

EXHIBIT B

FIRST AMENDED AND RESTATED AGREEMENT BETWEEN THE CITY OF CHICAGO AND THE CHICAGO PARK DISTRICT (Kells (George) Park)

This First Amended and Restated Agreement (as amended, restated, supplemented or otherwise modified from time to time, the “**First Amended Agreement**”) is made on or as of the ____ day of _____, 2024 (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 has undertaken to make certain park improvements at Kells (George) Park, which is generally located at 3201 West Chicago Avenue, Chicago, Illinois 60624 (the “**Original Property**”).

D. The Park District intends to make certain improvements to the New Park Property (as hereinafter defined) as described in **Exhibit A** (the “**Project**”).

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 February 27, 2002, and published in the Journal of the Proceedings (the “**Journal**”) of the City Council of the City (the “**City Council**”) for such date at pages 79794 through 80025, and as subsequently amended, the City Council: (i) approved and adopted a redevelopment plan and project for a portion of the City known as the “Chicago/Central Park Redevelopment Project Area” (the “**Area**”); (ii) designated the Area as a “redevelopment project area”; and (iii) adopted tax increment allocation financing for the Area.

H. In accordance with the provisions of the Act, and pursuant to ordinances adopted on June 10, 1998, and published in the Journal for such date at pages 70367 to 70520, and as

subsequently amended, the City Council: (i) approved and adopted a redevelopment plan and project for a portion of the City known as the "Kinzie Industrial Conservation Area Tax Increment Redevelopment Project Area" (the "**Kinzie Redevelopment Area**"); (ii) designated the Kinzie Redevelopment Area as a "redevelopment project area"; and (iii) adopted tax increment allocation financing for the Kinzie Redevelopment Area.

I. 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 Area shall be known as the "**Area Increment**" and Increment collected from the Kinzie Redevelopment Area shall be known as the "**Kinzie Increment**").

J. Under 65 ILCS 5/11-74.4-4(q), if a redevelopment project area (i) was established before November 1, 1999 and (ii) is located within a municipality with a population of more than 100,000, then a municipality may utilize revenues received under the Act from a different redevelopment project area, other than State of Illinois sales tax increment revenues, to pay for any eligible redevelopment project costs to the extent that the redevelopment project costs involve public property that is either contiguous to, or separated only by a public right of way from, the redevelopment project area from which the revenues are received; whether or not redevelopment project costs or the source of payment for the costs are specifically set forth in the redevelopment plan for the redevelopment project area.

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

L. DPD wishes to make available to the Park District a portion of the Area Increment and/or Kinzie Increment in an amount not to exceed an aggregate total amount of \$17,000,000 (the "**TIF Assistance**"), subject to Section 2.6, for the purpose of funding the Project (the "**TIF-Funded Improvements**") in the Area to the extent and in the manner provided in this First Amended Agreement.

M. The City owns three (3) parcels of real property and a vacated alley located at 714, 724 and 726 North Kedzie Avenue, Chicago, Illinois, and legally described in **Exhibit D** (the "**City Property**").

N. The City desires to convey the City Property to the Park District to expand the Original Property.

O. The City is authorized to convey City-owned real estate to other municipalities in accordance with the provisions of the Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.*

P. The City Property and Original Property (collectively, the "**New Park Property**"), lie wholly within the boundaries of the Area.

Q. The New Park Property is: (i) located within a municipality with a population of more than 100,000 and (ii) a public property that is contiguous to, or separated only by a public right-of-way from, the Kinzie Redevelopment Area.

R. 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.

S. The City Property is presently improved with a decommissioned firehouse and is adjacent to the Original Property.

T. The City has reviewed a Phase I ESA (as hereafter defined) for 724-726 N Kedzie Avenue dated January 2020 which did not identify recognized environmental conditions, however the City identified environmental concerns to investigate.

U. The City procured a Phase II ESA (as hereafter defined) for 724-726 N Kedzie dated November 18, 2020 which identified contamination above residential remediation objectives as determined by Title 35 of the Illinois Administrative Code Part 742.

V. The Phase II ESA identified contamination above residential remediation objectives as determined by Title 35 of the Illinois Administrative Code Part 742.

