



Office of the City Clerk

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

Legislation Text

File #: O2018-4015, **Version:** 1

ORDINANCE

WHEREAS, the City of Chicago (the "City"), is a 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, on February 10, 2016 the City Council, by an ordinance adopted on October 10, 2003 and published in the Journal for such date at pages 18491 through 18494, authorized the acquisition of six land parcels commonly known as 1628 and 1630 West Hollywood Avenue, and 1619, 1621, 1623 and 1625 West Edgewater Avenue on the site of the former Edgewater Hospital (the "Project Property") which is identified on Exhibit A attached hereto and made a part hereof, from MCZ Edgewater LLC and MCZ Edgewater Exchange LLC to the City; and

WHEREAS, the City intends to acquire the Project Property and to convey it to the Park District for the development of a new public park (the "Project"); and

WHEREAS, the City has executed a real estate sales agreement regarding the Project Property; and

WHEREAS, the Project Property lies completely within the boundaries of the Edgewater Ashland Redevelopment Area (as hereinafter defined); 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, in accordance with the provisions of the Act, and pursuant to ordinances adopted on October 1, 2003, the City Council: (i) approved and adopted a Tax Increment Redevelopment Project and Plan (the "Plan") for a portion of the City known as the "Edgewater Ashland Redevelopment Project Area" (the "Edgewater Ashland Redevelopment Area"); (ii) designated the Edgewater Ashland Redevelopment Area as a "redevelopment project area" and a Tax Increment Financing District; and (iii) adopted tax increment allocation financing for the Edgewater Ashland Redevelopment Area; 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 Edgewater Ashland District Redevelopment Area shall be

known as the "City Increment"); and

1

WHEREAS, the City wishes to make available to the Park District a portion of the City Increment in an amount not to exceed \$960,000 for the purpose of funding the Project costs (the "TIF-Funded Improvements") to the extent and in the manner provided in the Agreement (as hereinafter defined); and

WHEREAS, the Plan contemplates that tax increment financing assistance would be provided for public improvements, such as the Project, within, or adjacent to, the boundaries of the Edgewater Ashland Redevelopment Area; and

WHEREAS, the Park District is a taxing district under the Act; 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 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 5/11-74.4-3(u) of the Act; and

WHEREAS, the City and the Park District wish to enter into an intergovernmental agreement in substantially the form attached as Exhibit B (the "Agreement") whereby the City shall convey the Project Property to the Park District and pay for or reimburse the Park District for a portion of the TIF-Funded Improvements; 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 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 3. Subject to the approval of the Corporation Counsel of the City as to form and legality, and to the approval of the City Comptroller, the Commissioner of the Department of Planning and Development is 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 4. 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 other provisions of this ordinance.

SECTION 5. This ordinance shall be in full force and effect from and after the date of its passage and approval.

2

EXHIBIT A

**Project
Description**

Property

Legal

PARCEL 1:

LOTS 10 THROUGH 15, BOTH INCLUSIVE AND LOT 16 (EXCEPT THE WEST 18 FEET THEREOF) IN BLOCK 4 IN ASHLAND AVENUE AND CLARK STREET ADDITION TO EDGEWATER BEING A SUBDIVISION IN PARTS OF SECTIONS 5 AND 6, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

CONTAINING 17,046 SQUARE FEET OR 0.39 ACRES MORE OR LESS. PINs:
14-06-409-060-0000 (Part of) 14-06-409-
048-0000

Commonly known as: 1628 W. Hollywood Avenue
1630 W. Hollywood Avenue, Chicago, Illinois
60660

PARCEL 2:

LOTS 2, 3 AND 4 IN EDGEWATER ONE SUBDIVISION BEING A RESUBDIVISION OF PART OF BLOCK 4 IN ASHLAND AVENUE AND CLARK STREET ADDITION TO EDGEWATER BEING A SUBDIVISION IN PARTS OF SECTIONS 5 AND 6, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

CONTAINING 10,507 SQUARE FEET OR 0.24 ACRES MORE OR LESS.

