

AGREEMENT BETWEEN
THE CITY OF CHICAGO
AND THE CHICAGO PARK DISTRICT
REGARDING MINUTEMAN PARK

This Agreement (the "Agreement") is made and entered into this 1st day of AUGUST, 2011 by and between the City of Chicago (the "City"), a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, acting by and through its Department of Housing and Economic Development ("HED"), and the Chicago Park District (the "Park District"), a body politic and corporate and a unit of local government under Article VII, Section 1 of the 1970 Constitution of the State of Illinois.

RECITALS

WHEREAS, the Park District controls, operates, and maintains a public park known as Minuteman Park, consisting of approximately 9 acres and commonly known as 5940 South Central Avenue, Chicago, Illinois (the "Property"); and

WHEREAS, the Park District desires to construct a new playground on the Property (the construction of the new playground on the Property shall be known as the "Project"); and

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

WHEREAS, to induce certain redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on May 17, 2000 (as published in the Journal of Proceedings of the City Council (the "Journal") for such date at pages 30954 to 31096): "Approval of Tax Increment Redevelopment Plan for Archer/Central Redevelopment Project Area"; "Designation of Archer/Central Redevelopment Area as Tax Increment Financing District"; and "Adoption of Tax Increment Allocation Financing for Archer/Central Redevelopment Project Area" (the aforesaid Ordinances, as the same may have heretofore been or hereinafter may be amended, are collectively referred to herein as the "Archer/Central TIF Ordinances", the Redevelopment Plan approved by the Archer/Central TIF Ordinances, as amended, is referred to herein as the "Archer/Central Redevelopment Plan" and the redevelopment project area created by the TIF Ordinances is referred to herein as the "Archer/Central Redevelopment Area"); and

WHEREAS, all of the Property lies wholly within the boundaries of the Archer/Central Redevelopment Area; and

WHEREAS, under 65 ILCS 5/11-74.4-3(q)(2), 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 the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment (Increment collected from the Archer/Central Redevelopment Area shall be known as the "Archer/Central Increment"); and

WHEREAS, the Archer/Central Redevelopment Plan contemplates that tax increment financing assistance would be provided for park improvements, such as the Project, within the boundaries of the Archer/Central Redevelopment Area; and

WHEREAS, the City agrees to use a portion of Archer/Central Increment in an amount not to

exceed \$340,000 (the "Project Funds") to pay or reimburse the Park District for the costs of the Project (the "Project Costs"); and

WHEREAS, in accordance with the Act, certain of the Project Costs, among other eligible redevelopment project costs under the Act approved by the City pursuant to this Agreement, are and shall be such of the Park District's capital costs necessarily incurred or to be incurred in furtherance of the objectives of the Archer/Central Redevelopment Plan, and the City has found, pursuant to the Agreement Ordinance (as such term is defined in Article Fourteen hereof) that certain of the Project Costs consist of the cost of the Park District's capital improvements for the Project that are necessary and directly result from the redevelopment project constituting the Project and, therefore, constitute "taxing districts' capital costs" as defined in Section 5/11-74.4-03 (u) of the Act.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

TERMS AND CONDITIONS

ARTICLE ONE: INCORPORATION OF RECITALS

The recitals set forth above are incorporated herein by reference and made a part hereof.

ARTICLE TWO: THE PROJECT

1. Compliance with All Laws. The Park District shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, as well as all policies, programs and procedures of the Park District, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto. The Park District shall include a certification of such compliance with each request for Project 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.

2. [intentionally omitted]

3. Contracts. 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 including but not limited to attorney's fees arising out of or resulting from work on the Project by the contractor or contractor's suppliers, employees, or agents.

ARTICLE THREE: FUNDING

1. Requisition Form.

(a) Upon completion of the Project (or, in the City's discretion, at intervals during the Project acceptable to the City), the Park District shall provide HED with a Requisition Form, in the form of Exhibit A hereto, along with: (i) a cost itemization of the applicable portions of the budget for the Project (the "Project Budget") attached as Exhibit B hereto; (ii) evidence of the expenditures upon Project Costs which the Park District has paid; and (iii) all other documentation described in Exhibit A. The City shall review and, in the City's discretion, approve the Requisition Form and make the requested and approved disbursement of Project Funds.

