "Project") for the benefit and use of the above mentioned school and the respective Community Area in which it is located; and

WHEREAS, the City desires to grant Openlands impact fee funds to pay for construction costs associated with building the garden at the Property; and

WHEREAS, HED desires to provide to Openlands Open Space Fees in an amount not to exceed \$187,214 (the "Grant") for the Project; and to create open spaces and recreational facilities in the Community Area listed on Exhibit A; 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, HED 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, HED 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 corresponding Community Area in which a Fee-Paying Development is located and from which the Open Space Fees were collected; and

WHEREAS, HED has recommended that the City Council approve the use of the Open Space Fees for the purposes set forth herein and on Exhibit A through this ordinance; and

WHEREAS, HED 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.

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## EXHIBIT A DESCRIPTION OF PROJECT

### School Garden Projects

#### **William Penn Elementary School Project**

Address: 1616 South Avers Avenue Chicago, Illinois 60623

(the "Property")

P.I.N.: 17-06-402-001

Community Area: North Lawndale

Description of Project: Asphalt removal for a permeable exercise circle,  
installation of grass, native garden plantings, a student-created  
mosaic bench and an outdoor classroom seating area

Amount of Open Space Fees: \$187,214

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## EXHIBIT B

### GRANT AGREEMENT

#### (See Attached) GRANT AGREEMENT

This Grant Agreement (this "Agreement") is entered into as of \_\_\_\_\_, 2014 (the "Closing Date"), between the City of Chicago (the "City"), an Illinois municipal corporation, acting through its Department of Housing and Economic Development ("HED"), and Openlands, an Illinois not-for-profit corporation ("Grantee"). Grantee 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 "North Lawndale Open Space Fees Proceeds") for new dwelling units built in the Community of North Lawndale and has deposited such Open Space Fees Proceeds in a separate fund identified by CAPS Code PS06 131 54 5029 2604; and

WHEREAS, the Board of Education of the City of Chicago, commonly known as the Chicago Public Schools ("CPS"), is the owner of parcels of land on the campuses of William Penn Elementary School, which is legally identified and described on Exhibit A hereto (the "Property");

WHEREAS, the City and Grantee desire to create a school garden at the above mentioned school (the "Project") for the benefit and use of the above mentioned school and its community area; and

WHEREAS, the Grantee is a not-for-profit agency dedicated to preserving and creating open space; and

WHEREAS, HED desires to provide to Grantee Open Space Fees Proceeds, in an amount not to exceed \$187,214 (the "Grant") for reimbursement costs associated with the Project; and

WHEREAS, on \_\_\_\_\_ 2014 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 \_\_\_\_\_, finding, among other things, that the Project would provide a direct and material benefit to the residents of the new developments originating the Open Space Fees and authorizing the Grant subject to certain terms and conditions (the "Authorizing Ordinance"); and

WHEREAS, under the terms and conditions hereof, the City agrees to make the Grant available to Grantee; and

WHEREAS, the City and Grantee have among their powers the authority to contract with each other to perform the undertakings described herein; and

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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 City and Grantee agree as follows:

**SECTION 1. THE GRANT**

1.1. Subject to the provisions set forth in this Agreement, the City will disburse the Grant to reimburse Grantee for all or part of the cost of completing the Project in accordance with the budget attached to this Agreement as Exhibit B (the "Budget"), which budget is hereby approved by HED, and only after Grantee has submitted Certificate(s) of Expenditure to HED (as defined below) along with such supporting documentation as the City may reasonably require.

1.2 Grantee may request that certificate(s) of expenditure substantially in the form attached hereto ("Certificates of Expenditure") as Exhibit E be processed and executed periodically. The City will not execute Certificates of Expenditure in the aggregate in excess of the actual cost of the Project. Prior to each execution of a Certificate of Expenditure by the City, Grantee must submit documentation regarding the applicable expenditures to HED. Delivery by Grantee to HED of any request for execution by the City of a Certificate of Expenditure hereunder will, 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 Certificates 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 parties entitled to such payment",

c) Grantee has approved all work and materials for the current request for a Certificate of Expenditure, and such work and materials conform to the Drawings (hereinafter defined); and

d) Grantee 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 Grantee as related thereto.