PINs:
14-06-409-066-0000 14-06-409-
067-0000 14-06-409-068-0000

Commonly known as: 1619 W. Edgewater Avenue
1621 W. Edgewater Avenue 1623 W.
Edgewater Avenue
Chicago, Illinois 60660

Parcel 3:

LOT 5 EXCEPT THAT PART THEREOF LYING WEST OF THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 16 IN BLOCK 4 IN ASHLAND AVENUE AND CLARK STREET ADDITION TO EDGEWATER, BEING A SUBDIVISION IN PARTS OF SECTIONS 5 AND 6, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

CONTAINING 8,492 SQUARE FEET OR 0.19 ACRES MORE OR LESS. PIN: 14-06-409-

069-0000 (Part of)

Commonly known as: 1625 W. Edgewater Avenue, Chicago, Illinois 60660

EXHIBIT B Intergovernmental Agreement

[See attached]

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF CHICAGO AND THE CHICAGO PARK
DISTRICT**

EDGEWATER AND ASHLAND AVENUE PARK

This Intergovernmental Agreement (this "Agreement") is made this _____ day of _____, 2018 (the "Closing Date"), under authority granted by Article VII, Section 10 of the 1970 Constitution of the State of Illinois, by and between the City of Chicago (the "City", an Illinois municipal corporation, by and through its Department of Planning Development ("DPD")); and the Chicago Park District (the "Park District"), an Illinois municipal corporation. The Park District and the City are sometimes referred to herein as the "Parties."

RECITALS

A. The City is a 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.

B. The Park District is a unit of local government under Article VII, Section 1 of the 1970 Constitution of the State of Illinois, and as such, has the authority to exercise control over and supervise the operation of all parks within the corporate limits of the City.

C. The Park District desires to build, develop, and operate a new park at 1625 West Edgewater Avenue in Chicago, Illinois and legally described in Exhibit A (the "Property"), such improvement being hereinafter referred to as the "Project."

D. The City desires to assist the Park District with the Project by (1) conveying the Property and (2) providing tax increment financing;

E. The City intends to convey the Property to the Park District which lies wholly within the boundaries of the Edgewater/Ashland Redevelopment Area (as hereinafter defined).

F. 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.

G. In accordance with the provisions of the Act, and pursuant to ordinances adopted on October 1, 2003, and published in the Journal (the "Journal") of the Proceedings of the City Council for said date at pages 8260 through 8333, the City Council: (i) approved and adopted a Tax Increment Redevelopment Project and Plan (the "Plan") for a portion of the City known as the Edgewater/Ashland Redevelopment Area" (the "Edgewater/Ashland Redevelopment Area"); (ii) designated the Edgewater/Ashland Redevelopment Area as a "redevelopment project area" and a Tax Increment Financing District; and (iii) adopted tax increment allocation financing for the Edgewater/Ashland Redevelopment Area.

I

H. 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 Edgewater/Ashland Redevelopment Area shall be known as the "Edgewater/Ashland Increment").

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

J. The Plan contemplates that tax increment financing assistance would be provided for public improvements, such as the Project, within, or adjacent to, the boundaries of the Edgewater/Ashland Redevelopment Area.

K. DPD desires to make available to the Park District a portion of the Edgewater/Ashland Increment in an amount not to exceed \$960,000 (the "Project Assistance") for the purpose of funding the Project costs (the "TIF-Funded Improvements") to the extent and in the manner provided in this Agreement.

L. 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 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 5/11-74.4-3(u) of the Act.

M. The City and the Park District desire to enter into this Agreement whereby the Park District will undertake the Project and the City shall convey the Property to the Park District and shall reimburse the Park District for the TIF-Funded Improvements made pursuant to the Project in an amount not to exceed \$960,000.

N. On _____, 2018, the City Council adopted an ordinance published in the Journal of Proceedings for said date at pages _____ to _____ (the "Authorizing Ordinance"), among other things, (i) approving the TIF Funded Improvements, (ii) authorizing the conveyance of the Property from the City to the Park District; and (iii) authorizing the execution of this Agreement.

O. On February 14, 2018, the Park District's Board of Commissioners passed an ordinance to accept the conveyance of the Property from the City for a new park in the Edgewater community area.