(b) Delivery by the Park District to HED of a Requisition Form hereunder shall, in

addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such Requisition Form, that:

(i) the total amount of the Project Funds previously disbursed (if any) 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;

(ii) all amounts shown as previous payments on the current Requisition Form have been paid to the parties entitled to such payment;

(iii) the Park District has approved all work and materials for the Requisition Form, and such work and materials conform to the plans and specifications for the Project; and

(iv) the Park District is in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, as well as all policies, programs and procedures of the Park District, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

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 above are true and correct, and the approval of the Requisition Form 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. Project Budget. The current estimate of the cost of the Project is \$552,500. The Park District has delivered to the City, and the City hereby approves, the Project Budget attached hereto and incorporated herein as Exhibit B. The Park District certifies that it has identified sources of funds (including the Project Funds) sufficient to complete the Project. The Park District agrees that the City will only contribute the Project Funds to the Project and that all costs of completing the Project over the Project Funds shall be the sole responsibility of the Park District. If the Park District at any point does not have sufficient funds to complete the Project, the Park District shall so notify the City in writing, and the Park District may narrow the scope of the Project as agreed with the City in order to complete the Project with the available funds.

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

4. Reports. If requested by the City, the Park District shall provide to the City monthly reports on the progress of the Project and reasonable access to its books and records relating to the Project. Final reports generated for the City about the Project, if any, will be provided by the City to the Park District.

5. Disbursement. The City shall, subject to the Park District's satisfaction of the conditions precedent to disbursement described in this Article Three and such other conditions contained in this Agreement, disburse the Project Funds to the Park District.

ARTICLE FOUR: TERM

The Term of the Agreement shall commence on the date of its execution and shall expire

not later than December 31, 2024.

ARTICLE FIVE: INDEMNITY; DEFAULT AND REMEDIES

1. Indemnity. The Park District agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses, (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with: (1) the Project, including but not limited to the Park District's or any contractor's failure to pay general contractors, subcontractors or materialmen in connection therewith (but not including the City's negligence or intentional actions); or (2) the Park District's failure to comply with any of the terms, covenants and conditions contained within this Agreement. The Park District shall not have a duty to indemnify to the City for losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses to the extent such are caused by the negligence or willful misconduct of the City.

2. Default and Remedies. The failure of the Park District to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Park District under this Agreement or any related agreement shall constitute an "Event of Default" by the Park District hereunder. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of the Project Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy.

In the event the Park District shall fail to perform a covenant which the Park District is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Park District has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those defaults which are not capable of being cured within such thirty (30) day period, the Park District shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

ARTICLE SIX: CONSENT

Whenever the consent or approval of one or both parties to this Agreement is required hereunder, such consent or approval shall not be unreasonably withheld.

ARTICLE SEVEN: NOTICE

Notice to Park District shall be addressed to:

Chicago Park District
541 North Fairbanks Court
Chicago, Illinois 60611
Attention: General Superintendent

with a copy to:

Chicago Park District
541 North Fairbanks Court
Chicago, Illinois 60611
Attention: General Counsel

Notice to the City shall be addressed to:

Commissioner
Department of Housing and Economic Development
City Hall, Room 1000
121 North LaSalle Street
Chicago, Illinois 60602

and

Corporation Counsel
Department of Law
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Finance and Economic
Development Division

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addressed set forth above, by any of the following means: (a) personal service; (b) electric communications, whether by telex, telegram, telecopy or facsimile (FAX) machine; (c) overnight courier; (d) registered or certified mail, return receipt requested.

Such addresses may be changed when notice is given to the other party in the same manner as provided above. Any notice, demand or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and, if sent pursuant to subsection (d) shall be deemed received two (2) days following deposit in the mail.

ARTICLE EIGHT: ASSIGNMENT; BINDING EFFECT

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

This Agreement shall inure to the benefit of and shall be binding upon the City, the Park District and their respective successors and permitted assigns. This Agreement is intended to be and is for the sole and exclusive benefit of the parties hereto and such successors and permitted assigns.

ARTICLE NINE: MODIFICATION

This Agreement may not be altered, modified or amended except by written instrument signed by all of the parties hereto.

ARTICLE TEN: COMPLIANCE WITH LAWS

The parties hereto shall comply with all federal, state and municipal laws, ordinances, rules and regulations relating to this Agreement.

ARTICLE ELEVEN: GOVERNING LAW AND SEVERABILITY

This Agreement shall be governed by the laws of the State of Illinois. If any provision of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, ordinance, rule of law or public

policy, or for any reason, such circumstance shall not have the effect of rendering any other provision or provisions contained herein invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part hereof.