3. Grantee hereby acknowledges and agrees that the Grant must be used exclusively for the Project. If the Grant should exceed the costs of the Project, Grantee must repay to the City any such excess Grant funds received by Grantee.

4. Grantee is solely responsible for any fees, costs and expenses of the Project in excess of the amount of the Grant and will hold the City harmless from all such excess fees, costs and expenses. Notwithstanding anything to the contrary in this Agreement, in no event will the City or Grantee be responsible for any cost or expenses of the Project exceeding the Budget. In the event that either party believes that the Budget may not provide sufficient funds for the construction of the Project, such party must notify the other party and the parties must cooperate to modify the Project so that it can be completed in accordance with the Budget.

1.5. The source of funds for the City's obligations under this Agreement are the funds identified by CAPSCode: PS29 131 54 5029 2604. Grantee hereby acknowledges and agrees that the City's obligations hereunder are subject in every respect to the availability of funds as described in and limited by this Section 1.5. If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for disbursements of the Grant, then the City will notify Grantee in writing of that occurrence, and Grantee will have the right, but not the obligation to terminate this Agreement by written notice to the City.

## **SECTION 2. DEVELOPMENT AND CONSTRUCTION OF THE PROJECT**

A. Title Commitment and Insurance; Survey. Grantee must be responsible for obtaining, at its own expense, any title commitment or title policy and survey with respect to the Property that it deems necessary.

B. Construction Documents and Landscape Plan. Grantee has developed the construction documents and a plan for the Project (the "Drawings") as shown on Exhibit C. No material deviation from the Drawings will be made without the prior written approval of HED, which approval will not be unreasonably withheld, conditioned or delayed. The approval of the Drawings by HED are for the purposes of this Agreement only and other than as set forth in the Drawings, no structures or improvements are to be constructed on the Property by Grantee without the prior written approval of HED, which approval will not be unreasonably withheld, conditioned or delayed and will not constitute the approval required by the City's Department of Buildings, or any other Department of the City.

C. Schedule. Grantee has prepared a preliminary schedule for the development and construction of the Project as set forth on Exhibit D (the "Schedule"). No material deviation from the Schedule will be made without the prior written approval of HED, which approval will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, in no event will the approval of HED be required for any changes to the Schedule required because of the City's failure to approve and pay any Certificate of Expenditure, or required in connection with any force majeure event.

D. Use. The Project must be utilized as open space for use by the public for and on behalf of the City. This Agreement does not confer any special rights upon Grantee or any other person or entity to use the Project for private parties or events. The use of alcohol on the Property by any person or entity is strictly prohibited.

E. Certification. Grantee must submit a payment certification form as attached as Exhibit E prior to any Grant funds being released.

### **SECTION 3. TERM OF AGREEMENT**

Term of Agreement The term of this Agreement will commence as of the Closing Date and, unless otherwise terminated as provided in this Agreement, will expire on the second anniversary of the Closing Date. Notwithstanding the foregoing, if Grantee modifies the Schedule pursuant to Section 2(c) of this Agreement and such modification extends beyond the term, the term will be adjusted accordingly.

### **SECTION 4. COVENANTS AND REPRESENTATIONS**

Grantee hereby warrants, represents and/or covenants to the City that:

1. Grantee will use the Grant solely for the Project and to pay for eligible costs as determined in the sole discretion of the City and outlined on Exhibit B.

2. Grantee will comply with all applicable federal, state, and local statutes, laws, ordinances, rules, regulations and executive orders that are in effect from time to time that pertain to or affect the Project, Grantee, or the Grant. Upon the City's request, Grantee will provide evidence of such compliance satisfactory to the City.

3. Grantee agrees that provisions required to be inserted in this Agreement by laws, ordinances, rules, regulations or executive orders are deemed inserted whether or not they appear in this Agreement and that in no event will the failure to insert such provisions prevent the enforcement of this Agreement.

4. Grantee has full power and authority to enter into and perform its obligations under this Agreement, and the signing and delivery of this Agreement and the performance of its obligations under this Agreement have been duly authorized by all requisite corporate action.