P. On January 10, 2018, the Park District's Board of Commissioners passed an ordinance expressing its desire to accept Project Assistance from the City for the development 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. Pursuant to that certain Real Estate Sales Agreement ("PSA") entered into among the City, MCZ Edgewater Exchange, LLC, and MCZ Edgewater LLC (MCZ Edgewater Exchange, LLC, and MCZ Edgewater, LLC, collectively, the "Seller"), a copy of which is attached hereto as Exhibit E. the City intends to purchase the Property. The PSA requires the Seller to abate and demolish the buildings on the Property, as well as perform certain remediation work. The City will transfer the Property to the Park District following the later of following the later of (i) the City's issuance of a temporary certificate of occupancy for Seller's residential development which is to be constructed on land to the east of the Property and commonly known as 5700 N. Ashland Avenue, Chicago, Illinois, (ii) the City's receipt of a final comprehensive residential no further remediation letter, if required by the City pursuant to Section 3.1.x.(e) of the PSA; and (iii) the Seller's completion of the Punch List Work (as defined in Section 3.1. of the PSA).

2. The Park District will purchase the 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.

3. No later than 36 months after the Closing Date, or later as the Commissioner (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.

4. The Project shall at a minimum meet or shall have met the general requirements set forth in the Project Description in Exhibit B 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 Edgewater/Ashland Increment 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.

5. The Park District shall 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 Property as a public park from all appropriate governmental authorities, including, evidence that the Property is appropriately zoned to be used, occupied and operated as a public park.

1.6. The Park District shall include a certification of compliance with the requirements of Sections 1.1, 1.2, 1.3, 1.4 and 1.5 hereof with each request for Edgewater/Ashland Increment 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 TIF Assistance to the Park District.

2. The City shall establish a special account within the Edgewater/Ashland Redevelopment Project Area Special Tax Allocation Fund; such special account is or shall be known as the "Edgewater Park Account." Disbursement of TIF Assistance funds will be subject to the availability of Edgewater/Ashland Increment in the Edgewater Park Account, subject to all restrictions on and obligations of the City contained in all Edgewater/Ashland Ordinances, or relating to the Edgewater/Ashland Increment and all agreements and other documents entered into by the City pursuant thereto.

3. Within 15 days after the Closing Date or such longer period of time as may be agreed to by the Commissioner, but in no event later than 90 days after the execution of this Agreement (the "Satisfaction Period"), the Park District must satisfy to the reasonable satisfaction of the Commissioner, the following conditions precedent for City's disbursement of the TIF Assistance to the Park District:

1. the Park District has satisfactory title to the Property, which may be evidenced by a valid lease agreement or an acceptable title insurance policy, subject only to those title exceptions acceptable to the City and the Park District;

2. [Intentionally Omitted - relating to title imperfections]; and

3. the Park District has satisfied the conditions stated in this Section 2.3 within the Satisfaction Period. If the Park District is unable to satisfy said conditions, either Party may terminate this Agreement by providing written notice to the other Party.

2.4. The Park District may request that a certificate(s) of expenditure in the form of Exhibit C hereto ("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.

5. 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 2.4 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.

6. The current estimated cost of the entire Project is \$960,000. The Park District has delivered to the Commissioner a budget for the Project attached as Exhibit D. The Park District certifies that it has identified sources of funds, including the TIF Assistance, sufficient to complete its budgeted portion of the Project. The Park District agrees that the City will reimburse the Park District with the TIF Assistance for the costs of the Project and that all costs of completing the Project over the TIF Assistance shall be the sole responsibility of the Park District. If the Park District at any point learns upon reasonable duty of inquiry that it does not have sufficient funds to complete the Project, the Park District shall so notify the City immediately in writing and cease all work on the Project until the City and the Park District agree on how to proceed; the Park District may narrow the scope of the Project (the "Revised Project") as agreed to by the City prior to the restart of any work in order to complete the Revised Project with the TIF Assistance. The City has the right, at its election, to withhold and refuse all reimbursement in the event that the Park District fails to so notify the City and/or the Park District and the City fail to reach agreement on a Revised Project as described above.

7. Exhibit D 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 D 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.

8. The Park District hereby acknowledges and agrees that the City's obligations hereunder with respect to the Project Assistance are subject on every respect to the availability of funds as described in and limited by this Section 2.8 and Section 2.2. 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.