W. The City procured a Phase I ESA for 714 N Kedzie Ave dated December 2021 which identified recognized environmental conditions.

X. The City procured a Hazardous Building Materials Survey (as hereafter defined) of 714 N Kedzie Ave on January 19, 2022 and the survey identified hazardous building and regulated materials in the building.

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

Z. On January 24, 2024, the Park District's Board of Commissioners (the "**Board**") adopted Resolution No. 24-1012-0124 authorizing the execution of the First Amendment; and on June 12, 2024, adopted Resolution No. 24-1099-0612 approving the acquisition of the City Property.

AA. On July 9, 2024, the Community Development Commission, by Resolution No. 23-CDC-30, recommended the transfer of the City Property to the Park District.

BB. On July 18, 2024, the Plan Commission of the City, by Resolution No. 24-037-21, recommended the sale of the City Property to the Park District.

CC. On March 15, 2023, the City Council adopted an ordinance published in the Journal at pages 60883 through 60888 for said date (the “**Original Authorizing Ordinance**”), among other things, authorizing the execution of an agreement between the Parties for the use of tax increment financing for improvements on the Original Property (the “**Original Agreement**”).

DD. On April 21, 2023, the Parties entered into the Original Agreement.

EE. On _____, 2024, the City Council adopted an ordinance published in the Journal at pages _____ through _____ for said date (the “**Amending Ordinance**”), among other things, authorizing the execution of a first amended and restated agreement between the Parties for the use of TIF Assistance for the Project.

FF. Pursuant to the Amending Ordinance, the Parties have executed this First Amended Agreement, which supersedes the Original Agreement.

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

SECTION 1. THE PROJECT

1.1. No later than 36 months from _____, 20__ (the “**Effective Date**”), or later as the Commissioner of DPD (the “**Commissioner**”) may agree in writing, the Park District shall let one or more contracts for 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.

1.2. The plans and specifications for the Project (the “**Plans and Specifications**”) shall at a minimum meet or shall have met the general requirements set forth in **Exhibit A** hereof and comply with plans and specifications which the Park District will have provided to, and be approved by, DPD prior to the disbursement of the TIF Assistance. 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.

1.3. The Park District shall also provide the City with copies of all governmental licenses and permits required to construct the Project and to use, occupy and operate the New Park Property as a public park from all appropriate governmental authorities, including evidence that the New Park Property is appropriately zoned to be used, occupied, and operated as a public park.

1.4. The Park District shall include a certification of compliance with the requirements of **Sections 1.1, 1.2, and 1.3** hereof with the request for the TIF Assistance hereunder at the time the Project is completed and prior to any disbursement of the TIF Assistance. 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.

1.5. In all contracts relating to the Project, and until the City Property is conveyed to the Park District, the Park District agrees to require its contractors to name the City as an additional insured on all insurance policies and to require its contractors 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 the construction for the Project by its contractors or contractors' suppliers, employees or agents.

1.6. The Park District agrees to carefully inspect the New Park Property prior to commencement of any activity on the New Park 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 New Park Property. The Park District agrees to keep the New Park Property free from all liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for the Park District.

1.7. The City has provided the Park District an initial title commitment for the City Property. The Park District shall be responsible for obtaining, at its own expense, any updated title commitment, title policy or survey with respect to the City Property that the Park District deems necessary.

1.8. Subject to the terms and conditions set forth herein, the City hereby grants to the Park District a right of entry upon the City Property for the sole purposes of: (1) environmental investigation and remediation; (2) demolition of the existing decommissioned City firehouse; and (3) construction of a new fieldhouse and playground. The right of entry granted hereunder extends to the Park District and its agents, employees, contractors, subcontractors and consultants (collectively, "Agents"). The Park District shall be responsible for its Agents. Prior to entry, the Park District must provide prior notice to the City of the exact nature of the activities to be conducted, expected dates of entry, and expected personnel conducting the activities if not already included herein. The Park District and its Agents must abide by all rules and regulations set forth by the City.

