

**WHEATON PARK DISTRICT
ORDINANCE NO. 2024-05**

**AN ORDINANCE APPROVING THE TERMS AND AUTHORIZING THE EXECUTION OF THE FIRST
AMENDMENT TO A FUNDING AND REIMBURSEMENT AGREEMENT FOR THE
PURCHASE AND INSTALLATION OF AN ADDITIONAL PLAYGROUND AND PICNIC SHELTER FOR
THE SENSORY GARDEN AND PLAYGROUND BETWEEN THE WHEATON PARK DISTRICT AND
PLAY FOR ALL PLAYGROUND AND GARDEN FOUNDATION**

WHEREAS, Play For All Playground and Garden Foundation ("Play for All") and the Wheaton Park District ("Park District") are parties to an agreement entitled "Funding and Reimbursement Agreement for the Purchase and Installation of an Additional Playground and Picnic Shelter for the Sensory Garden and Playground Between the Wheaton Park District and Play For All Playground and Garden Foundation made and entered into on November 29, 2023" ("Agreement"); and

WHEREAS, Play for All and the Park District wish to amend the Agreement to modify the Construction Fee, as that term is defined in Section 1 of the Agreement; and

WHEREAS, Play for All and the Park District have determined that it is in their respective best interests to amend the Agreement on the terms and subject to the conditions set forth in the "First Amendment to Funding and Reimbursement Agreement for the Purchase and Installation of an Additional Playground and Picnic Shelter Between the Wheaton Park District and Play For All Playground and Garden" ("Amendment").

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

1. The foregoing preambles to this Ordinance are hereby determined to be true and correct and are hereby incorporated in and made part of this Ordinance.
2. The form, terms and provisions of the proposed Amendment as presented to the Park District's Board of Park Commissioners ("Park Board") at this meeting are hereby in all respects approved as provided herein.
3. The President and Secretary of the Park Board, or his or her designee, are hereby authorized and directed to execute and deliver the Amendment, in the name and on behalf of the Park District, and to take all such other actions and steps and execute all such further documents as said President and Secretary, or his or her designee, deem necessary or appropriate to carry out the terms and conditions of the Amendment and to effectuate its purpose.

Adopted this 17th day of July, 2024 by roll call vote of the members of the Board of Park Commissioners as follows:

Roll Call:

Ayes: Barrett, mee, Pecharich, Welker, Vired, Kelly

Nays: None

Absent: Frey

Abstain: None



President, Board of Park Commissioners

ATTEST:


Secretary, Board of Park Commissioners

SECRETARY'S CERTIFICATE

I, Michael J. Benard, do hereby certify that I am Secretary of the Board of Park Commissioners of the Wheaton Park District, DuPage County, Illinois, and as such official, I am keeper of the records, ordinances, files and seal of said Park District; and I hereby certify that the foregoing instrument is a true and correct copy of:

ORDINANCE NO. 2024-05 AN ORDINANCE APPROVING THE TERMS AND AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO A FUNDING AND REIMBURSEMENT AGREEMENT FOR THE PURCHASE AND INSTALLATION OF AN ADDITIONAL PLAYGROUND AND PICNIC SHELTER FOR THE SENSORY GARDEN AND PLAYGROUND BETWEEN THE WHEATON PARK DISTRICT AND PLAY FOR ALL PLAYGROUND AND GARDEN FOUNDATION

adopted at a duly called Regular Meeting of the Board of Park Commissioners of the Wheaton Park District, held at Wheaton, Illinois, in said District at 7:00 p.m. on the 17th day of July, 2024

I do further certify that the deliberations of the Board on the adoption of said Ordinance were conducted openly, that the vote on the adoption of said ordinance was taken openly, that said meeting was called and held at a specified time and place convenient to the public, that notice of said meeting was provided in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and with the provisions of the Park District Code of the State of Illinois, as amended, and that the Board has complied with all of the provisions of said Act and said Code and with all of the procedural rules of the Board.

IN WITNESS WHEREOF, I hereunto affix my official signature and the seal of said Wheaton Park District at Wheaton, Illinois this 17th day of July, 2024.



Michael J. Benard, Secretary
Board of Park Commissioners
Wheaton Park District

[SEAL]

**FIRST AMENDMENT TO A FUNDING AND REIMBURSEMENT AGREEMENT FOR THE
PURCHASE AND INSTALLATION OF AN ADDITIONAL PLAYGROUND AND PICNIC SHELTER FOR
THE SENSORY GARDEN AND PLAYGROUND BETWEEN THE WHEATON PARK DISTRICT AND
PLAY FOR ALL PLAYGROUND AND GARDEN FOUNDATION**

This First Amendment (“Amendment”) is made and entered into this 17th day of July, 2024, by and between Play For All Playground and Garden, an Illinois not-for-profit corporation (“Play for All”) and the Wheaton Park District, an Illinois park district and unit of local government (“Park District”), and amends, in certain respects, that certain Funding and Reimbursement Agreement for the Purchase and Installation of an Additional Playground and Picnic Shelter for the Sensory Garden and Playground Between the Wheaton Park District and Play For All Playground and Garden Foundation made and entered into on November 29, 2023 (“Agreement”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

RECITALS

WHEREAS, Play for All and Park District are Parties to an Agreement regarding the financing, purchase and installation of an additional playground and picnic shelter to be located on certain property that the Park District currently leases from the DuPage County Forest Preserve District ; and

WHEREAS, Play for All and Park District wish to amend the Agreement to modify the Construction Fee set forth in Section 1 of the Agreement; and

WHEREAS, District and Park District have determined that it is in their respective best interests to amend the Agreement on the terms and subject to the conditions set forth below.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree to the following:

1. Incorporation of Recitals. The foregoing recitals are incorporated herein by reference as though fully set forth in this Section 1.

2. Funding. The first sentence of Section 1 of the Agreement, entitled “FUNDING” is stricken and replaced with the following:

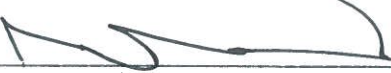
Play for All hereby agrees to pay or reimburse the Park District the sum of Six Hundred and Fifty dollars (\$650,000), which constitutes the full cost of all materials required to construct the Project (the “Construction Fee”), according to the funding procedure outlined in Section 1 and 2 of this Agreement.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be an original but all of which taken together shall constitute but one and the same instrument. In the event any signature is delivered by facsimile or by e-mail delivery of a scanned .pdf file, such signature shall create a valid and binding obligation of the party with the same force and effect as if the facsimile or scanned .pdf signature page were an original thereof.

5. Entire Agreement; Modification. All other terms and conditions contained in the Agreement remain unchanged. The Agreement and this Amendment contain all of the terms and conditions agreed on by the Parties with respect to the subject matter hereof, and no other alleged communications or agreements between the Parties, written or otherwise, shall vary the terms hereof. Any modification of the Agreement or this Amendment must be in writing and signed by all Parties.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date set forth below.

PLAY FOR ALL PLAYGROUND AND GARDEN

By:  _____

Its: President _____

Attest: _____

Its: _____

Date: July 17, 2024 _____

WHEATON PARK DISTRICT

By:  _____

Its: President _____

Attest: _____

Its: _____

Date: July 17, 2024 _____