9. 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

1 The term of this Agreement shall commence on the Closing Date and shall expire on the date on which the Edgewater Ashland 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 one (1) year following the Closing Date. Upon the later of the completion of the construction and development of the Project and the issuance of a Final No Further Remediation Letter relating to the Property from the Illinois Environmental Protection Agency, the City shall convey the Property to the Park District by quitclaim deed for the sum of One Dollar (\$1.00) per parcel. The City shall prepare all necessary transfer documents and cause the conveyance of the parcels agreed to be transferred to the Park District. The Property closing shall take place on such date and at such place as the parties may mutually agree to in writing, but in no event earlier than the Closing Date.

3 Without limiting the generality of the quitclaim nature of the City's deed, all such conveyances and title shall, in addition to the provisions of this Agreement, be subject to:

1. The Redevelopment Project and Plan for the Edgewater/Ashland Redevelopment Project Area;
2. The standard exceptions in an ALTA title insurance policy;
3. General real estate taxes;
4. Special assessments or other taxes, if any;
5. All Easements, encroachments, covenants and restrictions of record and not shown of record;
6. Any liens thereon;
7. Such other title defects as may exist; and
8. Any and all exceptions caused by the acts of the Park District or its agents.

3.4 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.

6

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.

3.5 The City shall use reasonable efforts to obtain the waiver or release of any delinquent real estate taxes or tax liens on the 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 Property after the Closing Date.

SECTION 4. ENVIRONMENTAL MATTERS.

1. The Chicago 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 or any applicable funding provided by the Park District. The City's financial obligation shall be limited to an amount not to exceed \$960,000 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 Property or the suitability of the Property as a park or for any use whatsoever.

2. The Park District agrees to carefully inspect the Property prior to commencement of any remediation or development on the 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 Property. The Park District 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 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 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 Property. If the soil conditions are not in all respects entirely suitable for the use or uses to which the 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 Property in a condition entirely suitable for the intended uses under this Agreement. After the City's conveyance of the 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 Property. For purposes of the foregoing, "Environmental Laws" shall mean 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

7

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 shall provide and maintain at the Park District's own expense, or cause to be provided during the term of this Agreement, the insurance coverages and requirements specified below, insuring all operations related to this Agreement.

- a) Workers Compensation and Employers Liability. Workers Compensation 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.
- b) Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). 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.
- c) Automobile Liability (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, The Park District shall 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.
- d) Professional Liability. When any architects, engineers or professional consultants perform work in connection with this Agreement, The Park District shall cause to be provided, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000.
- e) Self Insurance. To the extent permitted by applicable 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 any such 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 such insurance requirements as stipulated above.

2. The Park District will furnish the City at the address stated in Section 8.13, original Certificates of Insurance evidencing the required coverage to be in force on the Closing Date, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Park District shall submit evidence of insurance on the City's Insurance Certificate Form or equivalent prior to the Closing Date. 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 shall not be deemed to be a waiver by the City.

3. The Park District shall advise all insurers of the provisions of this Agreement regarding insurance. Non-conforming insurance shall 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 this Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or this Agreement may be terminated.

4. The required insurance shall 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.

5. Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Park District and its contractors.

6. The Park District agrees that insurers shall waive their rights of subrogation against the City, its employees, elected officials, agents, or representatives.

7. The Park District expressly understands and agrees that any coverage and limits furnished by the Park District shall in no way limit the Park District's liabilities and responsibilities specified by this Agreement or by law.

8. The Park District expressly understands and agrees that any insurance or self insurance programs maintained by the City shall not contribute with insurance provided by the Park District under this Agreement.

9. The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

10. The Park District shall require all subcontractors to provide the insurance required herein and insurance customarily required by the Park District or the Park District may provide the required coverages for subcontractors. All subcontractors shall be subject to the same insurance requirements of the Park District unless otherwise specified herein. In all contracts relating to the Project, the Park District agrees to require the contractor to name the City as an additional insured on insurance coverages and to require the contractor to indemnify the City from all claims, damages, demands, losses, suits, actions, judgments and expenses

or contractor's suppliers, employees, or agents.

