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OFFICE OF THE MAYOR  
CITY OF CHICAGO

BRANDON JOHNSON  
MAYOR

June 21, 2023

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Water Management, I transmit herewith an ordinance authorizing the execution of a lease agreement with the Chicago Park District to lease a parkland at Durkin Park.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Brandon Johnson", with a horizontal line extending to the right.

Mayor

## ORDINANCE

**WHEREAS**, in accordance with the provisions of Article VII, Section 6(a) of the Constitution of the State of Illinois (the “State Constitution”), the City of Chicago (the “City”) as a home rule unit of government may exercise any power and perform any function relating to its government and affairs; and

**WHEREAS**, the City of Joliet, Illinois (“Joliet”) is a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the State Constitution; and

**WHEREAS**, the Chicago Park District (“Park District”) is an Illinois body politic and corporate and unit of local government; and

**WHEREAS**, the City and Joliet have previously entered into that certain Water Supply Agreement, dated as of May 1, 2023, for the provision of Lake Michigan water from the City's water system to Joliet (the “Water Supply Agreement”); and

**WHEREAS**, the Water Supply Agreement provides that, in order for the City to supply water to Joliet, new water supply infrastructure (the “Infrastructure”) will be built at the City's Southwest Pumping Station and at Durkin Park, and a portion of the Infrastructure will be owned and operated by Joliet; and

**WHEREAS**, pursuant to that certain ordinance adopted by the City Council of the City (the “City Council”) on July 21, 2021, and published in the Journal of the Proceedings of the City Council for such date at pages 32846 through 32859, inclusive, the Commissioner of the City's Department of Water Management (the “Commissioner”) entered into that certain Intergovernmental Agreement dated as of July 30, 2021, as amended by that certain First Amendment to Intergovernmental Agreement dated on or as of December 31, 2022 (as amended, the “Intergovernmental Agreement”) with the Park District, under which the City will acquire a two-acre portion of Durkin Park (the “Existing Parkland”) from the Park District for the site of a portion of the Infrastructure; and

**WHEREAS**, in accordance with the Intergovernmental Agreement, the City intends to lease the Existing Parkland to the Park District for a term that will commence concurrently with the commencement of the Water Supply Agreement and shall end on December 31 of the year that is 100 years after the effective date of the Water Supply Agreement, unless sooner terminated as set forth in the lease (the “Lease”); and

**WHEREAS**, the Park District's right to use and enjoy the Existing Parkland shall be tolled during the construction of the Infrastructure and restoration of the Existing Parkland by Joliet; and

**WHEREAS**, the City will grant Joliet an easement to the Existing Parkland and various easements to the Southwest Pumping Station property for the installation, operation, maintenance and removal of the Infrastructure and restoration of the properties encumbered by such easements; now, therefore,



BE IT ORDAINED BY THE CITY OF CHICAGO AS FOLLOWS:

SECTION 1. The above recitals are expressly incorporated in and made a part of this ordinance as though fully set forth herein.

SECTION 2. This ordinance is an exercise of home rule power under Article VII, Section 6(a) of the State Constitution.

SECTION 3. The Commissioner is hereby authorized to execute the Lease, in substantially the form attached hereto as Exhibit A, on behalf of the City and to take such actions and do such things as shall be necessary to perform, carry out, give effect to and consummate the transactions contemplated by this ordinance and/or the administration of the Lease during its term, including, but not limited to, amending any deadlines set forth in the Intergovernmental Agreement to be consistent with the terms of the Lease.

SECTION 4. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance. This ordinance is not intended to, and does not, supersede the authority granted to the Commissioner of the Department of Water Management by that certain ordinance approved by the City Council on April 19, 2023, and published in the Journal of the Proceedings of the City Council for such date at pages 61911 through 62083.

SECTION 5. This ordinance shall be effective as of the date of its passage and approval.

Exhibit A

Form of Lease

[Attached]

## LEASE

THIS LEASE is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 ("Lease Effective Date"), by and between the CITY OF CHICAGO, an Illinois municipal corporation and home rule unit of government (herein referred to as the "City"), and the CHICAGO PARK DISTRICT, a body politic and corporate and unit of local government (hereinafter referred to as the "District"). The City and District individually shall be referred to as a "Party, and collectively as the "Parties".

## RECITALS

WHEREAS, the City, through the City's Department of Water Management, is the owner of the approximately 87,500 square feet of land described and depicted on Exhibit A attached hereto and made a part hereof (the "Existing Parkland"), which is a portion of Durkin Park located at 8445 South Kolin Avenue, Chicago, Illinois 60652, the remainder of which park is owned by the District; and

WHEREAS, for purposes of this Lease, the Existing Parkland does not include the subsurface, and the District shall not insert or install any equipment below the surface of the ground of the Existing Parkland; and

WHEREAS, the District is organized for the purpose of operating parks and playgrounds within the City of Chicago, and desires to continue to operate the Existing Parkland as part of its Durkin Park; and

WHEREAS, pursuant to an intergovernmental agreement between the Parties dated on or as of July 30, 2021, as amended (the "Intergovernmental Agreement", a copy of which is attached hereto as Exhibit B), the District has conveyed the Existing Parkland to the City for the construction and operation of subsurface and surface Joliet New Water Supply Infrastructure necessary for the supply of water ("Subsurface Joliet New Water Supply Infrastructure" and "Surface Joliet New Water Supply Infrastructure," respectively, both of which are generally depicted on Exhibit C, and collectively the "Joliet New Water Supply Infrastructure") to the City of Joliet, Illinois and including any regional commission or similar body which may succeed Joliet with respect to such water supply (collectively, "Joliet"); and

WHEREAS, Joliet shall finance, construct, own, operate, maintain, repair, and replace the Joliet New Water Supply Infrastructure under and on the Existing Parkland pursuant to one or more permanent easements from the City (collectively, the "Easement") and a water supply agreement with the City (the "Water Supply Agreement"), copies of which are attached hereto as Exhibits D and E, respectively (in the Easement and from time to time in this Lease, the Existing Parkland is known or referred to as the "Easement Area"); and

WHEREAS, the City has agreed to lease the Existing Parkland to the District, and the District has agreed to lease the Existing Parkland from the City to be used for normal active and passive sports and public recreational use as part of the larger Durkin Park;

NOW THEREFORE, in consideration of the covenants, terms and conditions set forth herein, the Parties hereto agree and covenant as follows:

## SECTION 1. GRANT

The City hereby leases the Existing Parkland to the District.

## SECTION 2. TERM

The term of this Lease ("Term") shall commence on the execution date set forth above ("Commencement Date") and shall end on December 31 of the year that is 100 years after the Effective Date of the Water Supply Agreement as it may be extended by renewals and by any period of time necessary for decommissioning and restoration as provided in Article 7 of the Water Supply Agreement, unless sooner terminated as set forth in this Lease. Provided, however, the District acknowledges and agrees that its right to use and enjoy the Existing Parkland shall be suspended during the initial construction of the Joliet New Water Supply Infrastructure and the Chicago New Water Supply Infrastructure, the restoration of the Existing Parkland by Joliet and as provided in this Lease.

## SECTION 3. RENT, TAXES, AND UTILITIES

3.1 Rent. The District shall pay rent for the Existing Parkland in the amount of:

One Dollar (\$1.00) for the entire Term, the receipt and sufficiency of said sum being herewith acknowledged by both Parties.

3.2 Utilities. The District shall pay when due all charges for gas, electricity, water, sewer, light, heat, telephone, other communication, and any other utilities and charges that may be assessed on the Existing Parkland as a result of the District's use of the Existing Parkland.

3.3 Taxes. The District shall pay when due any leasehold, real estate, and other property taxes, interest, or penalties, if any, assessed or levied on the Existing Parkland during the Term. The District acknowledges that real estate and leasehold taxes are one (1) year in arrears in Cook County and that as a result the District shall be responsible for satisfaction of leasehold, real estate, interest, and penalties assessed or levied on the Existing Parkland on account of the District's use for at least one (1) year after the District vacates the Existing Parkland. The District's failure to pay any such taxes, penalties, or interest shall constitute a default under this Lease. Notwithstanding the foregoing, nothing herein shall preclude the District from contesting any charge or tax levied against the Existing Parkland. The District's tax responsibilities under this section shall survive the expiration, cancellation, or termination of this Lease.

## SECTION 4. CONDITION AND ENJOYMENT OF EXISTING PARKLAND, IMPROVEMENTS, USE, STANDARDS

4.1 Covenant of Quiet Enjoyment. The City covenants and agrees that the District, upon paying the rent and upon observing and keeping the covenants, agreements, and conditions of this Lease on its part to be kept, observed, and performed, shall lawfully enjoy the Existing Parkland (subject to the provisions of this Lease) during the Term without hindrance or molestation by the City or Joliet, and subject to Joliet's rights under the Easement.

4.2 District's Duty to Maintain Existing Parkland and Right of Access. The District shall, at the District's expense, keep the Existing Parkland in a condition of good repair and order, and in compliance with all applicable provisions of the Municipal Code of Chicago, including, but not

limited to, those provisions in Title 13 ("Building and Construction"), and Title 17 ("Landscape Ordinance"), except to the extent that any repair, restoration or the like is necessitated by the presence or operation of the Joliet New Water Supply Infrastructure or future repair or replacement of the Joliet New Water Supply Infrastructure. To facilitate the District's maintenance activities, the Commissioner of the Department of Water Management shall provide to the District, upon completion of the Joliet New Water Supply Infrastructure and after any Future Maintenance and Repair or Emergency Action by Joliet, the maximum weight limits allowed on the Existing Parkland, which may also include structural load calculations and other information to ensure the safety of such maintenance activities and the safety of the Joliet New Water Supply Infrastructure, to the extent that Joliet has provided such information to the Department of Water Management. The City shall have the right of access to the Existing Parkland for the purpose of inspecting the same, provided that except in the case of emergencies, the City shall first give notice to the District of its desire to enter the Existing Parkland and will schedule its entry so as to minimize any interference with the District's use, and the public's enjoyment, of the Existing Parkland during periods when the District's use is not suspended as described in Section 2. Furthermore, as set forth in the Easement, Joliet shall have the right to enter the Existing Parkland to perform Joliet's Normal Operations, Future Maintenance and Repair, and Emergency Actions in connection with the Joliet New Water Supply Infrastructure. Joliet's Normal Operations will require no notice and will be scheduled in a manner so as not to interfere with the District's routine use and enjoyment of the Existing Parkland. Future Maintenance and Repair will be scheduled to minimize impacts to the District's use, and the public's enjoyment, of the Existing Parkland. Joliet will obtain either an access permit from, or access agreement with, the District in advance for Future Maintenance and Repair on the Existing Parkland, and in the case of Emergency Action, Joliet shall provide the District with notice that is practicable under the circumstances, but not longer than 24 hours, and request either an access permit from, or access agreement with, the District. Further, the City will alert a designated District representative in the event of any Emergency Action that must be performed by either the City or Joliet, or any of their contractors or agents.

4.3 City's Duty to Maintain Existing Parkland. The City, at no cost to the District, shall maintain or cause Joliet to maintain any appurtenances of the Joliet New Water Supply Infrastructure on the surface of the Existing Parkland which may interfere with or negatively impact the ordinary use of the Existing Parkland for sports or public recreational usage. Existing Parkland which is disturbed by any work performed by the City or Joliet or their contractors or agents must be restored to its condition existing immediately prior to the start of the performance of such work.

4.4 Use of the Existing Parkland. The District shall not use the Existing Parkland in a manner that would violate any law or would interfere with Joliet's rights under the Easement. The District shall not alter the grade of the Existing Parkland in a manner so as to interfere with the operation and maintenance of the Joliet New Water Supply Infrastructure or construct or install any buildings, structures or obstructions on the Existing Parkland without the prior written consent of the City and Joliet. The District further covenants not to do or suffer any waste or damage, disfigurement or injury to any improvement on the Existing Parkland, or to fixtures and equipment thereon. All such improvements, fixtures and equipment shall be owned by the District after the restoration of the Existing Parkland by Joliet; except for those fixtures and equipment that are part of the Joliet New Water Supply Infrastructure. The District shall comply in all respects with all applicable laws, ordinances, statutes, orders, rules, regulations, standards, codes, executive orders, and requirements of all federal, state and local laws (collectively, the "Laws") that are in effect from time to time that pertain to or affect the Existing Parkland, the use or manner of use of the Existing Parkland, the District, Easement, or this Lease. Any activities on the Existing Parkland must be limited to use for sports and public recreational usage. No pesticides, herbicides or other chemicals will be used by the District or any agents, contractors or subcontractors under

the control of the District within or adjacent to the Existing Parkland or Joliet New Water Supply Infrastructure. The promotion and operation of public recreational space does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. The District agrees that in providing programming the District shall not discriminate against any member of the public because of race, creed, religion, color, sexual orientation, or national origin.