ARTICLE TWELVE: COUNTERPARTS

This Agreement may be executed in two counterparts, each of which shall be deemed an original.

ARTICLE THIRTEEN: ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and cannot be modified or amended except by mutual written agreement of the parties.

ARTICLE FOURTEEN: AUTHORITY

Execution of this Agreement by the City is authorized by an ordinance adopted by the City Council on July 28, 2011 (the "Agreement Ordinance"). Execution of this Agreement by the Park District is authorized by order of the Board of Commissioners of the Park District on February 10, 2010. The parties represent and warrant to each other that they have the authority to enter into this Agreement and perform their obligations hereunder.

ARTICLE FIFTEEN: HEADINGS

The headings and titles of this Agreement are for convenience only and shall not influence the construction or interpretation of this Agreement.

ARTICLE SIXTEEN: DISCLAIMER OF RELATIONSHIP

Nothing contained in this Agreement, nor any act of the City or the Park District shall 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 and the Park District.

ARTICLE SEVENTEEN: CONSTRUCTION OF WORDS

The use of the singular form of any word herein shall also include the plural, and vice versa. The use of the neuter form of any word herein shall also include the masculine and feminine forms, the masculine form shall include feminine and neuter, and the feminine form shall include masculine and neuter.

ARTICLE EIGHTEEN: NO PERSONAL LIABILITY

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

ARTICLE NINETEEN: 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 Park District: Gia Biagi, Director of Planning
Chicago Park District
541 North Fairbanks Court

Chicago, Illinois 60611
Phone: (312) 742 - 4682
FAX: (312) 742 - 5347

For the City: Nelson Chueng, Coordinating Planner
City of Chicago
Department of Housing and Economic Development
City Hall, Room 1101
121 North LaSalle Street
Chicago, Illinois 60602
Phone: (312) 744 - 5756
FAX: (312) 744 - 7996

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.

[Balance of this page is intentionally left blank.
The signature page immediately follows this page.]

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

CITY OF CHICAGO, ILLINOIS

By: 
Commissioner
Department of Housing and Economic Development

CHICAGO PARK DISTRICT

By: 
General Superintendent

ATTEST

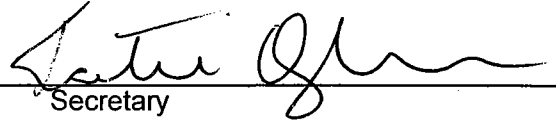
By: 
Secretary

EXHIBIT A
REQUISITION FORM

State of Illinois)
) SS
County of Cook)

The affiant, _____, _____ of the Chicago Park District, a body politic and corporate and a unit of local government under Article VII, Section 1 of the 1970 Constitution of the State of Illinois (the "Park District"), hereby certifies to the City of Chicago (the "City") that with respect to that certain Intergovernmental Agreement between the Park District and the City regarding Minuteman Park dated _____, 2011 (the "Agreement"):

A. The following is a true and complete statement of all expenditures for the Project by the Park District to date:

\$ _____

B. This paragraph B sets forth and is a true and complete statement of all Project Costs paid for by the City to date:

\$ _____

C. The Park District requests disbursement for the following Project Costs:

\$ _____

D. None of the Project Costs referenced in paragraph C above has 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 therein.

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

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

F. Attached hereto are: (1) a cost itemization of the applicable portions of the Project Budget attached as Exhibit B to the Agreement; and (2) evidence of the expenditures upon Project Costs for which the Park District hereby seeks reimbursement.

All capitalized terms that 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:
CITY OF CHICAGO
DEPARTMENT OF HOUSING AND ECONOMIC DEVELOPMENT

Name: _____
Title: _____

EXHIBIT B
PROJECT BUDGET

Minuteman Park Playground Budget	
Design and Construction Supervision	\$ 55,000.00
Demolition, Excavation, Removal	\$ 40,000.00
Drainage/Stormwater Management	\$ 40,000.00
Earthwork and Landscaping	\$ 65,000.00
Playground Equipment	\$ 70,000.00
Playground and Hardscape Surfacing	\$ 110,000.00
Electric/Lighting	\$ 50,000.00
Fencing	\$ 37,500.00
Site Amenities (including benches, picnic tables, drinking fountain, retaining walls)	\$ 55,000.00
TOTAL	\$522,500.00
Expected Completion	Spring 2012
Funding Sources	\$ 340,000 TIF
	\$ 182,500 CPD