1.9. At the written request of the Park District, the City shall convey the City Property for One Dollar (\$1.00) per parcel to the Park District by quitclaim deed. 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 First Amended Agreement, be subject to the express covenant that the City Property is used by the Park District as a public park. The City, acting through the Commissioner, shall have authority to release this covenant upon the request of the Park District. If the Park District uses, or permits the use, of the City Property for any other purpose without first obtaining a release of this covenant, the City may re-enter and take possession of the City Property, terminate the estate conveyed to the Park District, and re-vest title to the City Property in the City.

1.10 It shall be the sole responsibility of the Park District to investigate and determine the soil and environmental condition of the City Property. If the soil conditions are not in all respects entirely suitable for the use or uses to which the City Property is intended to be utilized for under

this First Amended 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 City Property in a condition entirely suitable for the intended uses under this First Amended Agreement. The City shall reimburse the Park District for the environmental investigation and remediation costs for the Project.

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 First Amended Agreement, disburse the TIF Assistance to the Park District.

2.2. The City shall establish a special account within the Chicago/Central Park Redevelopment Project Area Special Tax Allocation Fund; such special account shall be known as the “**Kells (George) Park Account**.” Disbursement of TIF Assistance will be subject to the availability of Area Increment in the Kells (George) Park Account, subject to all restrictions on and obligations of the City contained in all TIF Ordinances or relating to the Area Increment and all agreements and other documents entered into by the City pursuant thereto.

2.2.1 If the funds available to pay for any TIF-Funded Improvements from the Area Increment are less than \$17,000,000, then DPD shall make available to the Park District a portion of the Kinzie Increment in an amount not to exceed the total of \$17,000,000 minus any funds made available to the Park District from the Area Increment in connection with the TIF-Funded Improvements, subject to the availability of Kinzie Increment, all restrictions on and obligations of the City contained in all TIF Ordinances or relating to the Kinzie Increment and all agreements and other documents entered into by the City pursuant thereto.

2.3. Within 15 days after the Effective 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 First Amended 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 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 First Amended Agreement by providing written notice to the other Party;

2.3.2. The Park District may request payment from the City by submitting a Certificate of Expenditure in the form of **Exhibit C** hereto (“**Certificate of Expenditure**”), which may be processed and executed periodically. The City shall not execute and approve Certificates of Expenditure in the aggregate in excess of the actual costs of the Project, and in no event in an amount greater than the TIF Assistance. 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 the City 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:

2.4.1. 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;

2.4.2. 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;

2.4.3 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; and

2.4.4. 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.

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 current estimated cost of the entire Project is \$17,000,000. The Park District has delivered to the Commissioner a budget for the Project attached as **Exhibit B**. 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 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. If the Park District at any point 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 approved funds. 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.

2.7. **Exhibit B** contains a preliminary list of capital improvements, equipment costs, general construction costs, and other costs, if any, recognized by the City as costs eligible 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 First Amended 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 First Amended 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 First Amended 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 First Amended Agreement are exhausted.

2.9. If the aggregate cost of the Project is less than the amount of the TIF Assistance contemplated by this First Amended Agreement, the Park District shall have no claim to the difference between the amount of the TIF Assistance contemplated by this First Amended 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 First Amended Agreement shall commence on the Closing Date and shall expire on the date on which the Area is no longer in effect, or on the date of termination of this First Amended Agreement according to its terms, whichever occurs first.

SECTION 4. ENVIRONMENTAL MATTERS

4.1 The Park District, or its Agent, shall enroll the City Property in the Illinois Environmental Protection Agency's ("IEPA") Site Remediation Program, complete any additional environmental investigation as needed, follow all IEPA reporting requirements, remediate the City Property as required by the IEPA, and obtain a Comprehensive Residential No Further Remediation Letter (the "**NFR Letter**"). The NFR Letter that shall be recorded with the Cook County Clerk's Office.

4.2 The Park District shall remove and close any underground storage tanks ("**USTs**") identified in accordance with applicable regulations including Title 41 of IAC Part 175 and any identified leaking USTs must be properly addressed in accordance with 35 IAC Part 734.

4.3 The Park District, or its Agent, shall perform all required abatement, disposal and provide worker safety in accordance with all City, State, and Federal Law prior to building rehabilitation and/or demolition.