4.5 Improvements to Existing Parkland. The District may make improvements to the Existing Parkland but only with the prior written approval of the Commissioner of the Department of Water Management. For any work or improvements the District proposes to perform within twenty-five (25) feet of the Suction Well and appurtenances, excluding regular maintenance duties, the District must obtain prior written consent from Joliet. Any such improvements shall be made in full compliance with any applicable Laws, and shall not impair the condition, maintenance or operation of the Joliet New Water Supply Infrastructure. For the purposes of this Section 4.5, "regular maintenance duties" includes routine maintenance such as mowing, seeding, trash removal, changing light bulbs, and the like; provided, however, if the District intends to perform regular maintenance duties that require use of heavy equipment (other than mowing equipment; any other heavy equipment must be within the maximum weight limits allowed under Section 4.2) on the Existing Parkland or digging more than four (4) inches below existing grade, the District shall notify Chicago and Joliet at least forty-eight (48) hours in advance in order to enable Joliet to be present during such duties to observe if Joliet wishes to do so.

4.6 The Easement. The Existing Parkland shall be subject to the Easement. The Easement shall be subject to this Lease and this Lease shall be subject to the Easement. The City shall provide the District copies of any amendments to the Easement; any such amendments to the Easement affecting the District's rights and obligations hereunder shall be subject to the District's prior written consent, which shall not be unreasonably withheld.

The City and the District each agrees that the Easement will include the following provisions:

- (a) For the purposes of this Lease and the Easement, the following terms shall have the following meanings:

"Future Maintenance and Repair" means planned activities requiring use of an Easement Area that would prevent park uses, which are (1) disturbing soils in the Easement Area, (2) bringing in heavy equipment, (3) securing all or a portion of the Easement Area in order for maintenance and repair to be done.

"Emergency Action" means any work that results from unplanned events that require prompt or immediate action to protect the Joliet New Water Supply Infrastructure or the water supply, or property or persons within Durkin Park or the Southwest Pump Station Site and the immediate vicinity.

"Normal Operations" means water system operational and maintenance activities, other than Future Maintenance and Repair that are performed, that are performed in a manner so as not to interfere with the District's routine use and enjoyment of the Easement Area.

- (b) Joliet will use the Easement Area for Normal Operations and no access permit or access agreement will be required by the District.



- (c) If Joliet plans to perform "Future Maintenance and Repair," Joliet must notify the City and the District's Department of Planning and Construction, or any successor department, of same prior to the commencement of work, and must comply with the District's then-current requirements for a general access permit or access agreement, which determination of compliance shall be made by the District or the City, and not unreasonably withheld or delayed.
- (d) Joliet must notify the City and the District as soon as practicable of any "Emergency Action." In addition, Joliet must, as soon as practicable, but in no event more than 24 hours after the commencement of the Emergency Action, comply with the District's then-current requirements for a general access permit or access agreement, which determination of compliance shall be made by the District or the City, and not unreasonably withheld or delayed. Future Maintenance and Repair will be scheduled to minimize impacts to the District's use, and the public's enjoyment, of the Easement Area.

## SECTION 5. ASSIGNMENT, SUBLEASE, AND LIENS

5.1 Assignment and Sublease. The District shall not assign this Lease in whole or in part, or sublet the Existing Parkland or any part thereof, without the prior written consent of the Commissioner of the Department of Water Management. Chicago shall be responsible to notify Joliet of any such assignment or subletting of the Existing Parkland prior to providing written consent therefor. Such notice shall include such information as Chicago deems appropriate. Any assignment or sublease of this Lease shall provide that the assignee or sublessee, as applicable, shall not allow any activities that would materially or detrimentally interfere with the Joliet New Water Supply Infrastructure on the Existing Parkland, the provision of Water by Chicago to Joliet, and Joliet's provision of Water to the Joliet Customers. For purposes of this Section 5.1, "Water" and "Joliet Customers" have the meanings set forth in Article 3 (Definitions) of the Water Supply Agreement.

5.2 District's Covenant against Encumbering Title and Easement. The District shall not do any act which shall in any way encumber the fee simple estate of the City or the Department of Water Management in and to the Existing Parkland, nor shall the interest or estate of the City or the Department of Water Management in the Existing Parkland be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by District any claim to, or lien upon, the leased Existing Parkland arising from any act or omission of District shall accrue only against the District's leasehold estate and shall be subject to and subordinate to the paramount title and rights of the City and the Department of Water Management in and to the Existing Parkland. The District shall not do any act which shall in any way encumber the Easement, nor shall the interest of Joliet in the Easement Area be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by District any claim to, or lien upon, the Easement Area arising from any act or omission of District shall accrue only against the District's leasehold estate and shall be subject to and subordinate to the paramount title and rights of Joliet in and to the Easement Area.

5.3 District's Covenant against Liens. The District shall not permit the Existing Parkland or the Easement to become subject to any mechanic's, laborer's, or materialmen's liens on account of labor or material furnished to the District or claimed to have been furnished to the District. In case of any such lien attaching, the District shall immediately pay and remove such

lien or furnish security or indemnify the City in a manner satisfactory to the City in its sole discretion to protect the City against any defense or expense arising from such lien. Except during any period in which District appeals any judgment or obtains a rehearing of any such lien, or in the event judgment is stayed, the District shall immediately pay any judgment rendered against the District, with all proper costs and charges, and shall have the lien released and any judgment satisfied. If the District fails to pay and remove any lien or contest such lien in accordance herewith, the City, at its election, may pay and satisfy same, and all sums so paid by the City, with interest from the date of payment at the rate set at 12% per annum provided that such rate shall not be deemed usurious by any Federal, State, or Local law.

## SECTION 6. INDEMNIFICATION AND INSURANCE

6.1 Indemnification. The District shall indemnify, defend, and hold the City and Joliet harmless against all liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, costs, damages, and expenses (including reasonable attorney's fees, expenses, and court costs), whether such claim is related to or arises from personal injury or property damage which may be expended by or accrue against, be charged to, or be recovered from the City, Joliet or the District by reason of the District's performance of or failure to perform any of the District's obligations under this Lease or the District's negligent acts or failure to act, or resulting from the acts or failure to act of the District's contractors, respective officers, directors, agents, employees, invitees, or permittees, or any liabilities, judgments or settlements that may arise from any access to the Existing Parkland or the Easement Area, or any damage to the Joliet New Water Supply Infrastructure, by the District's invitees, permittees, or any third parties. Nothing in the previous sentence shall be constituted to waive the District's statutory immunities under Illinois law.

6.2 Insurance. As of the Lease Effective Date, the District is self-insured and will provide City, with a copy to Joliet, with a letter executed by an authorized official indicating that the District is self-insured. On an annual basis, the District will provide the City, with a copy to Joliet, evidence of the District's insurance.

## SECTION 7. CONFLICT OF INTEREST AND GOVERNMENTAL ETHICS

7.1 Conflict of Interest. No official or employee of the City of Chicago, nor any member of any board, commission or agency of the City of Chicago, shall have any financial interest (as defined in Chapter 2-156 of the Municipal Code of Chicago), either direct or indirect, in the Existing Parkland. Nor shall any such official, employee, or member participate in making or in any way attempt to use his/her position to influence any governmental decision or action with respect to this Lease.

7.2 Duty to Comply with Governmental Ethics Ordinance. The City and the District shall comply with Chapter 2-156 of the Municipal Code of Chicago, "Governmental Ethics," including but not limited to section 2-156-120, which states that no payment, gratuity, or offer of employment shall be made in connection with any City of Chicago contract, as an inducement for the award of that contract or order. Any contract or lease negotiated, entered into, or performed in violation of any of the provisions of Chapter 2-156 shall be voidable as to the City.

## SECTION 8. HOLDING OVER

8.1 Holding Over. Any holding over by the District shall be construed to be a tenancy from month to month beginning on December 31, 2123 and the rent shall be the same as listed



in Section 3.1 of this Lease. During such holding over all other provisions of this Lease shall remain in full force and effect.

**SECTION 9. MISCELLANEOUS**

9.1 Notice. All notices, demands and requests which may be or are required to be given, demanded or requested by either party to the other shall be in writing. All notices, demands and requests by the District to the City shall be delivered by national overnight courier or shall be sent by United States registered or certified mail, return receipt requested, postage prepaid addressed to the City as follows:

City of Chicago  
Department of Water Management  
Attention: Commissioner's Office  
1000 East Ohio Street  
Chicago, Illinois 60611

With courtesy copies to:

City of Chicago  
Department of Finance  
Attention: Chief Financial Officer  
121 North LaSalle Street, Room 700  
Chicago, Illinois 60602

and

City of Chicago  
Department of Law  
Attention: Real Estate and Land Use Division  
121 North LaSalle Street, Room 600  
Chicago, Illinois 60602

and

City of Joliet  
150 West Jefferson Street  
Joliet, Illinois 60432  
Attention: Director of Public Utilities and City Manager

or at such other place as the City may from time to time designate by written notice to District. All notices, demands, and requests by the City to the District shall be delivered by a national overnight courier or shall be sent by United States registered or certified mail, return receipt requested, postage prepaid, addressed to the District as follows:

Chicago Park District  
Department of Law  
4830 S. Western Ave  
Chicago IL 60609  
Attention: General Counsel

or at such other place as the District may from time to time designate by written notice to City. Any notice, demand or request which shall be served upon the District by the City, or upon the City by the District, in the manner aforesaid, shall be deemed to be sufficiently served or given for all purposes hereunder at the time such notice, demand or request shall be mailed.

9.2 Partial Invalidity. If any covenant, condition, provision, term or agreement of this Lease shall, to any extent, be held invalid or unenforceable, the remaining covenants, conditions, provisions, terms and agreements of this Lease shall not be affected thereby, but each covenant, condition, provision, term or agreement of this Lease shall be valid and in force to the fullest extent permitted by law.

9.3 Governing Law. This Lease shall be construed and be enforceable in accordance with the laws of the State of Illinois.

9.4 Entire Agreement. All preliminary and contemporaneous negotiations are merged into and incorporated in this Lease. This Lease contains the entire agreement between the Parties and shall not be modified or amended in any manner except by an instrument in writing executed by the Parties hereto.

9.5 Captions and Section Numbers. The captions and section numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Lease nor in any way affect this Lease.

9.6 Binding Effect of Lease. The covenants, agreements, and obligations contained in this Lease shall extend to, bind, and inure to the benefit of the Parties hereto and their legal representatives, heirs, successors, and assigns.

9.7 Time is of the Essence. Time is of the essence of this Lease and of each and every provision hereof.

9.8 No Principal/Agent or Partnership Relationship. Nothing contained in this Lease shall be deemed or construed by the Parties hereto nor by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the Parties hereto.

9.9 Authorization to Execute Lease. The Parties executing this Lease hereby represent and warrant that they are duly authorized and acting representatives of the City and the District respectively and that by their execution of this Lease, it became the binding obligation of City and District respectively, without any contingencies or conditions except as specifically provided herein.

9.10 Termination of Lease. The City and the District shall have the right to terminate this Lease without penalty and for any, or no, reason by providing each other with one-hundred eighty (180) days prior written notice at any time after the Commencement Date.

9.11 Force Majeure. When a period of time is provided in this Lease for either party to do or perform any act or thing, the party shall not be liable or responsible for any delays due to strikes, lockouts, casualties, acts of God, wars, acts of terrorism, and other causes beyond the reasonable control of the party, and in any such event the time period shall be extended for the amount of time the party is so delayed.

9.12 Default. The District must adhere to all provisions of this Lease. Failure of District to adhere to all provisions of this Lease will result in default. In the event of such default, the City will notify the District in writing as to the circumstances giving rise to such default. Upon written receipt of such notice, the District must cure such default within sixty (60) days. If the District does not cure such default within sixty (60) days, then, following the sixty (60) day cure period, the City may cancel this Lease with sixty (60) days written notice.

9.13 District Representations. The District represents as follows:

(a) The District shall comply with all applicable Laws that are in effect from time to time that pertain to or affect the Existing Parkland, the District, Easement, or this Lease. Upon the City's request, the District shall provide evidence satisfactory to the City of such compliance.