5. Signing, delivery and performance by Grantee of this Agreement does not violate its bylaws, articles of incorporation, resolutions or any applicable provision of law, or constitute a material breach of, default under or require any consent under, any agreement, instrument or document, including any related to borrowing monies, to which Grantee is party or by which it is bound.

6. There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting Grantee that would materially impair its ability to perform under this Agreement.

4.7. Grantee is not in default on any loan or borrowing that may materially affect its ability to perform under this Agreement.



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4.8. If the Grant, or a portion thereof, is used for construction, Grantee and all its

contractors and subcontractors must meet labor standards and prevailing wage standards required

by federal, state and City laws, regulations and ordinances.

9. Grantee must maintain and keep in force, at its sole cost and expense, at all times during the term of this Agreement, insurance in such amounts and of such type as set forth in Section 6 below.

10. Grantee must at all times perform its work in fulfilling its corporate mission with the utmost care, skill and diligence in accordance with the applicable standards currently recognized in the community.

11. Grantee is an Illinois not-for-profit corporation exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986; and has provided the City a copy of the Internal Revenue Service Determination Letter evidencing such exemption. Grantee must at all times during the term of this Agreement maintain such tax-exempt status.

12. Grantee must comply with all policies issued by the City relating to Illinois not-for-profit corporations and federal tax-exempt entities, as such policies may be modified, amended or supplemented from time to time.

13. The Parties agree that CPS will maintain the Project improvements on the Property in a condition and manner acceptable to the City.

14. It is the duty of Grantee and any bidder, proposer, subcontractor and every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners, and employees of Grantee and any such bidder, proposer, subcontractor or such applicant to cooperate with the inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code.

Grantee represents that it understands and will abide by all provisions of Chapter 2-56 of the Municipal Code and that it will inform all contractors and subcontractors hired by Grantee in connection with this Agreement of this provision in writing and require their compliance.

It is the duty of the Grantee and any bidder, proposer, subcontractor and every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners, and employees of Grantee and any such bidder, proposer, subcontractor or such applicant to cooperate with the Legislative Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-55 of the Municipal Code. Grantee represents that it understands and will abide by all provisions of Chapter 2-55 of the Municipal Code and that it will inform all contractors and subcontractors hired by Grantee in connection with this Agreement of this provision in writing and require their compliance.

15 Failure by Grantee or any controlling person (as defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City as required by Section 1-23-030 of the Municipal Code will be grounds for termination of this Agreement and the transactions contemplated hereby.

16 Independent Contractor

a) The Grantee shall perform under this Agreement as an independent contractor to the City and not as a representative, employee, agent or partner of the City.

b) The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and June 24, 2011 "City of Chicago Hiring Plan" (the "City Hiring

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Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(c) Grantee is aware that City policy prohibits City employees from directing any individual to apply for a position with Grantee, either as an employee or as a subcontractor, and from directing Grantee to hire an individual as an employee or as a subcontractor. Accordingly, Grantee must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Grantee under this Agreement are employees or subcontractors of Grantee, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Grantee.

d) Grantee will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or

opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

e) In the event of any communication to Grantee by a City employee or City official in violation of Section (c) above, or advocating a violation of Section (d) above, Grantee will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("IGO Hiring Oversight") and also to the head of HED. Grantee will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to this Agreement.

#### 4.17 FOIA and Local Records Act Compliance

a) FOIA. Grantee acknowledges that the City is subject to the Illinois Freedom of Information Act, 5ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records (very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If Grantee receives a request from the City to produce records within the scope of FOIA, then Grantee covenants to comply with such request within 48 hours of the date of such request. Failure by Grantee to timely comply with such request will be a breach of this Agreement.

b) Exempt Information. Documents that Grantee submits to the City during the term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by Grantee to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Grantee mark any such documents as "proprietary, privileged or confidential." If Grantee marks a document as "proprietary, privileged and confidential", then HED will evaluate whether such document may be withheld under the FOIA. HED, in its discretion, will determine whether a

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document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

(c) Local Records Act. Grantee acknowledges that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq., as amended (the "Local Records Act"). The Local Records Act provides that public records may only be disposed of as provided in the Local Records Act. If requested by the City, Grantee covenants to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act concerning records arising under or in connection with this Agreement and the transactions contemplated in the Agreement.

