

Resolution

FI-R-0495-20

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF DUPAGE AND
VARIOUS PARK DISTRICTS
FOR THE REIMBURSEMENT OF ELIGIBLE COVID-19 EXPENSES

WHEREAS, the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/ et. seq) authorize units of local government, including counties and park districts, to contract or otherwise associate among themselves in any manner not prohibited by law and to jointly exercise any power, privilege or authority conferred upon them by law; and

WHEREAS, Article 7, Section 10 of the Illinois Constitution of 1971 and the Illinois Intergovernmental Cooperation Act 5 ILCS 220/1 et seq. allow units of public entities to enter into intergovernmental agreements in the furtherance of their governmental purposes; and

WHEREAS, the County Board of DuPage County (the County) received approximately one hundred sixty-one million dollars (\$161,000,000) from the United States Government pursuant to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”); and

WHEREAS, the CARES Act provides for payments to local governments navigating the impact of the COVID-19 outbreak via the Coronavirus Relief Fund; and

WHEREAS, the County, as the jurisdiction responsible for disbursement of funds under the CARES Act, finds that it is appropriate to use these funds to defray certain costs incurred by the Park Districts related to the Coronavirus emergency; and

WHEREAS, the County of DuPage believes it is necessary to enter into an Agreement with the following Park Districts to govern the reimbursement of COVID-19 related expenses,

WHEREAS, the County of DuPage seeks to enter into agreements with: 53 Trails Estates Park District, Addison Park District, Bartlett Park District, Bensenville Park District, Bloomingdale Park District, Brookeridge Park District, Burr Ridge Park District, Butterfield Park District, Carol Stream Park District, Clarendon Hills Park District, Darien Park District, Downers Grove Park District, Elmhurst Park District, Fox Valley Park District, Glen Ellyn Park District, Glen Ellyn Countryside Park District, Golfview Hills Park District, Hanover Park Park District, Itasca Park District, Lemont Park District, Lisle Park District, Lombard Park District, Medinah Park District, Naperville Park District, Oak Brook Park District, Oakbrook Terrace Park District, Roselle Park District, St. Charles Park District, Tri-State Park District, Wards Creek Park District, Warrenville Park District, West Chicago Park District, Westmont Park District, Wheaton Park District, Winfield Park District, Wood Dale Park District, Woodridge Park District, and York Center Park District, and

WHEREAS, an Agreement has been prepared and attached hereto which outlines the financial arrangement between the County and the Park Districts and the process by which Park Districts may apply for reimbursement.

NOW, THEREFORE, BE IT RESOLVED by the County Board of DuPage County that the Clerk and Chairman of the Board be hereby directed and authorized to execute the referenced Agreement with the above referenced Park Districts; and

**INTERGOVERNMENTAL AGREEMENT FOR PARTICIPATION IN DUPAGE COUNTY
LOCAL GOVERNMENT COVID-19 REIMBURSEMENT PROGRAM.**

THIS AGREEMENT is made and entered into on this 8th day of September, 2020 by and between the County of DuPage, a body politic and corporate, hereinafter referred to as "COUNTY" and Wheaton Park District, a Park District existing pursuant to the Park District Code (70 ILCS 1205/1), and collectively referred to as "the Parties".

RECITALS

WHEREAS, the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/ et. seq) authorize units of local government, including counties and Park Districts, to contract or otherwise associate among themselves in any manner not prohibited by law and to jointly exercise any power, privilege or authority conferred upon them by law; and

WHEREAS, Article 7, Section 10 of the Illinois Constitution of 1971 and the Illinois Intergovernmental Cooperation Act 5 ILCS 220/1 et seq. allow units of public entities to enter into intergovernmental agreements in the furtherance of their governmental purposes; and

WHEREAS, the County of DuPage received approximately one hundred sixty-one million dollars (\$161,000,000) from the United States Government pursuant to the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"); and

WHEREAS, the CARES ACT provides for payments to local governments navigating the impact of the COVID-19 outbreak via the Coronavirus Relief Fund; and

WHEREAS, the CARES ACT provides that payments from the Coronavirus Relief Fund may only be used to cover expenses which: (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the local government; and (3) were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020; and WHEREAS, the County of DuPage was eligible to receive payments under the

CARES Act, as it is a unit of local government in excess of 500,000 residents; and

WHEREAS, the United States Department of Treasury has issued guidelines with regards to the authorized use of funds allocated to local governments under the CARES ACT; and

WHEREAS, neither the CARES ACT, the United States Department of Treasury, nor state law, requires that the County disburse any funds to local park districts within its geographic boundaries; and