(b) The District agrees that provisions required to be inserted in this Lease by any Laws, are deemed inserted whether or not they appear in this Lease and that in no event will the failure to insert such provisions prevent the enforcement of this Lease.

(c) Signing, delivery and performance by the District of this Lease does not violate its resolutions, including but not limited to the District resolution, or any applicable provision of law, or constitute a material breach of, default under or require any consent under, any agreement, instrument or document, including any related to borrowing monies, to which the District is party or by which it is bound.

(d) There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the District that would materially impair its ability to perform under this Lease.

9.14 Amendments. From time to time, the Parties hereto may administratively amend this Lease with respect to any provisions reasonably related to the District's use of the Existing Parkland and/or the City's administration of this Lease. Provided, however, that such Amendment(s) shall not serve to extend the Lease Term hereof nor serve to otherwise materially alter the essential provisions contained herein. Such Amendment(s) shall be in writing, shall establish the factual background necessitating such alteration, shall set forth the terms and conditions of such modification, and shall be duly executed by both the City and the District. Such Amendment(s) shall only take effect upon execution by both parties. Upon execution, such Amendment(s) shall become a part of this Lease and all other provisions of this Lease shall otherwise remain in full force and effect.

9.15 No Personal Liability. No elected or appointed official or member or employee or agent of the City or the District shall be individually or personally liable in connection with this Lease because of their execution or attempted execution or because of any breach hereof. This limitation on liability survives any termination or expiration of this Lease.

9.16 No Construction against Preparer. This Lease shall not be interpreted in favor of either the City or the District. The City and the District acknowledge that both parties participated fully in the mutual drafting of this Lease.

## SECTION 10. ADDITIONAL RESPONSIBILITIES OF DISTRICT

10.1 Satisfaction with Condition. The District has inspected the Existing Parkland and all related areas and grounds and the District is satisfied with the physical condition thereof. The

District agrees to accept the Existing Parkland in its "as is," "where is" and "with all faults." The District acknowledges that the adjoining property to the east is owned by the City's Department of Water Management and that this property is used as an active water pumping station and, furthermore, that the City has also granted Joliet permanent easements on and under such adjoining property for the Chicago New Water Supply Infrastructure and an additional portion of Joliet New Water Supply Infrastructure.

10.2 Custodial Services. Except during such timeframes as may be identified from time to time in writing by the City to the District that custodial services will be performed by Joliet or its contractor, the District, at its expense, shall provide custodial services to the Existing Parkland, which shall be construed as maintaining the landscaping and removal of debris and materials placed on the Existing Parkland. The District, at its sole cost and expense, shall provide its own scavenger service when necessary. The District acknowledges that the City and Joliet shall have no scavenger service responsibilities.

10.3 Maintenance. The District shall provide, at the District's expense, any and all service for maintenance, repair, and upkeep of the Existing Parkland. The District acknowledges that the City and Joliet shall not have any maintenance obligations with respect to the Existing Parkland, provided, however, that Joliet shall maintain the Joliet New Water Supply Infrastructure on the Existing Parkland.

10.4 Security. The District acknowledges that the City has no security obligations with respect to the Existing Parkland, aside from ordinary Chicago Police Department jurisdiction. The District shall be responsible for securing the Existing Parkland and will provide for security when necessary in the District's opinion.

10.5 Snow Removal. The District shall provide and pay for removal of snow and ice from sidewalks which immediately abut the Existing Parkland. The District acknowledges that the City and Joliet shall have no snow or ice removal responsibilities.

10.6 Park Drainage System. The District shall own, operate and maintain the drainage system to be installed by Joliet to provide stormwater drainage under Durkin Park, including the Existing Parkland, in place of the existing drainage structures that are removed for placement of the Joliet New Water Supply Infrastructure on the Existing Parkland; provided, however, that the District shall not own, operate or maintain the underdrain system of the Joliet New Water Supply Infrastructure on the Existing Parkland (which underdrain system is completely separate from the drainage system). The drainage system and the underdrain system, which are to be designed and installed by Joliet, shall be warranted by Joliet for the duration of this Lease against any defects due to either design or construction deficiencies, errors, defects or otherwise any acts or omissions by Joliet or their contractors that would cause the drainage system or the underdrain system to not operate as otherwise intended. Any issues of operation of the drainage system due to deficiencies in maintenance by the District or normal wear and tear through use, or due to deficiencies in the existing drainage system of Durkin Park outside of the Existing Parkland that were not disturbed by Joliet, shall not be the responsibility of Joliet.

10.7 Repairs for District Negligence, Vandalism, or Misuse. The District shall assume all responsibility for any repairs to any portion of the Existing Parkland necessitated by the negligence, vandalism, misuse, or other acts on any portion of the Existing Parkland by the District's employees, clients, invitees, agents, contractors, permittees, or third parties.

10.8 Programming. All permitted programming shall be supervised by the District employees or District contractors. Such programming may include, but is not limited to, the use of the Existing Parkland by public high schools, soccer leagues, summer sport camps, and similar privately run programs. Any revenues realized by the District from the use of the Existing Parkland for such programs shall be devoted solely to covering the District's operational costs.

10.9 Hazardous Materials. The District shall keep out of Existing Parkland materials which cause a fire hazard or safety hazard and will comply with reasonable requirements of the City's fire insurance carrier, if applicable.

10.10 Full Responsibility. The District assumes full responsibility and all liability for all activities and events on the Existing Parkland undertaken by or through the District's staff, agents, invitees, or permittees.

10.11 No Substitute for Required Permitting. For any activity which the District desires to conduct on the Existing Parkland and for which a City license or permit is required, said license or permit must be obtained by the District prior to using the Existing Parkland for such activity. The City must be notified of any such license or permit. Failure to obtain a required license or permit shall constitute a breach of the terms of this Lease. The District understands that this Lease shall not act as a substitute for any other permitting or approvals that may be required to undertake activities on the Existing Parkland.

10.12 Condition upon Termination. Upon termination of this Lease in the event that the City and the District are unable to renew or extend this Lease, the District shall surrender the Existing Parkland to the City in a comparable condition to the condition of the Existing Parkland at the beginning of the District's occupancy, with normal wear and tear taken into consideration.

10.13 Trade Fixtures. Upon the termination of this Lease in the event that the City and the District are unable to renew or extend this Lease, at the City's direction the District shall remove or demolish the District's property, equipment, and trade fixtures from the Existing Parkland. Provided, however, that the District shall repair any injury or damage to the Existing Parkland which may result from such removal or demolition. If the District does not remove the District's property, equipment, and trade fixtures and all other items of property from the Existing Parkland upon termination and at the City's direction, the City may, at its option, remove the same and deliver them to any other place of business of the District or warehouse the same. In such event, the District shall pay to the City the cost of removal, including the repair for such removal, delivery and warehousing. In the alternative, the City may treat such property as being conveyed to the City with this Lease acting as a bill of sale, without further payment or credit by the City to the District.

10.14 No Other Rights; Third Party Beneficiary. This Lease does not give the District any other right with respect to the Existing Parkland. Any rights not specifically granted to the District by and through this Lease are reserved exclusively to the City. Execution of this Lease does not obligate the City to undertake any additional duties or services. Joliet is and during the Term of this Lease shall be a third-party beneficiary of this Lease.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Lease as of the day and year first above written.

CITY OF CHICAGO,  
an Illinois municipal corporation and home rule unit  
of government

BY: DEPARTMENT OF WATER MANAGEMENT

By: \_\_\_\_\_  
Commissioner

APPROVED AS TO FORM AND LEGALITY:  
BY: DEPARTMENT OF LAW

By: \_\_\_\_\_  
Senior Counsel

CHICAGO PARK DISTRICT,  
a body politic and corporate and unit of local  
government

CHICAGO PARK DISTRICT

By: \_\_\_\_\_  
General Superintendent

Approved as to legal form:

\_\_\_\_\_  
General Counsel

EXHIBIT A, DESCRIPTION AND DEPICTION OF EXISTING PARKLAND

THAT PART OF BLOCKS 37 AND 38 OF FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 19, 1925 AS DOCUMENT 8743507, ALSO THAT PART OF VACATED TRIPP AVENUE, VACATED KEELER AVENUE, AND ALSO THAT PART OF THE VACATED ALLEYS LYING WITHIN SAID BLOCKS 37 AND 38, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF VACATED KEELER AVENUE AND THE NORTH LINE OF WEST 85TH STREET; THENCE SOUTH 88 DEGREES 16 MINUTES 57 SECONDS WEST, ALONG SAID NORTH LINE, 350.00 FEET; THENCE NORTH 01 DEGREES 50 MINUTES 35 SECONDS WEST, 250.00 FEET; THENCE NORTH 88 DEGREES 16 MINUTES 57 SECONDS EAST, 350.00 FEET TO THE CENTERLINE OF SAID VACATED KEELER AVENUE; THENCE SOUTH 01 DEGREES 50 MINUTES 35 SECONDS EAST, ALONG SAID CENTERLINE, 250.00 FEET TO THE POINT OF BEGINNING.



EXHIBIT B, INTERGOVERNMENTAL AGREEMENT (including first amendment)

[Attached]

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("Agreement") is made and entered into on or as of the 30th day of July, 2021, by and between the Chicago Park District, an Illinois body politic and corporate (the "Park District"), and the City of Chicago, an Illinois municipal corporation and home rule unit of government (the "City"), acting by and through its Department of Water Management ("DWM").

### RECITALS

WHEREAS, the City has entered into that certain "Preliminary Agreement with Respect to an Anticipated Water Supply Agreement between the City of Chicago and the City of Joliet" dated March 17, 2021 (the "Preliminary Agreement"), pursuant to which the City has agreed to provide to the City of Joliet ("Joliet," which also includes, as applicable, any regional water commission or similar body which may succeed Joliet with respect to the Preliminary Agreement and water supply) the necessary easements, access rights and other necessary property interests on land the City owns, and on land the City will acquire from the Park District, to enable Joliet to construct the Project Elements (as described in the Preliminary Agreement) and coordinate discussions and negotiations with the Park District to obtain and enter into the agreements necessary for implementation of the Water Supply Agreement (as defined in the Preliminary Agreement); and

WHEREAS, the City desires to acquire an approximately 87,500 square foot portion of the Park District's Durkin Park located at 8445 South Kolin Avenue, Chicago, Illinois 60652 as described and depicted on Exhibit A attached hereto (the "Existing Parkland") for use in support of the City's water system, specifically for the construction and operation of subsurface and surface facilities as part of the Project Elements necessary for the supply of water to Joliet (the "Project," as generally depicted on Exhibit B attached hereto); and

WHEREAS, the Park District wishes to convey the Existing Parkland to the City for the aforesaid purpose; and

WHEREAS, subject to the approval of the City Council of the City (the "City Council"), the City shall grant to Joliet a permanent easement under, in, and upon the Existing Parkland to facilitate the Project (the "Permanent Easement") and consistent with the Preliminary Agreement, pursuant to an easement agreement to be entered into between the City and Joliet (the "Permanent Easement Agreement"); and

WHEREAS, as part of the Project, the City will require Joliet to restore, at its sole cost and expense, the surface of the Existing Parkland and construct a new athletic field and support facilities thereon (currently anticipated to be a junior-sized soccer field with accompanying necessary improvements), based on a combination of consideration of community input and the Park District's specifications, and with additional details regarding the replacement improvements to be negotiated among the City, the Park District and Joliet and included in the Lease (defined below), the Permanent Easement Agreement and/or the Water Supply Agreement; and

WHEREAS, subject to the approval of the City Council, the City shall lease the Existing Parkland to the Park District pursuant to a lease or leases to be entered into between the City and the Park District (collectively, the "Lease"), with the Lease term having two parts: (1) commencing on the Closing Date and ending or pausing upon commencement of construction of the Project by Joliet and having a break in Park District use and occupancy of the Existing Parkland during the construction period; and (2) re-commencing when the Project is completed

on the Existing Parkland and Durkin Park by Joliet; in addition, the Lease shall not allow any activities that would interfere with the Suction Well (as defined in the Preliminary Agreement) on the Existing Parkland, the provision of water by the City to Joliet, and Joliet's provision of water to the Joliet Customers (as defined in the Preliminary Agreement); and

WHEREAS, the Park District's rights under the Lease shall be subject to Joliet's rights under the Permanent Easement Agreement (such that Joliet shall be a third party beneficiary of the Lease), and Joliet's rights under the Permanent Easement Agreement shall be subject to the Park District's rights under the Lease (such that the Park District shall be a third party beneficiary of the Permanent Easement Agreement); and