## SECTION 5. ENVIRONMENTAL MATTERS

1. It will be the responsibility of Grantee to investigate and determine the soil and environmental condition of the Property, if deemed necessary, including obtaining phase I and, if applicable, phase II environmental audits for the Property. The City makes no covenant, representation or warranty as to the environmental condition of the Property or the suitability of the Property for any use whatsoever.

2. Grantee agrees to carefully inspect the Property and all easements or other agreements recorded against the Property prior to commencement of any activity on the Property to ensure that such activity will not damage surrounding property, structures, utility lines or any subsurface lines or cables. Grantee must be solely responsible for the safety and protection of the public on the portions of the Property affected by the Project, until the portion of the Project on each portion of the Property is completed. The City reserves the right to inspect the work being done on the Property. Grantee agrees to keep the Property free

from all liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for Grantee.

3. Prior to inspecting the Property, Grantee or its subcontractors, if any, must obtain insurance in accordance with Section 6 below, all necessary permits and, if applicable, a right of entry.

## **SECTION 6. INSURANCE**

6.1. Grantee must provide and maintain at Grantee's own expense, or cause to be provided during the term of this Agreement, the insurance coverages and requirements specified below, as applicable, insuring all operations related to this Agreement.

### **INSURANCE TO BE PROVIDED**

1. Workers Compensation and Employers Liability. Workers Compensation Insurance, as prescribed by applicable law, covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

2. 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. Coverages must include the following: All premises and operations, products/completed operations, explosion, collapse, underground,

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separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work or services.

Subcontractors performing work or services for Grantee must maintain limits of not less than \$1,000,000 with the same terms in this subsection.

3. Automobile Liability (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with the services to be performed, Grantee must provide or cause to be provided, Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

4. Professional Liability. When any architects, engineers, project managers, administrators or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained or caused to 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 Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

5 Valuable Papers. When any designs, drawings, media, data, records, reports and other documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

6 Contractors Pollution Liability. When any remediation work is performed which may cause a pollution exposure, Contractors Pollution Liability must be provided or cause to be provided, covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of services with limits of not less than \$1,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting of two (2) years. The City is to be named as an additional insured on a primary, noncontributory basis.

6.2. ADDITIONAL REQUIREMENTS. Grantee must furnish the City of Chicago, Department of Housing and Economic Development, 121 N. LaSalle Street, Room 1101, Chicago, Illinois 60602, original Certificates of Insurance, or such similar evidence, 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. Grantee must submit evidence of insurance on the City's Insurance Certificate Form (copy attached as Exhibit F) or equivalent prior to execution of the Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this 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 City to obtain certificates or other insurance evidence from Grantee is not a waiver by the City of any requirements for Grantee to obtain and maintain the specified coverages. Grantee must advise all insurers of the provisions of this Agreement regarding insurance. Non-conforming insurance does not relieve Grantee of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute

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a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

The insurance must provide for sixty (60) days prior written notice to be given to the City 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.

Grantee agrees that insurers waive their rights of subrogation against the City, its employees, elected officials, agents, or representatives.

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

Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Grantee under this Agreement.

The required insurance to be carried out 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 is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Grantee must require all subcontractors to provide insurance required in this Agreement, or Grantee may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Grantee unless otherwise specified in this Agreement.

If Grantee or its subcontractors desire additional coverages, the party desiring additional coverages is responsible for the acquisition and cost.

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

## **SECTION 7. INDEMNIFICATION**

Grantee will indemnify and defend the City, its officials, agents and employees (the "City Indemnitees") against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' and expert witnesses' fees and court costs) the City Indemnitees suffer or incur arising from or in connection with the actions or omissions of Grantee and/or any contractors or subcontractors in implementing the Project, if any, or Grantee's breach of this Agreement. This defense and indemnification obligation survives any termination or expiration of this Agreement.

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## **SECTION 8. NO LIABILITY OF OFFICIALS**

No elected or appointed official or member or employee or agent of the City will be charged personally by Grantee or by an assignee or subcontractor, with any liability or expenses of defense or be held personally liable under any term or provision of this Agreement because of their execution or attempted execution or because of any breach hereof.