WHEREAS, under the CARES ACT, the County is ultimately responsible for any expenditures of CARES ACT funds; and

WHEREAS, much uncertainty remains regarding future costs the County and local park districts will be forced to bear related to the coronavirus emergency, and

WHEREAS, this agreement is intended to promote the most efficient distribution of resources which have been made available to the State of Illinois and the County of DuPage to benefit the citizens of DuPage County, and

WHEREAS, under the CARES ACT, should the Office of the Inspector General determine that the funds were used in a manner contrary to the intent of Congress or contrary to the United States' Department of Treasury guidelines, the CARES ACT provides that the federal government may recoup the improperly spent funds from the County; and

WHEREAS, the County, those park districts within DuPage County, and their residents, have suffered secondary effects of the coronavirus emergency, as the State of Illinois has ordered the closure of non-essential businesses; and

WHEREAS, the County of DuPage, as the jurisdiction responsible for disbursement of funds under the CARES ACT, finds that it is appropriate to use these funds to defray certain costs incurred by the Park District related to the coronavirus emergency; and

WHEREAS, the disbursement of funds under the CARES ACT to the Park District is in the best interests of the County, the Park District and their residents.

NOW, THEREFORE, in consideration of the mutual covenants and Agreements contained herein, the Parties hereby agree as follows:

1.0 Recitals, Definitions, and Purpose.

1.1 Recitals Incorporated. The recitals set forth above are incorporated in this Agreement by reference and made a part of this Intergovernmental Agreement ("IGA").

1.2 Definitions.

- A. "CARES ACT funds"** shall refer to funds which have been allocated to DuPage County under the Coronavirus Aid, Relief, and Economic Security Act, as it may be amended ("CARES Act"), of which DuPage County is responsible for the disposition.
- B. "Forms"** shall refer to forms or application documents used to seek reimbursement of coronavirus related expenses under this agreement.
- C. "Expenses"** shall refer to the cost of tangible goods and services which (1) were necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the local government; and (3) were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020. Examples of "Tangible Goods" would include, but are not limited to, personal protection and medical equipment, sanitation and disinfectant products, software, laptops and technology equipment necessary for employees to telecommute. "Services" as used in this definition means actions or intangible things which were performed by individuals who are not park district employees. Further, "Expenses" shall include payroll costs for Park District employees where such employees time was substantially dedicated to mitigating the spread or responding to the public health emergency and/or who have been reassigned

from their budgeted role to a different function to substantially support COVID-19 related activities. "Expenses" shall not include the complete payroll costs for employees who are not substantially dedicated to the mitigation or response to the public health emergency, except as set forth in 5.1 of this Agreement.

D. All other words used in this agreement which are not specifically defined shall have their normal and ordinary meaning.

1.3 Purpose. The purpose of this Agreement is to establish a contractual relationship between the County and Park District with regards to the proposed reimbursement of expenses associated with the coronavirus emergency from federal CARES ACT funds which the United States Federal Government has disbursed to the County. The County has, by resolution, created the DuPage County Local Government COVID-19 Reimbursement program. This agreement shall remain in effect between the parties to govern the form of applications for reimbursement, the review of applications, the criteria for reimbursable expenses, the retention of documents, and other material terms governing the processing of reimbursement applications.

2.0 Obligations of the County

2.1 Generally. The County, by and through its Finance Department or Third-Party Consultant hired by the County, shall process requests for reimbursement received by Park District subject to the requirements set forth herein.

2.2 Submittal does not guarantee approval. The County, by receiving and processing the reimbursement requests of Park District, does not guarantee approval of the reimbursement requests by the DuPage County Board, the DuPage County Finance Department, the United States Department of Treasury, or the Office of the Inspector General.

2.3 No further obligations. The County shall have no further obligations under this IGA other than those expressly set forth.

3.0 Obligations of the Park District

3.1 Generally. In order to submit requests for reimbursement of coronavirus emergency related expenditures, Park

District agrees to submit the forms, certifications and documentations set forth in this IGA for any expense for which Park District seeks reimbursement under this Agreement. Park District agrees that the sole and exclusive decision as to whether or not Park District's request is granted lies within the discretion of the DuPage County Board, and that submission of expenses for reimbursement does not obligate the County to agree to reimburse those expenses. Park District agrees that the County Board, through its Finance Department or Third-Party Administrator, may reject expenses which are clearly not permitted uses for CARES ACT funds such as using the funds for revenue replacement. In the event additional legislation or U.S. Treasury Department guidance allows for additional uses of CARES Act Funds, upon request of the Park District, the County and the Park District will address those additional uses by amending this agreement as provided in Section 11 herein, on terms mutually satisfactory to the County and the Park District.

