

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF CHICAGO
AND THE CHICAGO PARK DISTRICT
(SPIKINGS FARM PARK PLAYLOT)**

This Agreement is made as of this 31st day of December, 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 and Development or any successor thereto ("**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 parks within the corporate limits of the City.

C. The Park District seeks reimbursement of funds it has expended for the rehabilitation of certain facilities which are a part of Spikings Farm Park (the "**Project**"), an approximately 0.14-acre park located at 4706 North Pulaski Road and legally described in **Exhibit A** (the "**Property**").

D. The Park District owns the Property and the Property lies wholly within the boundaries of the Lawrence/Pulaski Avenue Tax Increment Financing Redevelopment Project Area (as hereinafter defined).

E. 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.

F. In accordance with the provisions of the Act, pursuant to ordinances adopted on February 27, 2002, and published in the Journal of Proceedings of the City Council for such date at pages 79687-79793 (collectively, the "**TIF Ordinances**"), and under the provisions of the Act, the City Council of the City: (i) approved a redevelopment plan and project (the "**Redevelopment Plan**") for a portion of the City known as the "Lawrence/Pulaski Avenue Tax Increment Financing Redevelopment Project Area"; (ii) designated the Lawrence/Pulaski Avenue Tax Increment Financing Redevelopment Project Area as a "redevelopment project area" (the "**Redevelopment Project Area**") and a Tax Increment Financing District; and (iii) adopted tax increment financing for the Redevelopment Project Area.

G. 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 Redevelopment Project Area shall be known as the "**Lawrence/Pulaski Increment**").

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

I. DPD wishes to make available to the Park District a portion of the Lawrence/Pulaski Increment in an amount not to exceed a total of \$137,500 (the "**TIF Assistance**"), subject to Section 2.6, for the purpose of funding the Project (the "**TIF-Funded Improvements**") in the Redevelopment Project Area to the extent and in the manner provided in the Agreement (as hereinafter defined).

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

K. 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.

L. The City and the Park District wish to enter into this Agreement whereby the City shall reimburse the Park District for the TIF-Funded Improvements made pursuant to the Project.

M. On June 27, 2018, the City Council adopted an ordinance published in the Journal for said date, (the "**Authorizing Ordinance**"), among other things, authorizing the execution of this Agreement.

N. On January 10, 2018, the Park District's Board of Commissioners passed an ordinance expressing its desire to accept TIF Assistance from the City for 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.

1.1. The plans and specifications for the Project (the "Plans and Specifications") as completed by the Park District are set forth in Exhibit B hereof, which are approved by DPD. The Park District complied with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders pertaining to or affecting the Project or the Park District as related thereto.

1.2. The Park District has provided the City with copies 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.

SECTION 2. FUNDING

2.1. 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.

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

2.3. 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:

2.3.1. the Park District has satisfactory title to the Property, which may be evidenced by an acceptable title insurance policy, subject only to those title exceptions acceptable to the City and the Park District; and

2.3.2. 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 payment from the City by submitting a Certificate of Expenditure in the form of Exhibit D hereto ("**Certificate of Expenditure**"). The City shall not execute and approve a Certificate of Expenditure in excess of the actual costs of the Project that are TIF-Funded Improvements, and in no event in an amount greater than the TIF Assistance. Prior to the execution of the Certificate of Expenditure by the City, the Park District shall submit documentation regarding the applicable expenditures to DPD. Delivery by the Park

District to the City of any request for execution by the City of the 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 the Certificate of Expenditure, that:

2.4.1. the total amount of the request for the Certificate of Expenditure represents the actual amount 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;

2.4.2 the Park District 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; and

2.4.3. 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.

2.5. 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 and approval 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.

2.6. The cost of the entire Project was \$137,500. The Park District has delivered to the Commissioner a budget for the Project attached as Exhibit C. The Park District certifies that it has sources of funds, including the TIF Assistance, sufficient to complete its budgeted portion of the Project. The Park District agrees that the City will only contribute TIF Assistance to reimburse the Park District 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.

2.7. Exhibit C contains a list of capital improvements, equipment costs, general construction costs, 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 TIF 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 TIF Assistance funds on the Project, the Commissioner, based upon the Project budget, may make such modifications to Exhibit C as he or she wishes in his or her discretion to account for all of the TIF Assistance funds 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 TIF Assistance funds, subject to the terms of this Agreement.

2.8. The Park District hereby acknowledges and agrees that the City's obligations hereunder with respect to the TIF Assistance are subject in every respect to the availability of

funds as described in and limited by this Section 2. If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for disbursements of the TIF 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.