## **SECTION 9. DEFAULT AND REMEDIES**

1. If Grantee, without the City's written consent (which consent will not be unreasonably withheld, conditioned or delayed) defaults by failing to perform any of its obligations under this Agreement then the City may terminate this Agreement if such default is not cured as provided in Section 9.2 below. If the City so terminates this Agreement, Grantee must repay the City promptly any amounts received pursuant to this Agreement and not yet applied to the Project.

2. Prior to termination, the City will give Grantee 30 days' advance written notice of the City's intent to terminate stating the nature of the default. If Grantee does not cure the default within the 30-day period, the termination will become effective at the end of the period. With respect to those defaults that are not capable of being cured within the 30-day period, Grantee will not be deemed to be in default if it has begun to cure the default within the 30-day period and thereafter diligently and continuously prosecutes the cure of the default until cured.

3. Either Party may, in any court of competent jurisdiction, by any proceeding at law or in equity, seek the specific performance of this Agreement, or damages for failure of performance, or both.

## **SECTION 10. NO BUSINESS RELATIONSHIPS WITH ELECTED OFFICIALS**

1. Pursuant to Section 2-156-030(b) of the Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. Violation of Section 2-156-030(b) by any elected official with respect to this Agreement will be grounds for termination of this Agreement. The term business relationship is defined in Section 2-156-080 of the Code.

2. Section 2-156-080 of the Code defines a "business relationship" as any contractual or other private business dealing of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest will not include: (i) any ownership through purchase at fair market value or inheritance of less than 1 percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof/regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (ii) the authorized compensation paid to an official or employee for his office or employment; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; or (v) an endowment or insurance policy or annuity contract purchased from an

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insurance company. A "contractual or other private business dealing" will not include any employment relationship of an official's spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

## SECTION 11. GENERAL CONDITIONS

1. Assignment. This Agreement, or any portion thereof, will not be assigned by either Party without the express prior written consent of the other Party which consent will not be unreasonably withheld, conditioned or delayed.

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

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

4. Entire Agreement. This Agreement contains the entire agreement between the City and Grantee and supersedes all prior agreements, negotiation and discussion between them with respect to the Project.

5. Exhibits. Any exhibits to this Agreement will be construed to be an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

6. Governing Law, Venue and Consent to Jurisdiction. This Agreement will be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its principles of conflicts of law. If there is a lawsuit under this Agreement, each Party agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

7. Inspection and Records. Grantee must provide the City with reasonable access to its books and records relating to the Project and the Grant as will be required by the City and necessary to reflect and disclose fully the amount and disposition of the Grant. Any duly authorized representative of the City will, at all reasonable times, have access to all such books and records which right of access will continue until the date that is five years after the expiration or termination of this Agreement.

8. Modification. This Agreement may not be modified or amended except by an agreement in writing signed by both Parties.

9. Notice. Any notice, demand or communication required or permitted to be given hereunder will be given in writing at the address set forth below by any of the following means: (a) personal service; (b) electronic communication, whether by electronic mail or fax; (c) overnight courier; or (d) registered or certified first class mail postage prepaid, return receipt requested.

To the City:                      City of Chicago  
   Department of Housing and Economic Development

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Attention: Commissioner  
121 N. LaSalle Street, Room 1000  
Chicago, Illinois 60602  
(312) 744-4190  
(312) 744-2271 (Fax)

With copies to:              Department of Law City of Chicago  
   Attention: Finance and Economic Development Division 121 N. LaSalle  
   Street, Room 600 Chicago, Illinois 60602 (312) 744-0200 (312) 744-8538  
   (Fax)

To Grantee: Openlands  
   25 E. Washington Street Suite 1650  
   Chicago, Illinois 60602 (312) 838-6250 (312) 863  
   -6251 (Fax) Attention: Gerald W. Adelmann

Any notice, demand or communication given pursuant to either clause (a) or (b) hereof will be deemed received upon such personal service or upon dispatch by electronic means, respectively. Any notice, demand or communication given pursuant to clause (c) hereof will be deemed received on the day immediately following deposit with the overnight courier. Any notice, demand or communication given pursuant to clause (d) hereof will be deemed received three business days after mailing. The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications will be given.