4.0 Form of Expense Submittals, Certification, failure to use form or comply with criteria

4.1 Generally. The Parties agree that expenses for which Park District seeks reimbursement shall be submitted upon forms provided by the County.

4.2 Certification. Each request for reimbursement shall be accompanied by a certification (a sample of which is attached hereto as Exhibit A) wherein the President of the Park District Board or Executive Director, certifies that the expenses for which Park District seeks reimbursement: (i) are necessary expenditures incurred due to the public health emergency with response to the Coronavirus Disease 2019, (ii) which were not accounted for in the most recently approved budget of the Park District, as of March 27, 2020, (iii) were incurred during the period between March 1, 2020 and December 30, 2020. By entering into the IGA, Park District authorizes its President or Executive Director to sign such certification on behalf of Park District.

4.3 Failure to comply with Department of Treasury Guidelines. The County reserves the right to reject any

reimbursement which it feels, in its sole and exclusive discretion, does not meet the criteria of the CARES ACT or United States Department of Treasury guidelines associated with disbursement of funds under the CARES ACT. Such rejection may be made by the DuPage County Board. This section shall not be held to restrict the County Finance Department or Third-Party Administrator from rejecting requests which clearly fail to comply with the CARES ACT or with Department of Treasury guidelines.

5.0 Expenses to be reimbursed; Caps of maximum amount of reimbursements available to Park District; prohibition on duplicate reimbursement.

5.1 Park District may submit expenses as set forth in section 1.2(c) of this Agreement. Where submitted expenses are seeking reimbursement for employee payroll, the County requires that the expenses be separated into two categories. The first category shall be employees whose time was substantially dedicated to mitigating the spread or responding to the public health emergency and/or who have been reassigned from their budgeted role to a different function to substantially support COVID-19 related activities. For purposes of this section "substantially dedicated" shall mean that sixty percent (60%) or more of the employees' time was dedicated to mitigating the spread or responding to the public health emergency related to COVID-19. Park District may submit, and the County Board will consider, reimbursing 100% of the salary of "substantially dedicated" employees. The second category shall consist of employees whose time is not "substantially dedicated" to mitigating the spread of or responding to the COVID-19 public health emergency, but who have spent some portion of their compensated time (but less than sixty percent (60%)) mitigating the spread of or responding to the COVID-19 Public Health Emergency. The Park District may submit, and the County Board will consider, reimbursing payroll in the amount of the proportion of the individual employees' time spent mitigating the spread of or responding to the COVID-19 public health emergency. For example, if an employee spent twenty percent (20%) of his or her compensated time

mitigating the spread of or responding to the COVID-19 public health emergency, the Park District may submit for reimbursement of twenty percent (20%) of the employees' salary during the period of time in which the employee was engaging in COVID-19 related responses.

5.2 Park District shall not be entitled to reimbursement of expenses for which it has received reimbursement from another County, State, or federal program designed to reimburse local government for costs associated with the coronavirus emergency or other emergencies. If Park District receives reimbursement from any program referenced above, Park District shall refund any duplicate reimbursement to the County.

5.3 Park District shall receive, in aggregate, no more than the amount listed on Schedule 1 under this Agreement. This cap has been determined based upon the number of residents served by the District.

5.4 Where Park District is located, in part, in DuPage County and in part, in other Counties, Park District should pro-rate their requested expense reimbursements based upon the population of their residents which reside within DuPage County. For Example, if Park District has sixty percent (60%) of its population in DuPage County, a Park District may seek reimbursement for sixty percent (60%) of the total cost of the expense eligible for reimbursement. Park District shall not pro-rate expenses which were used only to the benefit of DuPage County residents.

6.0 Cooperation

6.1 The County shall assist Park District in complying with the requirements of the CARES ACT and the United States Department of Treasury guidelines by preparing sample forms and providing feedback and guidance with regards to the type and quality of information required to complete such forms.

6.2 Park District agrees to abide by the terms of the CARES ACT and all United States Department of Treasury guidelines.

6.3 Park District shall, at the County's request, supply County with all relevant information for the County to

evaluate whether a request for reimbursement meets the criteria under the CARES ACT and United States Department of Treasury guidelines.

7.0 Records

7.1 Park District shall maintain all records relating to the expenses which Park District seeks to have reimbursed by County from CARES ACT funds for a period of at least ten (10) years or the period of time required by other state or federal law, whichever is longer.