4.4 In addition, the City 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 responsibility of the Park

District to further investigate and determine the soil and environmental condition of the City Property, including obtaining Phase I ESA if applicable, supplemental Phase II ESAs for the City Property and (b) to determine environmental remediation action plan with respect to the City Property or the Project, and any such work that the Park District determines is required shall be performed with the Parties' understanding and agreement 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 in **Exhibit B**. 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 First Amended 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 City Property in a condition entirely suitable for the intended uses under this First Amended Agreement. After the City's conveyance of the City 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 City Property.

For purposes of the foregoing and in the Recitals:

"Environmental Laws" shall mean any Federal, state, or local law, statute, ordinance, code, rule, permit, plan, regulation, license, authorization, order, or injunction which pertains to health, safety, any Hazardous Substance or Other Regulated Material, or the environment (including, but not limited to, ground, air, water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 *et seq.*; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*; the Gasoline Storage Act, 430 ILCS 15/0.01 *et seq.*; the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago ("MWRD"); the Municipal Code of the City of Chicago; and any other local, state, or federal environmental statutes, and all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

"Phase I ESA" shall mean a Phase I environmental site assessment of the City Property in accordance with ASTM E-1527-21 (as most recently updated at the time of assessment).

"Phase II ESA" shall mean a Phase II environmental site assessment of the City Property in accordance with ASTM E-1903-19 (as most recently updated at the time of assessment).

"Hazardous Building Material Survey" shall include (but is not limited to) asbestos and lead-based paint survey, visually inspecting the Site to determine the presence and location of polychlorinated-biphenyl (PCB)-containing equipment and materials (such as lighting ballasts, switchgears, transformers, and hydraulic fluids), mercury-containing equipment and materials

(mercury lamps, thermostats, switches, thermometers, regulators, and gauges), radioactive material-containing equipment and/or waste, medical wastes (such as biological or infectious wastes, hazardous chemicals, and/or wastes), refrigerants such as chlorofluorocarbons (CFCs), large appliances or equipment, mold, or any other materials that may require special handling or disposal during or after demolition.

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 First Amended Agreement, the insurance coverages and requirements specified below, insuring all operations related to this First Amended Agreement.

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

5.1.2. 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.

5.1.3. 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.

5.1.4. Professional Liability. When any architects, engineers or professional consultants perform work in connection with this First Amended 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.

5.1.5. 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.

5.2. 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 Effective Date, and renewal Certificates of Insurance, promptly as any requisite insurance is renewed. The Park District shall submit evidence of insurance on the City's Insurance Certificate Form or equivalent

prior to the Effective Date. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this First Amended Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all First Amended 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.

5.3. The Park District shall advise all insurers of the provisions of this First Amended Agreement regarding insurance. Non-conforming insurance shall not relieve the Park District of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of this First Amended Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or this First Amended Agreement may be terminated.

5.4. 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.

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

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

5.7. 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 First Amended Agreement or by law.

5.8. 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 First Amended Agreement.

5.9. 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.

5.10. 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 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 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.

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

6.1. 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 First Amended 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 First Amended Agreement.

6.2. 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 First Amended Agreement.

SECTION 7. DEFAULT

7.1. 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 First Amended Agreement, then the City may terminate this First Amended Agreement by providing written notice to the Park District.

7.2. In the event the Park District fails to perform, keep or observe any of its covenants, conditions, promises, agreements or obligations under this First Amended 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 First Amended Agreement.

7.3. 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.

7.4. 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

8.1. **Authority.** Execution of this First Amended Agreement by the City is authorized by the Authorizing Ordinance. Execution of this First Amended 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 First Amended Agreement and perform their obligations hereunder.

8.2. Assignment. This First Amended 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, statutes, ordinances, rules, regulations, codes and executive orders relating to this First Amended Agreement.

8.4. Consents. Whenever the consent or approval of one or both Parties to this First Amended Agreement is required hereunder, such consent or approval will not be unreasonably withheld.

8.5. Construction of Words. As used in this First Amended 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 First Amended 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 First Amended Agreement.

8.8. Governing Law and Venue. This First Amended 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 First Amended Agreement, each Party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois.

