

## **ORDINANCE**

**WHEREAS**, the City of Chicago (the "City"), is a home rule unit of government under Article VII, Section 6(a) of the Constitution of the State of Illinois, and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the City is authorized under its home rule powers to regulate the use and development of land; and

**WHEREAS**, it is a reasonable condition of development approval to ensure that adequate open space and recreational facilities exist within the City; and

**WHEREAS**, on April 1, 1998, the City Council of the City (the "City Council") adopted the Open Space Impact Fee Ordinance codified at Chapter 18 of Title 16 (the "Open Space Ordinance") of the Municipal Code of Chicago (the "Code") to address the need for additional public space and recreational facilities for the benefit of the residents of newly created residential developments in the City; and

**WHEREAS**, the Open Space Ordinance authorizes, among other things, the collection of fees from residential developments that create new dwelling units without contributing a proportionate share of open space and recreational facilities for the benefit of their residents as part of the overall development (the "Fee-Paying Developments"); and

**WHEREAS**, pursuant to the Open Space Ordinance, the City's Department of Finance ("DOF") has collected fees derived from the Fee-Paying Developments (the "Open Space Fees") and has deposited those fees in separate funds, each fund corresponding to the Community Area (as defined in the Open Space Ordinance), in which each of the Fee-Paying Developments is located and from which the Open Space Fees were collected; and

**WHEREAS**, the City's Department of Planning and Development ("DPD") has determined that the Fee-Paying Developments built in the Logan Square Community Area have deepened the already significant deficits of open space in the Logan Square Community Area, which deficits were documented in the comprehensive plan entitled "The CitySpace Plan," adopted by the Chicago Plan Commission on September 11, 1997 and adopted by the City Council on May 20, 1998 pursuant to an ordinance published at pages 69309-69311 of the Journal of the Proceedings of the City Council of the same date; and

**WHEREAS**, DPD desires to use Open Space Fees to pay for certain environmental remediation costs in relation to the future development of recreation space to be located generally at 2420 North Sacramento Avenue, Chicago, Illinois in the Logan Square Community Area (the "Project"); and

**WHEREAS**, the Open Space Ordinance requires that the Open Space Fees be used for open space acquisition and capital improvements, which provide a direct and material benefit to the new development from which the Open Space Fees are collected; and

**WHEREAS**, the Open Space Ordinance requires that the Open Space Fees be

expended within the same or a contiguous Community Area from which they were collected after a legislative finding by the City Council that the expenditure of the Open Space Fees will directly and materially benefit the developments from which the Open Space Fees were collected; and

**WHEREAS**, DPD has determined that the use of the Open Space Fees to fund the Project will provide a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected; and

**WHEREAS**, DPD has determined that Open Space Fees to be used for the purposes set forth herein have come from the specific fund set up by DOF for the Logan Square Community Area, in which the Fee-Paying Developments are located and from which the Open Space Fees were collected; and

**WHEREAS**, DPD has recommended that the City Council approve the use of the Open Space Fees for the purposes described herein; and

**WHEREAS**, DPD has recommended that the City Council make a finding that the expenditure of the Open Space Fees as described herein will directly and materially benefit Fee-Paying Developments from which the Open Space Fees were collected; **now, therefore,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

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

**SECTION 2.** The City Council hereby finds that the expenditure of the Open Space Fees will directly and materially benefit the residents of those Fee-Paying Developments from which the Open Space Fees were collected and approves the use of the Open Space Fees for the purposes described herein.

**SECTION 3.** Open Space Fees in the amount of \$24,000 from the Logan Square Community Area's Open Space Fees Funds are hereby appropriated to DPD for the purposes described herein.

**SECTION 4.** To the extent that any ordinance, resolution, rule, order or provision of the Code, 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 other provisions of this ordinance.

**SECTION 5.** This ordinance shall be in full force and effect from and after the date of its passage and approval.