10. Parties' Interest / No Third Party Beneficiaries. The terms and provisions of this Agreement will be binding upon and inure to the benefit of, and be enforceable by, the respective successors and permitted assigns of the Parties. This Agreement will not run to the benefit of, or be enforceable by, any person or entity

other than a Party to this Agreement 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 City or Grantee will be deemed or construed by any of the Parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City or Grantee .

11. Severability. If any provision of this Agreement, or the application thereof, to any person, place or circumstance, will 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 will remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms will provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein.

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12. Titles and Headings. Titles and headings in this Agreement are inserted for convenience and are not intended to be part of or affect the meaning or interpretation of this Agreement.

13. Waiver. Waiver by either party with respect to the breach of this Agreement will not be considered or treated as a waiver of the rights of such party with respect to any other default or with respect to any particular default except to the extent specifically waived by such party in writing.

14. Foreign Assets Control Lists. Neither Grantee, nor any affiliate thereof is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For the purposes of this paragraph "Affiliate," when used to indicate a relationship with a specified person or entity, will mean a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity will be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

15. Further Actions. Grantee and the City agree to do, execute, acknowledge and deliver all agreements and other documents and to take all actions reasonably necessary or desirable to comply with the provisions of this Agreement and the intent thereof.

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

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IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed and delivered as of the Closing Date.

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

By: Andrew J. Mooney  
Commissioner

**GRANTEE:**  
OPENLANDS, an Illinois not-for-profit corporation

By: Gerald W. Adelman  
and CEO President

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**EXHIBIT A**

Address: P.I.N.: Community Area: Legal Description:

**Legal Description William Penn Elementary School**

1616 South Avers Avenue Chicago, Illinois 60623 (the "Property") 17-06-402-001 North Lawndale

LOTS 1 TO 19, AND LOTS 42 TO 49 OF BLOCK MOORE'S SUB OF LOT 1 OF SUPERIOR COURT PARTITION OF THE W. 60ACS. N OF S. WESTERN PLANK ROAD (SEE "B"). REC. APR 17, 1874 DOC. 151329, WITHIN W 1/2 SW 1/4 SECTION 23, TOWNSHIP 39, RANGE 13 WEST OF THE THIRD PRINCIPAL MERIDIAN, ALL LOCATED WITHIN COOK COUNTY, ILLINOIS

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**EXHIBIT B**

**Budget and Eligible Costs**

**William Penn Elementary School: \$187,214**

<b>Cost</b>	<b>Item</b>
\$ 123,850.00	design, hardscape, fencing and plant material
\$ 35,570.00	project management
\$ 7,794.00	art
\$ 10,000.00	Asphalt removal
\$ 10,000.00	construction variance

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**EXHIBIT C Drawings**

[To be attached at Closing]

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**EXHIBIT D**

**Project Schedule**

**[To be attached at Closing]**

- A. Expenditures for the Project, in the total amount of \$ \_\_\_\_\_, have been made: •'
- B. This paragraph B sets forth and is a true and complete statement of all costs of Open
- B. Space Impact Fee-Funded Improvements for the Project reimbursed by the City to
- B. date: \$ \_\_\_\_\_
- C. Grantee requests reimbursement for the following cost of Open Space Impact Fee
- C. Funded Improvements: \$ \_\_\_\_\_
- D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.
- E. Grantee hereby certifies to the City that, as of the date hereof:
1. Except as described in the attached certificate, the representations and warranties contained in the Agreement are true and correct and Grantee 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. Grantee 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. Grantee 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 Grantee as related thereto.

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

Name

Subscribed and sworn before me this      day of.

My commission expires:

Agreed and, accepted:

Name Title:

City of Chicago Department of Housing and Economic Development

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Meg Gustafson Department of Housing and Economic Development City Hall, Room 1101 312.744.0524

**EXHIBIT F Insurance Form**

[To be attached at Closing]

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CITY OF CHICAGO ECONOMIC DISCLOSURE  
STATEMENT AND AFFIDAVIT

SECTION r - GENERAL INFORMATION

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable: Openlands

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ § the Applicant

OR

2. ☐ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the

Applicant in which the Disclosing Party holds an interest: .