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois authorizes state and local governing bodies to cooperate in the performance of their responsibilities by contracts and other agreements; and

WHEREAS, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, similarly authorizes public agencies, including units of local government and school districts, to contract with one another to perform any governmental service, activity or undertaking; and

WHEREAS, the Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.* (the "Act"), authorizes and provides for municipalities (as defined in the Act) to convey, grant or transfer real estate held by the municipality to any other municipality upon the agreement of the corporate authorities governing the respective parties; and

WHEREAS, by ordinance adopted by the City Council on July 21, 2021, the City authorized the execution of this Agreement by the commissioner of the Department of Water Management ("Commissioner"), or any Commissioner designee, and the City's performance of its obligations hereunder; and

WHEREAS, by resolution adopted on July 16, 2021, the Board of Commissioners of the Park District authorized the execution of this Agreement by the Park District's General Superintendent, the Park District's performance of its obligations hereunder and the conveyance of the Existing Parkland by quitclaim deed;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth herein, and for the purpose of intergovernmental cooperation, the parties agree as follows:

1. Recitals. The foregoing recitals are incorporated in and made a part of this Agreement by this reference.

2. Transfer of Existing Parkland to the City; Reversion. The Park District agrees to convey by quitclaim deed ("Deed"), and the City agrees to accept, all of the Park District's right, title and interest in the Existing Parkland on the Closing Date as defined in Section 4 hereof and subject to the terms of this Agreement. The City agrees to accept the Existing Parkland in its "as is" condition and subject to a reversionary clause, providing that the Existing Parkland is subject to reversion to the Park District in the event that Joliet elects, pursuant to Section 4.4 of the Preliminary Agreement or the Water Supply Agreement (as defined in the Preliminary Agreement), not to construct a portion of the Project on the Existing Parkland or to otherwise use the Existing Parkland for water supply purposes; and such reversion to the Park District will be in the Existing Parkland's then-existing "as is" condition (unless required otherwise

in the Permanent Easement Agreement, specifically but not by way of limitation to restore any pre-existing athletic uses) and subject, however, to Joliet's environmental remediation and indemnification obligations, if any, under the Permanent Easement Agreement. If the Preliminary Agreement or Water Supply Agreement (as defined in the Preliminary Agreement) is terminated prior to the date on which the Park District commences the use and enjoyment of the Existing Parkland under the Lease after construction of the Project and related restoration, then the City may terminate this Agreement and the Park District shall purchase the Existing Parkland back from the City for one dollar.

3. No Obligation to Provide Title and Survey; No Warranties; Obligation to Provide Joliet Access and Temporary Easements.

(a) No Title and Survey. The Park District shall have no obligation to provide a survey of the Existing Parkland, or title insurance. The City acknowledges and agrees that it is not relying on any express or implied warranties, promises, guarantees, or representations made by the Park District or anyone acting or claiming to act on behalf of the Park District in acquiring the Existing Parkland.

(b) No Warranties. The City hereby expressly disclaims any express or implied warranties or covenants as to the value, character, quality, quantity or condition of the Existing Parkland or any improvements thereon.

(c) Joliet Access. Notwithstanding the foregoing, the Park District agrees to cooperate with the City and Joliet in providing other available documentation and information with respect to the Existing Parkland and Durkin Park and, subject to submission to the Park District by Joliet of the Park District's customary submission requirements for such approval processes, providing all necessary temporary rights of entry and other access to Joliet as Joliet requires in order to do the necessary inspections, examinations and testing, including without limitation environmental and geotechnical assessments, of the Existing Parkland and Durkin Park in connection with determining whether the Existing Parkland and Durkin Park are an appropriate location for the Project.

(d) Joliet Temporary Easements. The Park District agrees to cooperate with the City in providing temporary easements for construction to Joliet for the purpose of Joliet's construction of the Project as well as restoration, which areas include, without limitation, the following, which are referred to collectively as the "Temporary Easements": (1) the parcel west of the Existing Parkland, which is labeled on Exhibit B as "1.0 Acre Construction Easement" ("Primary Construction Easement"), and (2) any areas adjacent to and north of the Existing Parkland and Primary Construction Easement required to transition the grade from those areas to the grade level of the remainder of Durkin Park.

4. Closing Date. The closing date for transfer of title to the Existing Parkland ("Closing Date") will occur on a date mutually acceptable to the parties hereto, and on a date that will not impair or impede progress on the Project, and in no event later than December 31, 2022. The Permanent Easement Agreement, the agreement(s) for Temporary Easements and the Lease shall be approved and executed concurrently with the Closing Date.

5. Delivery of Possession. Possession of the Existing Parkland shall be delivered on the Closing Date.

6. Park District's Continuing Right to Use Prior to Closing Date. From the date hereof through the Closing Date, subject to the terms and conditions of this Agreement, the Park District shall have the right to continue to use the Existing Parkland for its existing purposes, which purposes shall in no way increase the difficulty of or burden on Joliet's Project. The City shall provide the Park District with at least fourteen (14) days' notice of any scheduled plan for Joliet to use the Existing Parkland prior to the Closing Date, in order to minimize disruption to any previously scheduled community activities on the Existing Parkland. The Park District shall not enter into any agreements for the sale, development, improvement or use of the Existing Parkland or Durkin Park without the prior written consent of the City, which shall be in the City's sole discretion and consistent with the Preliminary Agreement. The foregoing prohibition shall exclude only improvement and use agreements entered into by the Park District in the ordinary course of business and necessary to the continued use and operation of the Existing Parkland for its existing purposes but which shall in no way increase the difficulty of or burden on Joliet's Project. Prior to the Closing Date, the Park District shall maintain the Existing Parkland in good condition and repair, in a manner consistent with all other similarly situated Park District properties.

7. Land Approvals. The Park District shall have no obligation to obtain any zoning or other land use approvals that may be required for the Project; provided, however, the Park District agrees to cooperate with the City and Joliet to the extent necessary to obtain such approvals.

8. Environmental Condition.

(a) The City acknowledges and agrees that the Park District has made no representations concerning the presence or absence of Hazardous Substances (as defined below) on the Existing Parkland or any property adjacent thereto and that the Park District has made no representations concerning the existence or non-existence of any violation, past or present, of Environmental Laws (as defined below) affecting the Existing Parkland. The City hereby waives any and all claims, actions, causes of action, suits or demands of any nature against the Park District which it may have now or in the future for damages, payments, costs, or expenses (including, without limitation, claims of contribution or indemnity and any expenses of investigation of the condition of the Existing Parkland, regardless of the results of such investigation) suffered by the City as a result of the presence or possible presence of any Hazardous Substances on or near the Existing Parkland or the violation, at any time in the past, present, or future, of any Environmental Laws affecting the Existing Parkland. This waiver shall survive the Closing Date.

(b) As used in this Agreement, the following terms shall have the following meanings:

"Environmental Laws" means any and all Laws relating to the regulation and protection of human health, safety, the environment and natural resources now or hereafter in effect, as amended or supplemented from time to time, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 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 Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., any and all regulations promulgated under such Laws, and all analogous state and local counterparts or equivalents of such Laws, including, without limitation, the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq., and the common law, including, without limitation, trespass and nuisance.

“Hazardous Substances” means any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Laws, or any pollutant, toxic vapor, or contaminant, and shall include, but not be limited to, petroleum (including crude oil or any fraction thereof), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

“Laws” means all applicable federal, state, county, municipal or other laws (including common law), statutes, codes, ordinances, rules, regulations, executive orders or other requirements, now or hereafter in effect, as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative orders, consent decrees or judgments.

9. Permanent and Temporary Easements and Other Park Properties; Payments.

(a) Restoration on Permanent Easement. After completion of construction of the Project on the Existing Parkland, the City will require Joliet to restore the Existing Parkland and construct the athletic field and facilities as are generally described in the Fifth Whereas Clause of this Agreement.

(b) Replacement Facilities on Other Park Properties. The City acknowledges that the Park District’s use of the southern portion of Durkin Park (including both the Existing Parkland and the adjacent portion of Durkin Park that will be required for the Primary Construction Easement as shown on Exhibit B) will be disrupted during the construction of the Project on Durkin Park. The City and Joliet will negotiate an agreement pursuant to which Joliet will, on the Closing Date, pay an amount, subject to negotiation, which the Park District will use to construct improvements at other Park District locations in the area (which may include other portions of Durkin Park not subject to the Permanent Easement or Temporary Easements) to accommodate increased demand due to the unavailability of the Existing Parkland and the Temporary Easements. The funds for said improvements: (i) shall be provided so long as the City grants the Permanent Easement to Joliet and the Park District grants the Temporary Easements required for the Project to Joliet, and (ii) shall be in the amount negotiated between the City and the Park District. Additional details regarding the replacement improvements will be negotiated among the City, the Park District and Joliet and included in the Lease, the Permanent Easement Agreement, agreement(s) for Temporary Easements and/or the Water Supply Agreement.

(c) Permanent Easement. . The City shall grant to the Park District some or all of any compensation received from Joliet for the use of the Permanent Easement.

10. Warranties and Representations. In connection with the execution of this Agreement, the City and Park District each warrant and represent that it is legally authorized to execute and perform or cause to be performed this Agreement under the



terms and conditions stated herein.

11. Non-liability of Public Officials. No official, employee or agent of the City or the Park District shall be charged personally by the other party with any liability or expense of defense or be held personally liable under any term or provision of this Agreement or because of the City's or Park District's execution or any breach hereof.

12. Entire Agreement. This Agreement, and the exhibits attached hereto and incorporated herein, shall constitute the entire Agreement between the parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any party to enter into this Agreement or on which reliance is placed by any party, except as specifically set forth in this Agreement.

13. No Third Party Beneficiary. This Agreement is for the sole and exclusive benefit of the City, the Park District and their respective successors and assigns.

14. Counterparts. This Agreement is comprised of two or more identical counterparts, each of which may be fully executed by the parties and, executed, will be deemed an original having identical legal effect.

15. Governing Law. This Agreement shall be governed by and construed in accordance with Illinois law, without regard to its conflicts of law principles.

16. Authority. The conveyance and acceptance of the Existing Parkland is authorized under the Local Government Property Transfer Act.

17. Amendments. No changes, amendments, modifications or discharge of this Agreement, or any part hereof, shall be valid unless in writing and signed by authorized officers of the City and Park District or their respective successors and/or assigns.

18. Severability. If any provisions of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions hereof or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentence clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

19. Interpretation. Any headings of this Agreement are for convenience of reference only and do not define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions thereof. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such persons or entities in

accordance with the terms and conditions of this Agreement.

20. Cooperation. The City and Park District agree at all times to cooperate fully with one another in the implementation of this Agreement.

21. Assignment. Neither the City nor the Park District shall assign, delegate or otherwise transfer all or any part of their rights or obligations under this Agreement, or any part hereof, unless as approved in writing by the other party. The absence of written consent shall void the attempted assignment, delegation or transfer and shall render it of no effect.

22. Force Majeure. Neither the City nor Park District shall be obligated to perform any of their obligations hereunder if prevented from doing so by reasons outside of their reasonable control, including but not limited to, events of force majeure.

23. Time of Essence. Time is of the essence in this Agreement.

24. Waiver. The failure by either party to enforce any provisions of this Agreement shall not be construed as a waiver or limitation on that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

25. Notices. All notices and communications concerning this Agreement shall be sent as follows:

If to the Park District:	Chicago Park District 541 North Fairbanks Chicago, Illinois 60611 Attn: General Superintendent
With a copy to:	Chicago Park District Office of the General Counsel 541 North Fairbanks Chicago, Illinois 60611 Attn: General Counsel
If to the City:	City of Chicago Department of Water Management 1000 East Ohio Street Chicago, Illinois 60611 Attn: Commissioner
With a copy to:	City of Chicago Department of Law Real Estate and Land Use Division 121 N. LaSalle Street, Room 600 Chicago, Illinois 60602 Attn: Deputy Corporation Counsel

Unless otherwise specified, any notice, demand, communication or request required hereunder shall be given in writing at the addresses set forth above and shall be effective (a) if given by



personal service, upon delivery, (b) if sent by overnight courier, effective on the business day after delivery to such courier, or (c) if sent by registered or certified mail, return receipt requested, effective three (3) business days after mailing. The notice address for a party may be changed by giving notice in the manner provided in this section.