8.9. Integration. This First Amended 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 First Amended 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 First Amended 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 First Amended Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this First Amended 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 First Amended 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 First Amended 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 First Amended 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

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

To the Park District: Chicago Park District
Attention: General Superintendent
4830 S. Western Ave.
Chicago, Illinois 60609

With copies to: Chicago Park District
General Counsel
4830 S. Western Ave.
Chicago, Illinois 60609

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 First Amended Agreement, the following individuals will represent the Parties as a primary contact in all matters under this First Amended Agreement.

For the City: Tim Jeffries
City of Chicago
Department of Planning and Development
City Hall, Room 1000
121 N. LaSalle Street
Chicago, Illinois 60602

For the Park District: Heather Gleason
Chicago Park District
Director of Planning and Construction
4830 S. Western Ave.
Chicago, Illinois 60609

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 First Amended 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 First Amended 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 First Amended Agreement, all covenants and agreements of the Parties contained in this First Amended Agreement will survive the consummation of the transactions contemplated hereby.

8.18. Titles and Headings. Titles and headings to paragraphs contained in this First Amended Agreement are for convenience only and are not intended to limit, vary, define or expand the content of this First Amended Agreement.

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

IN WITNESS WHEREOF, each of the parties has caused this First Amended 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: _____
Cierce Boatright
Commissioner

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

By: _____
Rosa Escareño
General Superintendent and CEO

ATTEST

By: _____
Sarah Gelder
Secretary

EXHIBIT A TO THE FIRST AMENDED AGREEMENT

PROJECT

The proposed improvements will include: (1) reconfiguration of the Original Property to include a walking path, site perimeter fencing, drinking fountains, benches, picnic area and landscaping; (2) the environmental investigation and remediation of the Property by enrolling in the Illinois Environmental Protection Agency Site Remediation Program to obtain a comprehensive residential No Further Remediation letter; (3) the demolition of the existing decommissioned City firehouse on the City Property; and (4) the subsequent construction of a new fieldhouse and playground on the City Property. The layout of the newly expanded Kells (George) Park will be reconfigured to utilize the New Park Property to the best potential.

EXHIBIT B TO THE FIRST AMENDED AGREEMENT

PROJECT BUDGET

Sources	Amount
City TIF Grant	\$17,000,000
Total	\$17,000,000

Uses	Amount
Acquisition	\$0
Demolition	\$800,000
Construction of fieldhouse (includes environmental investigation and remediation)	\$12,000,000
Playground and site improvements	\$700,000
Design and construction supervision	\$2,000,000
Project management	\$1,500,000
Total	\$17,000,000

EXHIBIT C TO THE FIRST AMENDED AGREEMENT

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 First Amended and Restated Agreement between the Park District and the City of Chicago dated _____, ____ (the “First Amended 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 TIF-Funded Improvements for the Project reimbursed by the City to date: \$ _____

C. The Park District requests reimbursement for the following cost of TIF-Funded 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 First Amended 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 has the meanings given such terms in

the First Amended 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 TO THE FIRST AMENDED AGREEMENT

LEGAL DESCRIPTION

(SUBJECT TO FINAL SURVEY AND TITLE COMMITMENT)

PARCEL 1 AND 2:

LOTS 42 AND 43 IN ARMINGTON'S SUBDIVISION OF THE NORTHEAST 1/4 OF THE NORTH-EAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 724 NORTH KEDZIE AVENUE, CHICAGO, ILLINOIS 60612

PINS: 16-11-207-010-0000 (LOT 43)
16-11-207-011-0000 (LOT 42)

PARCEL 3:

LOTS 37 TO 41 BOTH INCLUSIVE IN ARMINGTON'S SUBDIVISION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 714 NORTH KEDZIE AVENUE, CHICAGO, ILLINOIS 60612

PIN: 16-11-207-012-0000

VACATED ALLEY:

THAT PART OF THE EAST-WEST 16-FOOT-WIDE VACATED ALLEY, BEING THE SOUTH 16 FEET OF LOT 44 IN ARMINGTON'S SUBDIVISION, IN BOOK 9, PAGE 95, OF THE NORTH-EAST 1/4 OF THE NORTHEAST 1/4, OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, CONTAINING 2003 SQUARE FEET, OR 0.046 ACRES, MORE OR LESS.