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control:

B. Business address of the Disclosing Party: 25 E. Washington, Suite 1650  
Chicago, IL 60602

C. Telephone: 312.863.6250 Fax: 312.863.6251 Email: jzaplatosch@opentands.org

<mailto:jzaplatosch@opentands.org>

D. Name of contact person: Jaime Zaplatosch

E. Federal Employer Identification No. (if you have one): \_

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Perm Elementary School Garden, 1616 S. Avers, Chicago, IL

G. Which City agency or department is requesting this EDS? Dept. of Housing & Economic Development

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # WA and Contract # N/A

Page 1 of 13

## SECTION II - DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input type="checkbox"/> Limited liability company                  |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership              |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                              |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation                 |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?               |
| <input type="checkbox"/> Limited partnership                      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)                     |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable: Illinois

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☐ No ☒ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity. NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name Title No members.

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

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interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
N/A		

### SECTION III - BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes ☐ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

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Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
--	------------------	--	---

(Add sheets if necessary)

**jXj Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.**

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☐ No      p\$ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in

compliance with that agreement?

☐Yes ☐No

## B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

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2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B. 1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is

- controlled by the Disclosing Party, or is, with the Disclosing Party, under
- common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
    - any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

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Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

None

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none"). None

9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient. None

#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

1. ☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary): None

If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest
------	------------------	--------------------

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):  
None

(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

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3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1: through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

## B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations. N/A

Is the Disclosing Party the Applicant?

☐ Yes ☐ No If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes ☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes ☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes ☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## SECTION VII - ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on

which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics) <<http://www.cityofchicago.org/Ethics>>, and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. NOTE: With-respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

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F. 1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1 and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such

certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.L, F.2. or F.3. above, an explanatory statement must be attached to this EDS.

## CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Openlands

(Print or type name of Disclosing Party)

Gerald W. Adelmann

(Print or type name of person signing)

President & CEO

(Print or type title of person signing)

Signed and sworn to before me on (date) . tl I j j 1/ 3 at CfrkAC Coimty, \tjj/l&U) (state).

Notary Public.

Commission expires: \_

DIANE SOTIROS OFFICIAL SEAL Notary Public, State of Illinois My Commission Expires April OB, 2016

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## CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT APPENDIX A

### FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or

any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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Economic Disclosure Statement Attachment  
Section II, Question B, 1

#### **Board of Directors**

Jill Allread - Chair Steven M. Ricchio - Treasurer Carrie C. McNally - Secretary John Tyler Anthony - Director  
Adrienne Archia - Director Gary Balling - Director Paul L. Becker - Director Alan Bell - Director Shaun C. Block -  
Director Richard J. Carlson, PhD - Director Bill Clarkin - Director George W. Davis - Director Garrett Handley Dee -  
Director Susan B. DePrecc - Director Derek Douglas - Director Victoria C. Drake - Director Josephine F. Elting -  
Director Hugh D. Frisbie - Director John M. Haight, III - Director Jonathan C. Hamill - Director Mark Harris -  
Director Scott Jamieson - Director Iris Krieg - Director Janis W. Notz - Director Andrew Otting - Director J.  
Timothy Ritchie - Director Jeff R. Rode - Director Charles Saltzman - Director Patrick Shaw - Director Nancy W.  
Sutherland - Director

#### **Openlands Staff**

Gerald W. Adelman - President & CEO Robert Megquier - Chief Operating Officer

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SECTION 3. The Commissioner of HED (the "Commissioner") or a designee of the Commissioner are each hereby authorized, subject to the approval of the Corporation Counsel to enter into an grant agreement with the Openlands in connection with the Project, in substantially the form attached hereto as Exhibit B and to provide Open Space Fees proceeds to the Openlands in an amount not to exceed \$187,214 from the corresponding funds to pay for expenses permitted under the Open Space Ordinance.

SECTION 4. Open Space Fees in the amount on Exhibit A from the Community Area's Open Space Fees Funds 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.

S:/Financ»/OpenSpaceProjects/OpenSpaceFeeParks/Ordinances/OpenlandsPennSchoolGarden/Ordinance

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