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

SECTION 3. TERM.

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

SECTION 4. ENVIRONMENTAL MATTERS.

4.1. It shall be the responsibility of the Park District, at its sole cost and expense, to investigate and determine the soil and environmental condition of the Property, including obtaining phase I and, if applicable, phase II environmental audits for the Property and (b) to determine if any environmental remediation is necessary with respect to the Property or the Project, and any such work that the Park District determines is required shall be performed at its sole cost and expense as the parties understand and agree that the City's financial obligation shall be limited to an amount not to exceed the TIF Assistance which is provided solely for the items set forth on Exhibit C. 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.

4.2. The Park District agrees to carefully inspect the Property prior to commencement of any activity related to the Project 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.

SECTION 5. [Intentionally Deleted]

SECTION 6. [Intentionally Deleted]

SECTION 7. DEFAULT.

7.1. In the event the Park District fails to perform, keep or observe any of its covenants, conditions, promises, agreements or obligations under this Agreement and such default is not cured as described in Section 7.2 hereof, the City may terminate this Agreement.

7.2. Prior to termination, the City shall give its notice of intent to terminate 30 days prior to termination at the address specified in Section 8.13 hereof, and shall state the nature of the default. In the event the Park District does not cure such default within the 30-day notice period, such termination shall become effective at the end of such period; provided, however, with respect to those defaults which are not capable of being cured within such 30-day period, the Park District shall not be deemed to have committed such default and no termination shall occur if the Park District has commenced to cure the alleged default within such 30-day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

7.3. 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.

8.1. 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 Ordinance. The Parties represent and warrant to each other that they have the authority to enter into this Agreement and perform their obligations hereunder.

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

8.3. 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.

8.4. 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.

8.5. 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.

8.6. 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.

8.7. 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.

8.8. 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.

8.9. 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.

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

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

8.12. 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.

8.13. 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) 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 copies to: Chicago Park District
General Counsel
541 North Fairbanks, Room 300
Chicago, Illinois 60611
(312) 742-4602
(312) 742-5316 (Fax)

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

8.14. 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.

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

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

For the Park District: Heather Gleason
Chicago Park District
Director of Planning and Construction
541 North Fairbanks
Chicago, Illinois 60611
(312) 742-4685
(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.

8.17. 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.

8.18. 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.

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

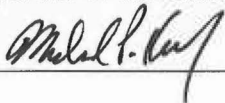
[The remainder of this page is intentionally blank—Signature page immediately follows]

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

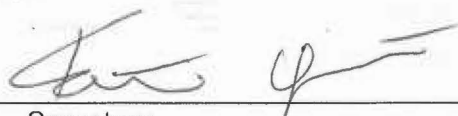
CITY OF CHICAGO, a municipal corporation, by and through its Department of Planning and Development

By: _____
David L. Reifman
Commissioner

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

By:  _____
General Superintendent and CEO

ATTEST

By:  _____
Secretary

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

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

By: David L. Reifman by [Signature]
David L. Reifman
Commissioner

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

By: _____
General Superintendent and CEO

ATTEST

By: _____
Secretary

Exhibit A

Legal Description

Common Address: 4706 North Pulaski Road

Lots 10 and 11 in Block 3 in Irving Park Addition said addition being a subdivision of Lots 2 to 6 and 16 to 20 and parts of Lot 21 in Fitch and Heacox subdivision of the North East 1/4 of Section 15, Township 40 North, Range 13 East of the third principal meridian, in Cook County, Illinois.

PIN 13-15-207-047-0000

Exhibit B

Plans and Specifications

Project is a new Chicago Plays playground, as detailed on the attached.



KOMPAN! 



Spikings Farm Park
Option 1: 2-5 Play Area

 **Imagine Nation**
INSPIRED IDEAS & INSTALLATIONS

Exhibit C

Project Budget TIF-Funded Improvements

The total cost of the project is \$137,500. In no event, however, shall funding from the Lawrence/Pulaski TIF Fund exceed \$137,500.

Spikings Farm Park

Sources Budget:

City of Chicago (Lawrence/Pulaski TIF)	\$137,500
Chicago Park District	\$0
 Total Project Cost	 \$137,500

Uses Budget:

Demolition, Site Prep, Utilities	\$ 29,000
Playground Equipment and Installation	\$ 67,500
Concrete and Surfacing	\$ 20,000
Landscape	\$ 3,000
General Conditions	\$ 18,000
 Total:	 \$137,500

The Commissioner may approve changes to this budget.

All capitalized terms which are not defined herein has 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