

**Agreement By and Between the Wheaton Park District and Bradford
Equities LLC Regarding the Satisfactory Completion of Mutual
Commitments**

WHEREAS, the Wheaton Park District ("WPD") and Bradford Equities ("Bradford") previously entered into an Original Agreement, an Amended and Restated Agreement (which revoked the Original Agreement), and a Second Amended and Restated Agreement (which revoked the Amended and Restated Agreement); and

WHEREAS, the Second Amended and Restated Agreement set forth certain terms and conditions regarding the development of Central Park; and

WHEREAS, Exhibit G of the Second Amended and Restated Agreement was amended to modify certain terms and conditions related to work to be performed by Bradford at Central Park after WPD's acquisition thereof, including addressing changes to the grading and drainage plan for lots 3, 4, and 5 of the Mariano's Subdivision ("Revised Exhibit G"), Revised Exhibit G is attached hereto and incorporated herein; and

WHEREAS, in accordance with Revised Exhibit G, WPD agreed to pay Bradford an additional \$45,074.02 for the extra work that needed to be performed; and

WHEREAS, Bradford still has not completed all of the work in accordance with Revised Exhibit G and because of this, WPD has withheld payment of the \$45,074.02 to Bradford; and

WHEREAS, WPD and Bradford desire to enter into an Agreement to complete the work in accordance with Revised Exhibit G and finalize all payments associated with the same.

NOW, THEREFORE, in consideration of the premises, the mutual covenants, terms, and conditions herein set forth, and the understandings of each party to the other, the parties do hereby mutually covenant, promise and agree as follows:

- 1. INCORPORATION OF RECITALS:** The foregoing recitals are incorporated herein by reference as though fully set forth in this Section 1.
- 2. AGREEMENT REGARDING THE SCOPE OF WORK TO BE COMPLETED:**

OUTSTANDING WORK ITEM #1:

- Running Conduit to the previous sports lighting pole locations
 - o In lieu of performing outstanding work item #1, Bradford to give credit to WPD in the amount of \$7,500 upon execution of this Agreement.

OUTSTANDING WORK ITEM #2:

- Sealcoating all WPD asphalt surfaces
 - Bradford has executed a contract to complete the work, a copy of which shall be provided to WPD upon execution of this Agreement. Scheduling of this work to be coordinated with WPD.

OUTSTANDING WORK ITEM #3:

- WPD seeded the Gateway Gardens area (Lots 4 & 5) which was in Bradford's scope of work.
 - Bradford to give WPD credit of \$8,000 upon execution of this Agreement for the value of the seeding and rock clearing of the Gateway Garden area.

OUTSTANDING WORK ITEM #4:

- All rocks over a 1" specification in WPD ball fields (Lot 3) shall be removed at Bradford's expense.
 - Bradford is in the process of removing the rocks, a process that could take up to a week depending on weather conditions. WPD will withhold all payments due to Bradford until WPD approves that the rock and stone removal meets specifications, approval not to be unreasonably withheld.

OUTSTANDING WORK ITEM #5:

- WPD has voiced concerns about the current grading of the ball fields (Lot 3) stating that the designed grading scheme does not match the as-built grading scheme.
 - Bradford, WPD, and V3 (design engineer) are working together to determine what changes need to be made, if any, in order to comply with the agreed upon grading scheme. WPD will withhold all payments due to Bradford until WPD approves the final grading scheme, approval not to be unreasonably withheld.

3. RECONCILIATION OF AMOUNTS DUE FOR WORK COMPLETED IN ACCORDANCE WITH REVISED EXHIBIT G AND THIS AGREEMENT:

Amount due to Bradford per Ordinance No. 2013-04	\$45,074.02
Value of Credits outlined above	<u>(\$15,500)</u>
Amount due to Bradford upon completion	<u>\$29,574.02</u>

** Revised total per WPD
\$26,574.02*

4. SUPPORTING DOCUMENTATION: The following documentation is included with this Agreement and attached as Exhibit A:

Exhibit A: A copy of Ordinance No. 2013-04 "Approving and Authorizing Amendment to Exhibit G of Second Amended and Restated Agreement with Bradford Equities LLC Providing for Acquisition of Property".

** Additional credit
Conduit Reducate (2.52)
Manual power reset
(570)*

5. **TERM OF AGREEMENT:** This Agreement terminates upon the mutual written notification that all commitments have been met.