26. Termination. This Agreement shall commence as of the date of execution and, except as expressly provided herein, shall terminate on the Closing Date, upon which any contractual responsibilities to the other party shall terminate (except for those which expressly survive termination).

*(Signature Page Follows)*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation  
and home rule unit of government,

By: Andrea R.H. Cheng  
Andrea R.H. Cheng, Ph.D., P.E.  
Commissioner  
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

By: \_\_\_\_\_  
Michael P. Kelly  
General Superintendent and CEO

ATTEST:

By: \_\_\_\_\_  
Kantrice Ogletree  
Secretary

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation  
and home rule unit of government,

By: \_\_\_\_\_  
Andrea R.H. Cheng, Ph.D., P.E.  
Commissioner  
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

*Michael P. Kelly*  
By: \_\_\_\_\_  
Michael P. Kelly  
General Superintendent and CEO

ATTEST:

*SARAH*  
By: \_\_\_\_\_  
Sarah Gelder (Jul 29, 2021 16:07 CDT)  
Sarah Gelder  
Secretary

AGREEMENT EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF EXISTING PARKLAND

THE EXISTING PARKLAND CONSISTS OF APPROXIMATELY 2-ACRES IN THE SOUTHEAST CORNER OF DURKIN PARK (MEASURING APPROXIMATELY 250 FEET NORTH-SOUTH BY 350 FEET EAST-WEST), WHICH PARK IS DESCRIBED AS PARCELS 1 AND 2 IN THE ATTACHED.



File Number: 41057971

**EXHIBIT "A"**

PARCEL 1: LOTS 1, 2, 3, 4, 5, 6, 7 AND 8 TOGETHER WITH THE WEST 1/2 OF VACATED TRIPP AVENUE LYING ADJACENT TO SAID LOTS 1, 2, 3, 4 AND 5, AND TOGETHER WITH THE EAST 1/2 OF VACATED KILDARE AVENUE LYING ADJACENT TO SAID LOTS 6, 7 AND 8, ALL IN BLOCK 37 INCLUDING THE VACATED ALLEY RUNNING NORTH AND SOUTH IN SAID BLOCK 37, IN FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION OF LOTS 2 AND 3 IN ASSESSOR'S SUBDIVISION OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF THE EAST 189 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 34 AS LIES IN SAID LOT 3 AND EXCEPT RAILROAD), IN THE CITY OF CHICAGO, COUNTY OF COOK, AND STATE OF ILLINOIS.

PARCEL 2: LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10 TOGETHER WITH THE EAST 1/2 OF VACATED TRIPP AVENUE LYING ADJACENT TO SAID LOTS 1, 2, 3, 4 AND 5, AND TOGETHER WITH THE WEST 1/2 OF VACATED KEELER AVENUE LYING ADJACENT TO SAID LOTS 6, 7, 8, 9 AND 10, ALL IN BLOCK 38 INCLUDING THE VACATED ALLEY RUNNING NORTH AND SOUTH IN SAID BLOCK 38, IN FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION OF LOTS 2 AND 3 IN ASSESSOR'S SUBDIVISION OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF THE EAST 189 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 34 AS LIES IN SAID LOT 3 AND EXCEPT RAILROAD), IN THE CITY OF CHICAGO, COUNTY OF COOK, AND STATE OF ILLINOIS.

PARCEL 3: LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10 TOGETHER WITH THE EAST 1/2 OF VACATED KEELER AVENUE LYING ADJACENT TO SAID LOTS 6, 7, 8, 9 AND 10, ALL IN BLOCK 39 INCLUDING THE VACATED ALLEY RUNNING NORTH AND SOUTH IN SAID BLOCK 39, IN FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION OF LOTS 2 AND 3 IN ASSESSOR'S SUBDIVISION OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF THE EAST 189 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 34 AS LIES IN SAID LOT 3 AND EXCEPT RAILROAD), IN THE CITY OF CHICAGO, COUNTY OF COOK, AND STATE OF ILLINOIS.

*This page is only a part of a 2016 ALTA Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions.*

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AGREEMENT EXHIBIT B  
DEPICTION OF THE PROJECT

W 84TH ST

PROPERTY LINE  
PARCEL 19-34-412-011

SOUTHWEST  
PUMPING  
STATION  
(CITY OF CHICAGO)

DURKIN PARK  
CHICAGO PARK DISTRICT

S KEDVALE AVE

800'-0"

13

0 ACRE CONSTRUCTION  
EASEMENT

2.0 ACRE LAND  
TRANSFER-UNDERGROUND  
SUCTION WELL SITE

LOW SERVICE  
PUMPING  
STATION

HIGH SERVICE  
PUMPING  
STATION

PROPERTY LINE  
PARCEL 19-34-409-009

PROPERTY LINE  
PARCEL 19-34-411-011

285'-0"

345'-0"

0'-0"  
BACK

300'-0"

FIRST AMENDMENT TO  
INTERGOVERNMENTAL AGREEMENT

This First Amendment to Intergovernmental Agreement ("First Amendment") is made and entered into on or as of December 31, 2022, by and between the Chicago Park District, an Illinois body politic and corporate (the "Park District"), and the City of Chicago, an Illinois municipal corporation and home rule unit of government (the "City"), acting by and through its Department of Water Management ("DWM"). Capitalized terms set forth in this First Amendment have the meaning set forth in the Intergovernmental Agreement (as defined below), unless otherwise defined herein.

RECITALS

WHEREAS, the City and the Park District have previously entered into that certain Intergovernmental Agreement, dated on or as of July 30, 2021 ("Intergovernmental Agreement"), relating to the City's acquisition of approximately 87,500 square foot portion of the Park District's Durkin Park located at 8445 South Kolin Avenue, Chicago, Illinois 60652, as described and depicted on Exhibit A of the Intergovernmental Agreement (the "Existing Parkland") for use in support of the City's water system, specifically for the construction and operation of subsurface and surface facilities as part of the Project Elements necessary for the supply of water to Joliet (the "Project," as generally depicted on Exhibit B of the Intergovernmental Agreement); and

WHEREAS, the Park District and the City desire to extend the outside Closing Date for transfer of title to the Existing Parkland set forth in Section 4 of the Intergovernmental Agreement, from December 31, 2022 to July 31, 2023; and

WHEREAS, the Park District and the City had anticipated that the City would require Joliet to restore, at its sole cost and expense, the surface of the Existing Parkland and construct a new athletic field and support facilities thereon, which as of the Effective Date of the Intergovernmental Agreement was anticipated to be a junior-sized soccer field with accompanying necessary improvements, based on a combination of consideration of community input and the Park District's specifications, and with additional details regarding the replacement improvements to be negotiated among the City, the Park District and Joliet and included in the Lease, the Permanent Easement Agreement and/or the Water Supply Agreement; and

WHEREAS, the Park District and the City now anticipate that as part of Joliet's improvements to the Existing Parkland, instead of a junior-sized soccer field with accompanying necessary improvements, Joliet will develop a natural grass recreation space;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth herein, and for the purpose of intergovernmental cooperation, the parties agree as follows:

1. Section 4 (Closing Date) of the Intergovernmental Agreement is amended and restated to read as follows:

"The closing date for transfer of title to the Existing Parkland ("Closing Date") will occur on a date mutually acceptable to the parties hereto, and on a date that will not impair or impede progress on the Project, and in no event later than July 31, 2023. The Permanent Easement Agreement, the agreement(s) for Temporary Easements and the Lease shall be approved and executed concurrently with the Closing Date."



2. Except as amended hereby, the Intergovernmental Agreement shall continue in full force and effect as the binding obligations of the City and Park District.

*(Signature Page Follows)*

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation  
and home rule unit of government,

By: Andrea R.H. Cheng  
Andrea R.H. Cheng, Ph.D., P.E.  
Commissioner  
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

By: \_\_\_\_\_  
Rosa Escareno  
General Superintendent and CEO

ATTEST:

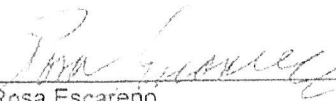
By: \_\_\_\_\_  
Sarah Gelder  
Secretary

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

CITY OF CHICAGO, a municipal corporation  
and home rule unit of government,

By \_\_\_\_\_  
Andrea R.H. Cheng, Ph.D., P.E.  
Commissioner  
Department of Water Management

CHICAGO PARK DISTRICT, an Illinois body politic and corporate

By:   
\_\_\_\_\_  
Rosa Escareno  
General Superintendent and CEO

ATTEST:


By   
\_\_\_\_\_  
Sarah Gelder  
Secretary

EXHIBIT C, JOLIET NEW WATER SUPPLY INFRASTRUCTURE

[Exhibit on file with Chicago Department of Water Management — Contains confidential information, including materials relating to water system security]

EXHIBIT D, EASEMENT

[Attached]

THIS INSTRUMENT PREPARED  
BY, AND AFTER RECORDING,  
PLEASE RETURN TO:

City of Chicago Dept. of Law  
Real Estate & Land Use Div.  
121 N. LaSalle Street, Suite 600  
Chicago, Illinois 60602

(The Above Space for Recorder's Use Only)

EASEMENT AGREEMENT  
FOR  
DURKIN PARK

This Easement Agreement ("Agreement") is entered into as of this \_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date"), by and between the City of Chicago, an Illinois municipal corporation and home rule unit of government ("Chicago"), by and through its Department of Water Management (including any successor department thereto, "DWM"), and the City of Joliet, an Illinois municipal corporation and home rule unit of government ("Joliet"). Chicago and Joliet are sometimes referred to herein jointly as the "Parties" or individually as a "Party." This Agreement has been authorized by an ordinance adopted by the City Council of the City of Chicago ("Chicago City Council") on April 19, 2023, and by an ordinance adopted by the City Council of the City of Joliet ("Joliet City Council") on April 18, 2023.

RECITALS

WHEREAS, Chicago is the owner of the approximately 87,500 square feet of land legally described on Exhibit 1 attached hereto and depicted on the plat of easement (the "Plat") attached hereto as Exhibit 2 (such described and depicted land, the "Easement Area"), which is a portion of Durkin Park located at 8445 South Kolin Avenue, Chicago, Illinois 60652, the remainder of which park is owned by the Chicago Park District (the "District"); and

WHEREAS, the Easement Area is directly adjacent on the west to Chicago-owned property located at 8422 South Kedvale Avenue a/k/a 8405 S. Keeler Avenue, Chicago, Illinois 60652 (PIN 19-34-412-011-0000), which is the site of DWM's Southwest Pumping Station (the "Station"); and

WHEREAS, pursuant to an Intergovernmental Agreement dated July 30, 2021 (the "IGA") by and between the District and Chicago, the District has previously conveyed, via quitclaim deed (the "District Deed"), the Easement Area to Chicago for the construction and operation of that certain suction well to be installed as an underground tank in the Easement Area and including all underground and above-ground structures and appurtenances necessary for the operation and maintenance of said suction well, which will be used to supply water to Joliet and any regional commission or similar body which may succeed Joliet with respect to such water supply (collectively, the "Suction Well"), all as depicted in Exhibit 3 attached hereto; and

WHEREAS, Chicago and the District have entered into a lease dated concurrently herewith ("Lease"), which Lease or a memorandum thereof may be recorded with the Office of the Cook County Clerk, pursuant to which the District will use the Easement Area for normal active and passive sports and public recreational use as part of the larger Durkin Park; and

WHEREAS, Joliet shall use the Easement Area for the construction, operation, maintenance and repair of the Suction Well as well as for an access road serving the Southwest Pumping Station Site located on the vacated Keeler Avenue portion of the Easement Area, and for construction activities during the initial construction of the remaining portion of the Joliet New Water Supply Infrastructure and the Chicago New Water Supply Infrastructure (collectively, the "Permitted Use") pursuant to this Agreement and that certain water supply agreement with Chicago dated May 1, 2023 (the "Water Supply Agreement"). Capitalized terms not defined in this Agreement shall have the meanings set forth in the Water Supply Agreement; and

WHEREAS, pursuant to the Water Supply Agreement, not later than (a) the end of the period of contractor use described in Exhibit 4 of two (2) years and six (6) months, unless amended pursuant to Exhibit 4, and (b) the completion of construction of the Suction Well and construction activities during the initial construction of the remaining portion of the Joliet New Water Supply Infrastructure and the Chicago New Water Supply Infrastructure, Joliet shall at its sole cost and expense restore the surface (i.e., at grade) of the Easement Area (the "Surface Easement Area") as a natural grass turf surface or any other improvement on the Durkin Site, the Durkin Temporary Construction Easement Area (which is defined in the Water Supply Agreement as "that certain designated land area, the temporary use of which CPD grants to Joliet pursuant to the Durkin Temporary Construction Easement Agreement") or both, mutually agreed upon up to Nine Hundred Thousand Dollars (\$900,000) construction value in 2020 dollars, for normal active and passive sports and public recreational usage. Upon acceptance of this restoration of this Surface Easement Area by Chicago with concurrence of the District, the District's use of the Easement Area for normal active and passive sports and public recreational usage shall no longer be suspended and shall continue pursuant to the Lease, and Joliet shall have the right to use the Surface Easement Area for the Permitted Use and the Permitted Use shall be performed on those areas on which are located the above-ground structures and appurtenances necessary for the operation and maintenance of the Suction Well and other areas as necessary for the Permitted Use from time to time;

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the Parties.