7.2 At any time, DuPage County, Third-Party Administrator, the DuPage County Finance Department, or the DuPage County Auditor, may request that the Park District provide records relating to the expenses which Park District seeks to have reimbursed. Park District agrees to provide records in response to such requests.

7.3 Failure to provide records may result in the denial of the reimbursement request. In circumstances where the reimbursement request has been granted and the records are needed to justify the reimbursement to the Office of the Inspector General or any other office, official, or department which may later become responsible for auditing disbursements of CARES ACT funds, failure by Park District to provide these records, for any reason including the prior destruction of these records, shall constitute a breach of this Agreement. The sole and exclusive remedy for such a breach is that Park District shall be responsible for repayment of any disbursement which the Office of Inspector General, or its successor, finds improper, unsupported, or unable to be verified. Additionally, Park District agrees to indemnify the County or make the County whole for any penalty assessed against the County based upon Park District's failure to retain or provide records.

8.0 Timeliness.

8.1 The Parties agree that time is of the essence in the processing of applications for reimbursement. The County shall use all reasonable speed and diligence in the processing of applications for reimbursement.

8.2 The Parties agree that time is of the essence in communications seeking supporting documents or requesting

records under this agreement. The Parties agree that they shall use all reasonable speed and diligence in responding to requests for records or supporting documents.

9.0 Indemnity.

9.1 The Parties agree that where the County relied upon the certification of the Park District that such expenses which Park District sought to have reimbursed from CARES ACT funds met the minimum requirements of the CARES ACT, and where the Office of the Inspector General, or any other person, official, or department which is charged with the auditing and review of expenditures of CARES ACT funds determines that such reimbursement was not permitted under the CARES ACT, Park District agrees to indemnify, reimburse and make whole the County for any funds which the United States Government or its agencies seeks to recoup or collect, either by litigation, or by withholding other federal funds owed to the County. Park District further agrees to indemnify, reimburse, or make whole the County for any penalties associated with the federal government seeking to recoup the expended CARES ACT funds which the County disbursed to Park District including interest, attorneys fees or any penalty provided by law.

9.2 Park District agrees to hold County harmless for any evaluation or advice which the County provided to Park District as to whether the requested reimbursement is a permissible use of the CARES ACT funds.

10.0 Term and termination

10.1 Term. This Agreement shall remain in effect until either party provides written notice of termination to the other. Such notice shall be effective 14 days after receipt of the termination.

10.2 Survival of Terms. Those terms relating to the party's obligation to maintain records and provide records, and the Park District's indemnification of the County shall survive the termination of this Agreement.

11.0 Amendment

11.1 Amendments to this Agreement may be performed with the written consent of the DuPage County Board and the Park District governing board.

12.0 Notices and duplicate copies.

12.1 Written notices required pursuant to this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

DuPage County: Daniel J. Cronin,
DuPage County Board Chairman
421 N. County Farm Road
Wheaton, IL 60187

With a copy to:

DuPage County State's Attorney's Office
ATTN: ASA CONOR MCCARTHY
503 N. County Farm Road
Wheaton, IL 60187

Park District: Wheaton Park District

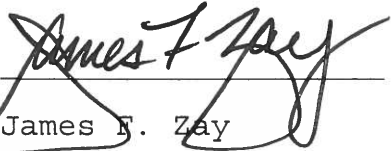
With Copies to: [ADDITIONAL RECIPIENT]

12.2 The Parties agree that this agreement may be entered into using identical counterparts, each of which when executed and delivered to the other party shall constitute a duplicate original, but all counterparts together shall constitute a single agreement. Upon ratification by the governing board of the respective parties, the parties shall each transmit the signed counterparts of this agreement to the other using the recipients listed above in Section 12.1 of this Agreement. This agreement shall go into effect immediately upon the ratification of the last party to execute this agreement.

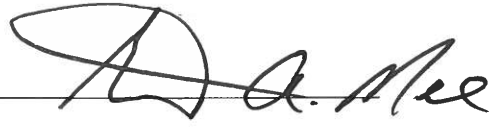
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, using duplicate counterparts, on the dates listed below.

COUNTY OF DUPAGE:

WHEATON PARK DISTRICT:




James F. Zay



[Name]

DuPage County Board Vice Chairman President [Park District]

Attest: 
Jean Kaczmarek
DuPage County Clerk

Attest: 
Name Michael J. Bernard
Park District Board Sect.

Date: 9/8/2020

Date: 9/16/2020