OFFICE OF THE MAYOR
CITY OF CHICAGO
HI CHARD M. DALEY
MAYOR

March 9,2011

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.

Very truly yours,

S:\Finance\Open <file://S:/Finance/Open> Space Projects\North Branch Trail\2011 ordinance 1 .doc

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 City's Department of Revenue ("DOR") 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 City's Department of Housing and Economic Development ("HED") has determined that the Fee-Paying Developments built in the Community Areas listed on Exhibit A attached hereto have deepened the already significant deficit of open space in the Community Areas, 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 and appearing on pages 69309-69311 of the Journal of the Proceedings of the City Council of the same date; and

WHEREAS, the City's Department of Transportation ("CDOT") proposed the implementation of a project to create open spaces and recreational facilities in the Community Areas listed on Exhibit A (the "Project"); and

WHEREAS, the Open Space Ordinance requires that the Open Space Fees be used for open space

acquisition or capital improvements, or both, which provide a direct and material benefit to the new development from which the Open Space 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
1
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, CDOT has agreed to use the Open Space Fees, in the amounts set forth on Exhibit A, to pay for capital improvements relating to the Project; and
WHEREAS, HED has determined that the use of the Open Space Fees to assist the Project will provide a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected in that the Open Space Fees used for the Project will come from the specific funds set up by DOR for the corresponding Community Areas 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 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, as proposed on.. Exhibit A, 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 set forth on Exhibit A.
SECTION 3. Open Space Fees in an amount not to exceed $51,982 from the Irving Park Community Area are hereby appropriated to CDOT for the Project.
SECTION 4. 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 5. This ordinance shall be in full force and effect from and after the date of its passage and approval.
2
EXHIBIT A Description of Project
Department of Transportation Project North Branch Trail
Address: 3550 North Rockwell to 3741 North California
Community Areas: North Center, Irving Park and Avondale
Project Description: Design and initial development of 1,515 linear feet of trail
Amount of Open Space Fees: $51,982 from the Irving Park Community Area
3