2. Grant of Easement. Subject to the terms and conditions of this Agreement, Chicago hereby grants to Joliet an exclusive easement ("Easement") on and under the Easement Area for the Permitted Use, which Joliet shall undertake at Joliet's sole cost and expense.

3. Terms. The following terms and conditions apply to the Easement:

(a) The Easement is an easement appurtenant in favor of Joliet.

(b) The Easement granted under this Agreement commences on the Effective Date hereof and thereafter is coterminous with the Water Supply Agreement. The "Term" of this Agreement shall be the date on which the Agreement commences through the date on which it expires, unless terminated earlier in accordance with its terms. If disposition of the Suction Well is required following the termination of the Water Supply Agreement, then the termination date of this Agreement shall be extended by mutual agreement of the Parties for the purpose of performing such disposition as required by Article 7 (Disposition of Joliet New Water Supply Infrastructure) of the Water Supply Agreement.

(c) Joliet represents and warrants to Chicago that its contractors are and shall be licensed, as applicable, to perform the Permitted Use.

(d) Compensation. Within thirty (30) days after the Effective Date of this Agreement, Joliet will pay to Chicago the dollar amounts set forth in Exhibit 4 attached hereto, which represents the Parties' determination of the value of the Easement.

4. Joliet's Obligations.

(a) Prior to the commencement of construction or of any alterations to the Easement Area, Joliet shall provide proposed plans and specifications to Chicago for design review as provided in Articles 8 and 15, as applicable, of the Water Supply Agreement. As provided in Articles 8 and 15 thereof, any such alterations shall be designed and constructed in compliance with all applicable Laws in effect at the time. For purposes of this Agreement, "Law" means any order, writ, injunction, decree, judgment, law, ordinance, decision, principle of common law, opinion, ruling, policy, statute, code, rule, or regulation of any Governmental Authority. "Governmental Authority" means any court, federal, state, or local government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority. Chicago may, at its discretion, involve the District in Chicago's design review of proposed plans and specifications for proposed work on the Easement Area and other land owned by the District.

(b) Joliet shall be responsible for obtaining approvals of, and paying at its sole cost and expense for, any and all removals, relocations, alterations, additional maintenance and restorations of or to any utility or public service structures or any other structures, located in, adjacent to, or in close proximity to, the Easement Area which are owned by Chicago, the District, or any third-party utility or entity, including, but not limited to, the Station, including the Station site and the Station's appurtenances, pavements, bridges, poles and other infrastructure and utilities, which are or may be necessary or appropriate to facilitate work by Joliet or its contractors or its agents related to the Suction Well. Joliet shall be responsible for obtaining the consent of and making suitable arrangements with all applicable entities owning or having an interest in such structures, including any department of Chicago.

(c) Joliet, at its sole cost and expense, shall secure all necessary permits and approvals for the Permitted Use, and provide all legally required public notices, if any, for the Permitted Use in accordance with the requirements of the Water Supply Agreement.

(d) Disposal Obligations. Joliet shall be responsible for the proper removal, transportation and disposal of all hazardous substances as defined in 415 ILCS 5/3.215, waste as defined in 415 ILCS 5/1 et seq. (including but not limited to 415 ILCS 5/3.535), contaminants as defined in 415 ILCS 5/3.165, as amended from time to time, and any "Other Regulated Material" as defined in Sections 4(d)(i) to (iii), that is encountered as part of or resulting from its use of the Easement Area.

Unless sufficient testing is performed to determine compliance with Illinois Environmental Protection Agency's ("IEPA") Clean Construction and Demolition Debris ("CCDD") regulations, all soil being removed during construction must be disposed of in accordance with applicable regulations to a Resource Conservation and Recovery Act ("RCRA") Subtitle D landfill. If soil or CCDD must be removed from the Easement Area, it must be disposed of at a properly permitted landfill with prior approval from the Chicago Department of Assets, Information and Services, or any successor department thereto ("AIS"). No soil or materials generated from the Easement Area can be disposed as "uncontaminated soil" using an IEPA LPC-662 Source Site Certification, unless approved by AIS, with such approval not to be unreasonably withheld, conditioned, or delayed. All soil disposed as CCDD or uncontaminated soil must be sampled and an LPC-663 Uncontaminated Soil Certification must be used.

Joliet must obtain written approval from AIS of all reuse, recycling and disposal locations before any Hazardous Substances, Waste, Contaminants or Other Regulated Material, each as defined in the first paragraph of this Section 4(d) may be sent to such locations. If soil is sent to a location that is not approved by AIS, Joliet must retrieve the materials and take it to an approved location at Joliet's sole cost and expense.

Definitions. The following terms have the following meanings for purposes of this Agreement:

i. "Contaminant" means any of those materials set forth in 415 ILCS 5/3.165, as amended from time to time, that are subject to regulation under any Environmental Law.

ii. "Environmental Law(s)" means 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, 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 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.

iii. "Hazardous Substance" has the meaning set forth in 415 ILCS 5/3.215, as amended from time to time.

iv. "Law" means any applicable federal, state, county, municipal or other laws (including common law), statutes, codes, ordinances, rules, regulations, executive orders or other requirements, now or hereafter in effect, as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative orders, consent decrees or judgments.

v. "Other Regulated Material" means any Waste, Contaminant, material meeting 35 IAC Part 742.305, or any other material, not otherwise specifically listed or designated as a hazardous substance, as defined in 415 ILCS 5/3.215, that (a) is or contains: petroleum, including crude oil or any fraction thereof, motor fuel, jet fuel, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic gas, asbestos, radon, any polychlorinated biphenyl, urea, formaldehyde foam insulation, explosive or radioactive material, materials known to contain per- and polyfluoroalkyl substances, i.e. PFAS, or (b) is a hazard to the environment or to the health or safety of persons, such as chlorine.

vi. "Waste" means those materials defined in the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.* as waste and identified subcategories thereof, including but not limited to, construction or demolition debris, garbage, household waste, industrial process waste, landfill waste, landscape waste, municipal waste, pollution control waste, potentially infectious medical waste, refuse, or special waste.

(e) Generator Designation. In such cases, in the event a signature as "Generator" is required on waste manifests, waste profile sheets or generator's certifications of non-special waste, Joliet shall ensure that either Joliet or its contractor, subcontractor, or other party working on behalf of Joliet signs such documents.

(f) Imported Material. Any backfill material brought on to the Easement Area must be either (i) certified virgin stone or (ii) tested for Target Compound List parameters (35 Ill. Adm. Code 740, Appendix A) and meet the most stringent objectives for residential land use included in 35 Ill. Adm. Code 742, Appendix B, Table A. Based on the scope of work, AIS may waive this requirement, with such waiver not to be unreasonably withheld, conditioned, or delayed.

i. Quarry generated virgin source materials do not need to be tested, but certification from the source (quarry) must be provided to AIS prior to importing the material to the Easement Area.

ii. Tested material shall be verified by providing results from a laboratory accredited by the IEPA's Environmental Laboratory Accreditation Program. The date of

the analysis shall be within 90 days of importing such material to the Easement Area unless otherwise approved by Chicago. Prior to importing, non-virgin source materials shall be sampled at a frequency of one (1) sample per 500 cubic yards per source unless otherwise approved by Chicago, with such approval not to be unreasonably withheld, conditioned, or delayed.

iii. Joliet must keep copies of all daily reports, transport manifests, and weight tickets or receipts (as applicable) documenting all materials imported to the Easement Area and detailing where they were specifically placed for a period of five (5) years from each of the following: (a) the inception of any construction work authorized by this Agreement; and (b) the performance of any Future Maintenance and Repair, Emergency Action or Normal Activities. At the end of each such five (5) year period, all records must be provided to the Department of Water Management and such other Chicago department that is identified by Chicago, in writing, as responsible for records relating to the Easement Area. In the alternative, Joliet, at its option, may provide such records to the Department of Water Management or such other Chicago department that is identified by Chicago, in writing, as responsible for records relating to the Easement Area, sooner than such five (5) year period and Joliet will not be obligated to maintain copies of such records after they are provided to Chicago in accordance with this sentence.

iv. No biosolids or biosolids-based products from the Metropolitan Water Reclamation District or any other source may be imported for any purpose.

(g) Environmental Requirements.

i. Any underground storage tanks ("USTs") identified must be removed and closed in accordance with applicable regulations including 41 Ill. Adm. Code 175 and any identified leaking USTs must be properly addressed in accordance with 35 Ill. Adm. Code 734.

ii. All sampling should be conducted in accordance with all applicable subsections of Title 35: Environmental Protection, Subtitle G: Waste Disposal and Chapter I: Pollution Control Board of the Illinois Administrative Code.

iii. Unless otherwise approved by Chicago, all soil boring and/or monitoring wells installed must be properly abandoned within the Term of this Agreement and pursuant to the requirements provided in Section 920.120 of the Illinois Water Well Construction Code (77 Ill. Adm. Code 920).

iv. If any bore holes exceed 30 feet in depth, gas levels must be measured at the surface of the borehole. If gas levels exceed the warning level (10-20% of Lower Explosive Limit (LEL)), all drilling and construction activities in the immediate vicinity of the borehole must be stopped. Once the gas meter levels indicate that the methane in the borehole has dissipated or is below the warning level (10-20% of LEL), the construction activities may continue.

v. Joliet shall not use or store any Hazardous Substances on the Easement Area, other than as may be necessary for the vehicles and equipment to accomplish the Permitted Uses using standard industry practices and for disinfection of the Chicago New Water Supply Infrastructure (other than the Tunnel Connection) and the Joliet New Water Supply Infrastructure, unless otherwise approved by Chicago, with such approval not to

be unreasonably withheld, conditioned, or delayed. If use of Hazardous Substances is necessary, Joliet shall provide the City (AIS) with an annual inventory of the Substances stored on site including the material, container size, maximum quantity stored, and storage location. The Safety Data Sheets for the Hazardous Substances will also be provided. Joliet shall at all times exercise due caution in their application to ensure appropriate use and prevent any accidental spillage or contamination. Joliet shall promptly notify Chicago if any Hazardous Substances are found or spilled on the Easement Area

vi. A Soil Management Plan ("SMP") must be prepared and implemented during construction to document, at a minimum: the site-specific soil excavation, disposal, storage, and reuse procedures; imported material testing requirements; and environmental oversight plan. The SMP is subject to AIS review and approval prior to being implemented, with such approval not to be unreasonably withheld, conditioned, or delayed. Based on the scope of work, AIS may waive this requirement.

vii. If Joliet or its agents causes a spill or release of a hazardous substance during the construction of the Joliet New Water Supply Infrastructure or the Chicago New Water Supply Infrastructure except the Tunnel Connection (as those terms are defined in the Water Supply Agreement), Joliet or its Agents must stop work immediately and contact AIS's Environmental Health and Safety Bureau's Deputy Commissioner at 312-744-9139 and [kimberly.worthington@cityofchicago.org](mailto:kimberly.worthington@cityofchicago.org), or other person as Chicago may identify by notifying Joliet. Joliet shall be responsible for cleaning up the spill including waste disposal as well as all notifications and reporting to any applicable agencies.

viii. Joliet and its agents shall comply at all times with any and all applicable municipal, county, state, federal or other statutes, or Laws. Contract provisions that are required to be included in this Agreement by any such Laws shall be deemed included.

ix. In the event that the construction of the Joliet New Water Supply Infrastructure and the Chicago New Water Supply Infrastructure, except the Tunnel Connection, is not completed, Joliet must restore the Easement Area in accordance with Article 7 (Disposition of Joliet New Water Supply Infrastructure) of the Water Supply Agreement. In addition, Joliet shall be responsible for any contamination that was caused, permitted or exacerbated during the construction of the Joliet New Water Supply Infrastructure and the Chicago New Water Supply Infrastructure, except the Tunnel Connection, or any damage to the Easement Area or any surrounding property, structures, utility lines or subsurface lines or cables caused by the acts or omissions of Joliet, including but not limited to, vandalism or misuse of the Easement Area, and shall undertake any repairs necessitated by such acts or omissions.