IN WITNESS WHEREOF, the lawful representatives of the parties have caused this Agreement to be signed as follows:

FOR: WHEATON PARK DISTRICT
BY: MICHAEL BENARD, EXECUTIVE DIRECTOR
BY: 

DATE: 1/27/15

FOR: BRADFORD EQUITIES LLC
BY: BRADFORD REAL ESTATE SERVICES CORP, as Manager
BY: 

DATE: 1/28/15

Bradford Wheaton 2 LLC

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WHEATON PARK DISTRICT

ORDINANCE NO. 2013-04

**Ordinance Approving
and Authorizing Amendment to Exhibit G of Second Amended and Restated Agreement
with Bradford Equities LLC Providing for Acquisition of Property**

* * * *

WHEREAS, the Wheaton Park District ("Park District") is a unit of local government operating pursuant to the Illinois Park District Code, 70 ILCS 1205/1-1 et seq.; and

WHEREAS, pursuant to Section 8-1 of the Park District Code [70 ILCS 1205/8-1] the Park District has the power and authority to acquire real estate owned by Bradford Equities LLC ("Bradford"); and

WHEREAS, Bradford previously purchased property located within Wheaton, DuPage County, Illinois, commonly known as Hubble Middle School (the "Subject Property"), conveyed ~~approximately 16.18 acres of the Subject Property to the Park District and is completing~~ development of Subject Property in cooperation with the Park District; and

WHEREAS, the Park District and Bradford previously entered into an Original Agreement, an Amended and Restated Agreement (which revoked the Original Agreement), and a Second Amended and Restated Agreement (which revoked the Amended and Restated Agreement); and

WHEREAS, the Second Amended and Restated Agreement set forth certain terms and conditions regarding development of the Subject Property; and

WHEREAS, the parties now wish to further amend Exhibit G of the Second Amended and Restated Agreement to modify certain terms and conditions related to work to be performed by Bradford on the Subject Property after the Park District's acquisition of a portion thereof; and

WHEREAS, Exhibit G as revised addressing changes to the grading and drainage plan for lots 3, 4, 5 of Mariano's Resubdivision (Revised Exhibit G) is attached hereto.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Board of Park Commissioners ("Park Board") of the Wheaton Park District, DuPage County, Illinois as follows:

Section 1. All of the foregoing recitals are hereby incorporated in and made a part of this Ordinance.

Section 2. The proposed form, terms and provisions of the Revised Exhibit G of the Second Amended and Restated Agreement with Bradford as presented to the Park Board at this meeting, are approved as provided herein, and the President and Vice President of the Park Board are hereby authorized and directed to negotiate the final dollar amount of said Revised Exhibit G, but in no event shall the dollar amount exceed \$45,074.02 and the President or Vice President and Secretary of the Park Board are hereby authorized and directed to execute the Revised Exhibit G in the name of and on behalf of the Park District and to deliver a copy thereof to Bradford. All previous versions of Exhibit G to the Second Amended and Restated Agreement with Bradford have been previously, or are now hereby terminated, null and void and of no further force and effect.

Section 3. The proper officers and staff of the Park District are hereby authorized and directed to execute all such further documents and take all such further actions as they shall deem necessary, desirable and appropriate, in consultation with the Park District's legal counsel, to carry out the terms and effectuate the provisions of the Revised Exhibit G.

Section 4. If any term, provision or condition of this Ordinance shall, to any extent, be invalid or unenforceable, the remainder of this Ordinance shall not be affected thereby, and each term, provision and condition of this Ordinance shall be valid and enforceable to the fullest extent permitted by law.

Section 5. This Ordinance shall be in full force and effect immediately upon its passage and approval. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Passed this 15th day of May, 2013.

ROLL CALL VOTE:


AYES: Moskell, Luckenbach, Hightower, Miller, Underhill, and Kelly

NAYS: _____

ABSENT: _____


John F. Kelly, President
Board of Park Commissioners

Attested and filed this 15th day of May, 2013.


Michael Demare, Secretary
Board of Park Commissioners

CERTIFICATION

I, Michael Benard, the Secretary of the Board of Park Commissioners of the Wheaton Park District of the County of DuPage, State of Illinois, do hereby certify that I am keeper of its books and records and that the foregoing is a true and correct copy of Ordinance 2013-04 duly adopted by its Board of Park Commissioners at a meeting duly convened and held on the 15th day of May, 2013.

SEAL

A handwritten signature in dark ink, appearing to read 'Michael Benard', is written over a horizontal line.

**Michael Benard, Secretary
Board of Park Commissioners**

EXHIBIT G

Park District Scope of Work:

The Park District will perform all work associated with the Gym Parcel, including all exterior and interior renovations and the build-out of the gymnasium buildings, but excluding the New Stormwater Facilities.