5.11. The City's Risk Management Department maintains the right to modify, delete, alter or change these 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 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.

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 Authorizing Ordinance.

Execution of this Agreement by the Park District is authorized by the Park District Resolution. 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

11

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

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

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

12

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 905
121 N. LaSalle Street
Chicago, Illinois 60602
(312) 744-5756
(312) 744-7996 (Fax)

For the Park District: Heather Gleason
Chicago Park District
Director of Planning and Construction
541 North Fairbanks
Chicago, Illinois 60611
(312) 742-4650
(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.

8.16. 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.

13

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.]

14

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

David L. Reifman Commissioner

Attest:

Kantrice Ogletree Secretary
CHICAGO PARK DISTRICT, a body politic and Corporate of the State of Illinois

By:
Michael P. Kelly
General Superintendent and CEO

EXHIBIT C

Form of Certificate of Expenditure

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The affiant, Chicago Park District (the "Park District"), an Illinois municipal corporation, hereby certifies that with respect to that certain Intergovernmental Agreement between the Park District and the City of Chicago dated _____, (the "Agreement"):

- 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
- B. TIF-Funded Improvements for the Project reimbursed by the City to date:
- B. \$ _____
- C. The Park District requests reimbursement for the following cost of TIF-Funded
- C. Improvements: \$ _____
- D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.
- E. The Park District 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 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 D

Project Budget TIF-Funded Improvements

The total cost of the project is \$960,000. In no event, however, shall funding from the Edgewater/Ashland

TIF Fund exceed \$960,000.

	<u>Edgewater Park</u>
<u>Sources Budget:</u>	
City of Chicago (Edgewater/Ashland TIF)	\$960,000
Chicago Park District	\$0
Total Project Cost	\$960,000

<u>Uses Budget:</u>	
Design	\$ 67,500
General Conditions	\$ 85,000
Construction	\$675,000
Contingency	\$132,500
Total:	\$960,000

The Commissioner may approve changes to this preliminary budget.

EXHIBIT A

Legal Description

LOTS 1 AND 2 (EXCEPT THE EAST 73.31 FEET), LOT3 (EXCEPT THE NORTH 6.13 FEET OF THE EAST 73.31 FEET) AND ALL OF LOT 4 TO 9 IN BLOCK 4 IN ASHLAND AVENUE AND CLARKSTREET ADDITIONTO EDGEWATER IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS.

ALSO LOT 1IN EDGEWATER PROPERTY ONE SUBDIVISION.ASUBDIVISIONOF LOTS 1, 2 AND 54 THROUGH 61 AND PART OF LOT 3 IN BLOCK 4 IN ASHLAND AVENUE AND CLARKSTREET ADDITIONTO EDGEWATER IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS.

Common Address: 1625 West Edgewater Avenue, Chicago, Illinois

PIN(s): 14-60-409-048-0000
14-60-409-060-0000 (part) 14-60-409-
066-0000 14-60-409-067-0000 14-60-
409-068-0000 14-60-409-069-0000
(part)

EXHIBIT B Project

Description

The development of a new park on a portion of the former Edgewater Hospital site.

EXHIBIT E

Estate Sales Agreement

Department of Planning and Development

CITY OF CHICAGO

May 17, 2018

**TO THE HONORABLE CHAIRMAN, EDWARD M. BURKE AND MEMBERS OF THE COMMITTEE ON
FINANCE OF THE CITY COUNCIL**

Ladies and Gentlemen:

I transmit herewith an ordinance authorizing the execution of an Intergovernmental Agreement with the Chicago Park District for the construction of the new Edgewater Park

David L. Reifman Commissioner
121 NORTH LASALLE STREET, ROOM 1000, CHICAGO, ILLINOIS 60602

Your favorable consideration of this ordinance will be appreciated. Very truly yours,

CHICAGO May 23. 2018

To the President and Members of the City Council:

Your Committee on Finance having had under consideration an ordinance authorizing the Commissioner of the Department of Planning and Development to enter into and execute an Intergovernmental Agreement with the Chicago Park District for the construction of the new Edgewater Park.

Direct Introduction

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

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

Respectfully submitted

Chairman

Approved