(h) Access Requirements.

- i. For the purposes of this Lease and the Easement, the following terms shall have the following meanings:

"Future Maintenance and Repair" means planned activities requiring use of an Easement Area that would prevent park uses, which are (1) disturbing soils in the Easement Area, (2) bringing in heavy equipment, or (3) securing all or a portion of the Easement Area in order for maintenance and repair to be done.



“Emergency Action” means any work that results from unplanned events that require prompt or immediate action to protect the Joliet New Water Supply Infrastructure or the water supply, or property or persons within Durkin Park or the Southwest Pump Station Site and the immediate vicinity.

“Normal Operations” means water system operational and maintenance activities, other than Future Maintenance and Repair, that are performed in a manner so as not to interfere with the District’s routine use and enjoyment of the Easement Area.

- ii. Joliet will use the Easement Area for Normal Operations and no access permit or access agreement will be required by the District.
- iii. If Joliet plans to perform “Future Maintenance and Repair,” Joliet must notify the City and the District’s Department of Planning and Construction, or any successor department, of same prior to the commencement of work, and must comply with the District’s then-current requirements for a general access permit or access agreement, which determination of compliance shall be made by the District or the City, and not unreasonably withheld or delayed. Future Maintenance and Repair will be scheduled to minimize impacts to the District’s use, and the public’s enjoyment, of the Easement Area.
- iv. Joliet must notify the City and the District as soon as practicable of any “Emergency Action.” In addition, Joliet must, as soon as practicable, but in no event more than 24 hours after the commencement of the Emergency Action, comply with the District’s then-current requirements for a general access permit or access agreement, which determination of compliance shall be made by the District or the City, and not unreasonably withheld or delayed.

(i) Environmental Investigation. Joliet, in its sole discretion and at its sole expense, may, pursuant to a right of entry issued by Chicago prior to Joliet’s performing any work or staging any equipment in the Easement Area, perform an environmental investigation of the Easement Area in accordance with Section 4(g) above. If, both (A) environmental contamination existed prior to the date of the right of entry for the environmental investigation and (B) such environmental contamination was not caused by Joliet’s contractor which performed a geotechnical investigation of the Easement Area pursuant to that certain Right of Entry between Chicago and Joliet dated as of December 15, 2021 (conditions (A) and (B), together the “Section 4 Environmental Conditions” and, individually, a “Section 4 Environmental Condition”), then Joliet is not responsible for the environmental contamination within the locations of the Easement Area for which the environmental investigation occurred and environmental contamination was detected. If one or both of the Section 4 Environmental Conditions is not satisfied, then Joliet must comply with, and is subject to, Section 4(g)(vii).

5. Uses within the Easement Area.

(a) Joliet may not use or permit the use of the Easement Area for any purpose other than the Permitted Use, subject to the Lease. Joliet is not, and shall not be deemed

responsible, for any uses and activities of the Easement Area by Chicago and the District on the Easement Area.

(b) Chicago reserves the right to access the Easement Area at Chicago's sole discretion and as provided in the Water Supply Agreement. However, Chicago shall have no right to enter the Suction Well except in connection with matters pertaining to the Water Supply Agreement, and only with notice to and being accompanied by a representative of Joliet.

(c) This Easement shall be subject to the Lease, and the Lease shall be subject to this Easement. Chicago shall provide Joliet copies of the Lease and any amendments to it; any such amendments to the Lease that adversely affect Joliet's rights and obligations hereunder shall be subject to Joliet's prior written consent, which shall not be unreasonably withheld and shall be provided to Chicago within forty-five (45) business days. If Joliet does not provide Chicago within such forty-five (45) business days its written objection to a proposed Lease amendment that adversely affects its rights and obligations under this Agreement, Joliet shall be deemed to have consented to it.

(d) Joliet, its contractors, and its employees shall not perform or permit any work or use of the Easement Area that is illegal. Joliet, its contractors, and its employees shall not perform or permit any work that disturbs area residents beyond the normal construction activities that would occur in connection with facilities of the type included in the Joliet New Water Supply Infrastructure and the Chicago New Water Supply Infrastructure during periods of initial construction and any periods of Future Maintenance and Repair and Emergency Action. At the remaining times within the term of this Easement, Joliet, its contractors, and its employees shall not perform or permit any work that (i) is injurious to the Easement Area, (ii) unreasonably disturbs area residents, (iii) is illegal, or (iv) causes or may cause increases to the rate of insurance on the Easement Area. Joliet and its agents and employees shall not sell, give away or consume any alcoholic beverages or illegal drugs of any kind or nature on the Easement Area.

(e) Joliet shall not interfere, and shall not permit its contractors to interfere, with the District's access to the surface of Durkin Park that is above the Easement Area, or with the District's security, parking, equipment storage or grounds maintenance at Durkin Park.

(f) Chicago shall require the District and the District's agents, contractors or subcontractors under the District's control not to use any pesticides, herbicides or other chemicals within or adjacent to the Existing Parkland or Joliet New Water Supply Infrastructure.

(g) Chicago shall state in the Lease that the District shall own, operate and maintain the drainage system to be installed by Joliet to provide stormwater drainage under Durkin Park, including the Existing Parkland, in place of the existing drainage structures that are removed for placement of the Joliet New Water Supply Infrastructure on the Existing Parkland; provided, however, that the District shall not own, operate or maintain the underdrain system of the Joliet New Water Supply Infrastructure on the Existing Parkland (which underdrain system is completely separate from the drainage system). Joliet warrants to Chicago and the District for the term of the Lease that the drainage system and the underdrain system shall be free of any defects due to either design or construction deficiencies, errors, defects or otherwise any acts or omissions by



Joliet or their contractors that would cause the drainage system or the underdrain system to not operate as otherwise intended. Any issues of operation of the drainage system due to deficiencies in maintenance by the District or normal wear and tear through use, or due to deficiencies in the existing drainage system of Durkin Park outside of the Easement Area that were not disturbed by Joliet, shall not be the responsibility of Joliet.

(h) Chicago shall notify Joliet of any work of which it becomes aware that is proposed to be performed by others who are not a party to this Agreement, such as utilities or holders of other easements in the Easement Area, during periods of planned construction by Joliet within the Easement Area.

6. Alterations. Other than the Suction Well and its above-ground structures and appurtenances, Joliet may not erect any structures, install any infrastructure or make any use of the Easement Area which in the judgment of Chicago would interfere with: Chicago's use, operation, inspection, maintenance, repair, renewal or reconstruction of the Station or other property or facilities owned by Chicago; the District's use of the Surface Easement Area under the Lease; or any third-party infrastructure.

7. Termination and Closure. Termination of this Easement shall be subject to the terms of Articles 4 (Term; Renewal) and 6 (Termination) of the Water Supply Agreement, and Joliet shall have the right to terminate this Easement at any time. Disposition of the Suction Well on the Easement Area upon termination shall be in accordance with Article 7 (Disposition of Joliet New Water Supply Infrastructure) of the Water Supply Agreement.

8. Assignment. In the event of the assignment of the Water Supply Agreement pursuant to Article 22 of the Water Supply Agreement, this Agreement shall be assigned as provided in such Article 22.

9. Restoration.

(a) Upon completion of the initial construction of the Suction Well, Joliet shall perform the restoration as described in the Sixth Whereas clause.

(b) To the extent that Joliet performs construction (other than the initial construction), maintenance, repair, replacement or removal of the Suction Well, and all work related thereto, Joliet shall, at Joliet's cost and expense, restore the Easement Area to a condition comparable to the condition of the Easement Area prior to the commencement of any such activities.

10. Indemnity.

(a) Except with respect to the wrongful intentional acts of Chicago or the District (to the extent the same are the cause of an injury or loss to a third person), Joliet hereby indemnifies and agrees to hold harmless and defend Chicago and the District from and against any and all claims, demands, damages, lawsuits, legal proceedings, losses, liens, liabilities, judgments, orders or decrees, and all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees, court costs, and other reasonable expenses related to litigation), arising from or as a result of the death of, or any accident, injury, loss or damage whatsoever caused to Chicago or the District, any natural person, or Chicago's or the District's property, including but not limited to the Easement Area, the Station (including the Station site and the Station's appurtenances), the property of any person, arising out of this Agreement or the Water Supply Agreement or the occupancy, use, operation, maintenance, repair or replacement of the

Suction Well or the Easement Area by Joliet, its officers, employees, agents and invitees. If legal action is taken against Chicago or the District or their agents or any claim is made relating to the Easement Area or the Suction Well as a result of the foregoing, Chicago or the District may elect to tender said defense to Joliet which shall and must defend such action or claim at Joliet's own expense and Chicago or the District shall cooperate with Joliet in the defense thereof. Chicago and the District shall have the right to join Joliet as a party defendant in any such legal action. This indemnity shall not be the exclusive remedy of Chicago or the District, and Chicago and the District shall maintain whatever other rights of indemnity they may have under common law, by statute, or by ordinance. This indemnification shall survive any termination or expiration of this Agreement and shall not be limited by any insurance coverages set forth in the Water Supply Agreement.

(b) Joliet, on behalf of itself and its officers, directors, employees, successors, assigns and anyone claiming by, through or under any of them, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity leasing, occupying, using or possessing any portion of the Easement Area under or through Joliet following the Effective Date of this Agreement (collectively, the "Joliet Parties"), hereby releases, relinquishes and forever discharges Chicago and District, and their employees, agents, officers and officials (individually, an "Indemnified Party," and collectively, the "Indemnified Parties"), from and against any and all Losses (as defined below) which the Joliet Parties ever had, now have, or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, now existing or occurring after the date of this Agreement, based upon, arising out of or in any way connected with, directly or indirectly, solely to the extent attributable to the actions or inactions of any of the Joliet Parties: (i) any environmental contamination, pollution or hazards associated with the Easement Area or any improvements, facilities or operations located or formerly located thereon, including, without limitation, any release, emission, discharge, generation, transportation, treatment, storage or disposal of Hazardous Substances, or threatened release, emission or discharge of Hazardous Substances; (ii) the structural, physical or environmental condition of the Easement Area, including, without limitation, the presence or suspected presence of Hazardous Substances or Other Regulated Material in, on, under or about the Easement Area or the migration of Hazardous Substances or Other Regulated Material from or to other property; (iii) any violation of, compliance with, enforcement of or liability under any Environmental Laws, including, without limitation, any governmental or regulatory body response costs, natural resource damages or Losses arising under CERCLA; and (iv) any investigation, cleanup, monitoring, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party in connection or associated with the Easement Area or any improvements, facilities or operations located or formerly located thereon (collectively, "Released Claims"). The Joliet Parties waive their rights of contribution and subrogation against any Indemnified Parties, solely to the extent attributable to the actions or inactions of any of the Joliet Parties. "Losses" means any and all debts, liens, claims, causes of action, demands, complaints, legal or administrative proceedings, losses, damages, obligations, liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs and expenses (including, without limitation, reasonable attorney's fees and expenses, consultants' fees and expenses and court costs). Furthermore, Joliet shall indemnify, defend (through an attorney reasonably acceptable to Chicago) and hold the Indemnified Parties harmless from and against any and all Losses which may be made or asserted by any third parties (including, without limitation, any of the Joliet Parties) arising out of or in any way connected with, directly or indirectly, any of the Released Claims, solely to the extent attributable to the actions or inactions of any of the Joliet Parties.

(c) The covenant of release set forth in Section 10(b) shall run with the Easement Area and shall be binding upon all successors and assigns of Joliet with respect to the Easement Area, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity owning, leasing, occupying, using or possessing any portion of the Easement Area under or through Joliet following the date of this Agreement. Joliet acknowledges and agrees that the foregoing covenant of release constitutes a material inducement to enter into this Agreement, and that, but for such release, Chicago would not have agreed to grant an easement to the Easement Area to Joliet. It is expressly agreed and understood by and between Joliet and Chicago that, should any future obligation of Joliet or the Joliet Parties arise or be alleged to arise in connection with any environmental, soil or other condition of the Easement Area, neither Joliet nor any other Joliet Parties shall assert that those obligations must be satisfied in whole or in part by Chicago, because this covenant contains a full, complete and final release of all such claims.