Bradford Scope of Work:

Bradford will perform or cause to be performed at its cost and expense, all work associated with Lot 1 (including the Access Parcel), Lot 6, and the New Stormwater Facilities. Bradford's scope of work includes the following:

- The New Stormwater Facilities, including regrading and seeding Lots 3, 4 and 5 in connection therewith
- Demolition of the current building south of the gym building. The south edge of the gym building will be left open and any temporary or permanent closure or finish will be the Park District's scope of work
- Asbestos Abatement, lead paint remediation, disposal and removal of all other contaminants identified in the environmental reports provided by Bradford to the Park District and any other Hazardous Material encountered during demolition. This does not include the Gymnasium.
- Removal and remediation of the UST situated on Lot 1, including securing a focused No Further Remediation Letter.
- Roadwork improvements, including the driveway over the Access Parcel and any required Naperville Road Improvements
- Earthwork
- Erosion control
- Asphalt paving on Lot 1
- Storm sewer connection to Lot 1
- Sanitary sewer connection Lot 1
- Water main connection to Lot 1
- Landscaping
- Plumbing on Lot 1

- Site electricity to Lot 1, Access Parcel and Lot 6
- Retaining Wall
- Environmental Analysis --- Phase 1 and Phase 2
- Construction Testing
- Lighting for the Access Parcel
- Permits
- Stormwater outflow over Lots 4 and 5 to Main St. storm sewer
- Furnish and install electrical conduit for athletic field lights on Lot 3 Park District plans.
- Repair of all sidewalks around the entire School Property as required by the City of Wheaton.
- All improvements to the Naperville Road/Roosevelt Road intersection
- Furnish and install all street lights along Naperville Road.
- Lot 2 asphalt paving and catch basin repair or replacement. See Exhibit G-1.
- Work described in the estimate of costs attached hereto as Exhibit G-5 (the "Field Change"). To the extent the Bradford Scope of Work is described on the final engineering plans prepared by V-3 (last revision date: 4/18/13), such plans shall be the conclusive description of such work. Notwithstanding the provisions of this Revised Exhibit O or Sections 6 and 7 of this Second Amended and Restated Agreement, as a result of the Field Change (to allow for two multi-use fields rather than one football-sized field and appropriate lighting for the reconfigured fields), the Park District hereby agrees to adjust the Gym Parcel Purchase Price by adding thereto an additional sum not to exceed \$45,074.02.

Bradford shall perform the work of the Field Change in accordance with all other terms and conditions of this Second Amended and Restated Agreement. The aforesaid adjustment to the Gym Parcel Purchase Price shall be paid by the Park District to Bradford upon the Park District's acceptance of substantial completion of the work relating to the Field Change.

Agreed this 15th day of May, 2013.

Wheaton Park District

By:

John F. Kelly, President

Attest

By:

Michael J. Demari, Secretary

Bradford Equities LLC

By: Bradford Real Estate Services Corp., as Manager

By:

Bradford Equities LLC - CHAD W. JONES

Attest

By:

JOHN SCHODITSCH

From: Shank, William [mailto:shank@bradfordchicago.com]
Sent: Friday, November 21, 2014 12:10 PM
To: Mike Benard
Cc: Rob Sperl; Chad.Jones
Subject: Wheaton - WPD

Mike,
I reviewed the last agreement between Bradford and WPD below are the items listed: (Draft attached)

- | | |
|---|------------------|
| 1. Running Conduit to the previous sports lighting pole locations | \$7,500 - Credit |
| 2. Sealcoating all WPD asphalt surfaces | completed by BRE |
| 3. Seeding the Gateway Gardens area | \$8,000 – Credit |
| 4. Removal of rocks over 1" in ball field area | |
| 5. Ball field grading | completed by BRE |

Items to address in spring

- All silt fence and inlet protection will be removed once the ball field meets the 75% coverage requirement
- If needed areas will be over seeded to reach coverage requirements
- Visible rocks over 1" will be removed

*We are obligated by the City and the State to complete these items. Release of Letter of Credit and IEPA permit

Remaining Items

- | | |
|--|---------|
| • Relocate electrical conduit for parking lot lights | \$2,500 |
| • Reset of pavers around monument sign | \$500 |

Restroom building

- Sanitary service comes out of the north side of the building and was not effected by construction
- No water line was shown on the survey (attached) and due to its depth would not have been compromised by construction

Reconciliation

Amount due to Bradford per Ordinance No. 2013-04	\$45,074.02
Value of original credits above	(\$15,500)
<u>Additional credits of remaining items</u>	<u>(\$3,000)</u>
Amount due to Bradford	\$26,574.02

Let me know if this makes sense.