(d) Chicago will require the District to provide indemnification to Joliet for Losses resulting from District uses and activities occurring on the Easement Area, and enforce such indemnification from the District on behalf of Joliet, or assign such indemnification rights to Joliet to allow Joliet to undertake enforcement on its own behalf.

11. Operation, Maintenance and Security of the Easement Area and Suction Well.

(a) Joliet shall maintain the Suction Well as required hereunder and pursuant to the terms of the Water Supply Agreement, at its sole cost and expense.

(b) Joliet shall maintain the Suction Well so that the Suction Well does not unduly interfere with any use of the Easement Area by Chicago, the District, the public, or any person or entity authorized to use or occupy the Easement Area.

(c) Joliet shall conduct regular documented inspections of the Suction Well and the Easement Area and maintain the Suction Well and restore the Easement Area in accordance with applicable Law and to the satisfaction of the Commissioner. All maintenance records for the Suction Well and Easement Area shall be made available to DWM upon DWM's written request for such documentation.

(d) Joliet shall cooperate with Chicago concerning the coordination of uses of the Easement Area, including prompt responses to inquiries, attending meetings and site visits, and providing complete disclosure of information concerning the Easement Area and the Suction Well.

(e) Joliet shall pay for any and all costs and expenses incurred with respect to the operation, maintenance, repair, replacement, and/or removal of the Suction Well, or any part thereof, within the Easement Area.

(f) Prior to providing its consent to an assignment or sublease of the Lease, Chicago shall notify Joliet that an assignment or sublease of the Lease has been proposed for which Chicago has been requested to provide its consent under the terms of the Lease. Any assignment or sublease of the Lease shall not allow any activities that would materially or detrimentally interfere with the Joliet New Water Supply Infrastructure on the Easement Area, the provision of Water by Chicago to Joliet, and Joliet's provision of Water to the Joliet Customers. Joliet shall not have a right to consent to any such assignment or sublease or a right to review the terms of such proposed transaction(s).

12. Chicago and the District Have No Maintenance, Operational and Security Duties; "As Is - Where-Is Condition". Joliet acknowledges that neither Chicago nor the District is responsible for the operation, maintenance, repair, replacement and/or removal or security of the Suction Well or the Easement Area, and Chicago and the District each has no obligations with respect thereto. Chicago acknowledges that it will not expect Joliet to be responsible for the District's operations, activities, use, maintenance, repair, replacement and/or removal activities on the Easement Area.

Chicago and the District make no covenant, representation or warranty, express or implied, of any kind, as to the structural, physical or environmental condition of the Easement Area or the suitability of the Easement Area for any purpose whatsoever. Joliet acknowledges that it has had adequate opportunity to inspect and evaluate the structural, physical and environmental conditions and risks of the Easement Area and accepts the risk that any inspection may not disclose all material matters affecting the Easement Area. Joliet agrees to accept the Easement Area in their "AS IS," "WHERE IS" and "WITH ALL FAULTS" condition at closing, with all faults and defects, latent or otherwise, and the Chicago has not made and does not make any covenant, representation or warranty, express or implied, of any kind, or give any indemnification of any kind to Joliet, with respect to the structural, physical or environmental condition of the Easement Area, their compliance with any statute, ordinance or regulation, or its suitability, merchantability or fitness for any purpose whatsoever. Joliet acknowledges that it is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of Chicago or the District or any of their agents or employees with respect thereto. Joliet agrees that it is its sole responsibility and obligation to perform at its expense any such action as is necessary to put the Easement Area in a condition which is suitable for its intended use.

13. Insurance. Joliet shall at all times maintain, and shall cause its contractors to maintain, the insurance coverages and endorsements identified in Article 21 of the Water Supply Agreement, which is incorporated here by this reference. On an annual basis, Chicago will provide, or require the District provide, to Joliet evidence of the District's insurance.

14. Default. If a Party is in default under this Agreement, Article 20 of the Water Supply Agreement shall govern and control.

15. No Liens. Joliet shall not permit any lien to stand against the Easement Area or the Suction Well for any labor or material in connection with work of any character performed in the Easement Area at the direction or sufferance of Joliet.

16. Compliance with Law. Joliet agrees that the Easement Area and the Suction Well shall be used, and any alterations to the structures located within the Easement Area shall be constructed, installed, used, operated, inspected, maintained, repaired and replaced in complete compliance with all applicable Laws.

17. Partial Invalidity. If any clause, sentence or other portion of this Agreement shall become illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portion hereof shall remain in full force and effect.

18. Notices. For purposes of this Agreement, any notice, demand or request required by this Agreement shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communications, such as facsimile or email; (c) nationally recognized overnight courier service; or (d) Certified Mail; provided, however, that any

notice of default or termination provided by electronic communications shall also be delivered by another method of notice under this Section 18.

If to Chicago:           City of Chicago  
                                  Department of Water Management  
                                  1000 East Ohio Street  
                                  Chicago, Illinois 60611  
                                  Attn: Commissioner

With copies to:        City of Chicago Department of Law  
                                  121 North LaSalle Street, Suite 600  
                                  Chicago, Illinois 60602  
                                  Attn: Real Estate and Land Use Division

and

                                  City of Chicago Department of Law  
                                  121 North LaSalle Street, Suite 600  
                                  Chicago, Illinois 60602  
                                  Attn: Finance and Economic Development Division

and

                                  City of Chicago  
                                  Department of Finance  
                                  121 North LaSalle Street, Room 700  
                                  Chicago, Illinois 60602  
                                  Attention: Chief Financial Officer

If to Joliet:            City of Joliet  
                                  150 West Jefferson Street  
                                  Joliet, Illinois 60432  
                                  Attention: Director of Public Utilities and City Manager

Each Party to this Agreement has the right to change, add or remove the addressee or addressee contact information, for future notices and communications to them in matters pertaining to this Agreement by giving notice complying with the requirements of this section. No notice of a change of address will be effective until actually received.

Notices shall be deemed received upon the first to occur of (a) the date of actual receipt, (b) the date an email is sent, unless notice of non-delivery is received; (c) the date that is one (1) business day after deposit with a nationally recognized overnight courier service as evidenced by a receipt of deposit, or (d) the date that is three (3) days after deposit in the U.S. mail, as Certified Mail, evidenced by a receipt.

19. No Third-Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit solely of Joliet and Chicago and their respective successors and assigns. This document and the terms hereof are intended solely for the benefit of the Parties hereto and their successors and assigns, as expressly referred to herein. No other person shall have any rights, responsibilities or obligations hereunder nor may such person enforce any of the terms or be



entitled to any of the benefits hereof. Notwithstanding the foregoing, the District is and during the term of the Lease shall be a third-party beneficiary of this Agreement.

20. Authority and Validity. Each Party represents and warrants to the other Party that (i) this Agreement has been duly authorized, executed and delivered by it and (ii) this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms.

21. Miscellaneous.

(a) The terms, benefits, and privileges set forth in this Agreement shall be deemed and taken to be covenants running with the Easement Area and shall be binding upon Joliet and Chicago, and their respective successors and assigns having any interest in the Easement Area.

(b) If any provision of this Agreement, or any paragraph, sentence, clause, phrase, or word or the application thereof is held invalid, illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law provided that this Agreement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of either of the Parties.

(c) In the event the time for performance hereunder falls on a Saturday, Sunday, or legal holiday, the actual time for performance shall be the next business day.

(d) This Agreement has been negotiated, executed and delivered in Illinois, and it and the accompany plat shall be governed by, and construed in accordance with, the internal laws of the State of Illinois including the law of public trust with respect to the use and occupation of the Easement Area. In the event that an adjudication of any kind shall be required in connection with this Agreement, the Parties agree that the venue therefor shall be the state or federal courts located in Cook County, Illinois, whichever may be applicable.

(e) This Agreement, and any provisions of the Water Supply Agreement that govern the Suction Well, constitute the entire agreement between the Parties with respect to the subject matter of this Agreement, and may not be modified except by an instrument in writing signed by all the Parties and dated a date subsequent to the date of this Agreement. In the event of a conflict between the Water Supply Agreement and this Agreement, the Water Supply Agreement shall govern.

(f) Each Party agrees that it will execute and deliver such other reasonable documents and take such other reasonable actions as may be reasonably requested by the other party to effectuate the purposes and intention of this Agreement.

(g) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute a single, integrated instrument.

(h) Joliet shall record, at its expense, this Easement Agreement and any amendments thereto; or, in the alternative, the Parties may agree to prepare a

memorandum of easement agreement in a mutually agreeable form which will be recorded by Joliet.

22. Waste Ordinance Provisions. In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago ("Municipal Code"), Joliet warrants and represents that it, and to the best of its knowledge, its contractors and subcontractors, have not violated and are not in violation of any provisions of Section 7-28 or Section 11-4 of the Municipal Code and agrees that a violation of Section 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560 of the Municipal Code by Joliet, whether or not in the performance of this Agreement, shall constitute a breach of this Agreement.

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IN WITNESS WHEREOF, Joliet and Chicago have caused this Agreement to be executed by their duly authorized officers as of the day and year first written above.

CITY OF CHICAGO, an Illinois municipal corporation and home rule unit of government

By: \_\_\_\_\_  
Andrea R.H. Cheng, Ph.D., P.E.  
Commissioner  
Department of Water Management

CITY OF JOLIET, an Illinois municipal corporation and home rule unit of government

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



Exhibit 1 to Easement Agreement

Easement Area (legal description)

PE-1:

THAT PART OF BLOCKS 37 AND 38 OF FREDERICK H. BARTLETT'S CITY OF CHICAGO SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 19, 1925 AS DOCUMENT 8743507, ALSO THAT PART OF VACATED TRIPP AVENUE, VACATED KEELER AVENUE, AND ALSO THAT PART OF THE VACATED ALLEYS LYING WITHIN SAID BLOCKS 37 AND 38, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF VACATED KEELER AVENUE AND THE NORTH LINE OF WEST 85TH STREET; THENCE SOUTH 88 DEGREES 16 MINUTES 57 SECONDS WEST, ALONG SAID NORTH LINE, 350.00 FEET; THENCE NORTH 01 DEGREES 50 MINUTES 35 SECONDS WEST, 250.00 FEET; THENCE NORTH 88 DEGREES 16 MINUTES 57 SECONDS EAST, 350.00 FEET TO THE CENTERLINE OF SAID VACATED KEELER AVENUE; THENCE SOUTH 01 DEGREES 50 MINUTES 35 SECONDS EAST, ALONG SAID CENTERLINE, 250.00 FEET TO THE POINT OF BEGINNING.

Exhibit 2 to Easement Agreement

Plat of Easement

[To come]

Exhibit 3 to Easement Agreement

Depiction of Suction Well (site plan)

[EXHIBIT ON FILE—Contains confidential information,  
including materials relating to water system security]

Exhibit 4 to Easement Agreement

Compensation to be Paid by Joliet to Chicago

Site	Easement Name	Area* (square feet)(SF)	Type of Easement	Land Ownership	Chicago Contractor Use*	Joliet Contractor Use*	Duration of Joliet Contractor Use for Calculation of TE Compensation*
Durkin Park	PE-1	87,500	Permanent	Chicago	None	10/1/2025 to 3/31/28	N/A
						Road area at the eastern end of PE-1: 5/1/24 to 12/31/29	
<p>*Subject to change based on advancement of final design. The Joliet contractor periods of use of PE-1 shall be as shown above. PE-1 includes a portion of vacated Keeler Avenue that will become part of the permanent access road to the Southwest Pumping Station Site, on which both the Low Service Pump Station and the High Service Pump Station are located. This road will also be used by contractors during the entire construction period, from 5/1/24 through 12/31/29. The Joliet contractor period of use for PE-1 other than the road is two (2) years and six (6) months. The contractor periods of use may be modified with the prior written approval of the Commissioner of DWM.</p>							

Site	Easement Name	Area* (square feet)(SF)	Type of Easement	Land Ownership	Duration of Joliet Contractor Use for Calculation of TE Compensation*	Unit Price Compensation (DIV = Diminution in Value)	Total Compensation
Durkin Park	PE-1	87,500	Permanent	Chicago	N/A	\$5.86/per SF plus \$0.50/SF Premia, 2.5% DIV for Remainder, 398,521 SF whole site	\$430,275
<p>*Subject to change based on advancement of final design.</p>							

EXHIBIT E, WATER SUPPLY AGREEMENT

[Exhibit on file with Chicago Department of Water Management]