

**SCULPTURE DONATION AGREEMENT BETWEEN
THE PARK DISTRICT OF OAK PARK AND THE VILLAGE OF OAK PARK**

THIS SCULPTURE DONATION AGREEMENT ("Agreement") is made as of _____ 2019, (the "Effective Date") by the Park District of Oak Park, an Illinois municipal corporation, (the "Park District") and the Village of Oak Park, an Illinois home rule municipal corporation (the "Village").

WHEREAS, Article VII, Section 10, of the Constitution of the State of Illinois of 1970 provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* (the "Act") also authorizes intergovernmental cooperation and agreements; and

WHEREAS, the Village and the Park District are public agencies as that term is defined by the Act; and

WHEREAS, the Village wishes donate to the Park District the sculpture known as "The Gate" ("Sculpture") to be installed on Park District property within Mills Park, 217 South Home Avenue, in the Village; and

WHEREAS, the Park District will determine the location of where the Sculpture will be installed within Mills Park and the Village will install the Sculpture at said location.

NOW, THEREFORE, in consideration of the terms of this Agreement, the Park District and the Village agree as follows:

Section 1. Recitals Incorporated. The foregoing recitals are incorporated into this Agreement by this reference as findings of the Park District and the Village.

Section 2. Sculpture Donation. The Village shall donate and install the Sculpture at no charge to the Park District at a location within Mills Park to be determined by the Park District. The Village shall perform any and all necessary repairs to the Sculpture prior to its donation to the Park District in order for the Sculpture to be in good and ready condition for its installation.

Section 3. Sculpture Installation. The Park District shall allow the Village and the Sculpture artist to enter onto Mills Park at a mutually convenient time in order for the Village install the Sculpture. Upon the Sculpture's installation, the Park District shall take ownership and control of the Sculpture.

Section 4. Sculpture Maintenance. The Park District shall solely be responsible for any and all maintenance of the Sculpture upon its installation by the Village.

Section 5. Village Indemnification of Park District. The Village agrees to, and must, indemnify, hold harmless, and defend the Park District from any and any and all claims, causes of actions, damages, lawsuits, administrative proceedings, and costs and expenses including without limitation all reasonable attorney fees, that are caused by, arise from, or relate to the installation of the Sculpture under this Agreement, except only for the negligent or intentional act or omission of the Park District.

Section 6. Amendments. The terms of this Agreement may be amended only by a written amendment approved by the corporate authorities of the Park District and the Village.

Section 7. Sculpture Display; Return of Sculpture to the Village. If for any reason, the Park District determines to no longer publicly display the Sculpture, whether at Mills Park or another public location at the discretion of the Park District, the Park District shall provide written notice to the Village of the Park District's determination, pursuant to Section 10 below. Upon said notice, the Village shall have thirty (30) days to determine whether to take back the. The Village shall provide the Park District with written notice of its determination pursuant to Section 10 below and, if the Village determines to take back the Sculpture, the Village shall remove the Sculpture from Mills Park at the Village's expense within thirty (30) days thereafter. Upon removal of the Sculpture the Village will take ownership and control of the Sculpture. If the Village determines not to take back the Sculpture or does not remove the Sculpture from Mills Park within 30 days after the Village's determination to take back the Sculpture, the Park District will remain in ownership and control of the Sculpture and will have sole discretion regarding the future of the Sculpture.

Section 8. Entire Agreement. This Agreement is the entire agreement between the Park District and the Village related to the Sculpture. Any oral representations related to the Sculpture have no force or effect, and modifications to this Agreement must be in writing and must be signed by all parties to this Agreement. No right or interest in this Agreement shall be assigned, in whole or in part, by either party without the prior written consent of the other party.

Section 9. No Assignment of Rights; No Third-Party Rights. Neither the Village nor the Park District may assign any of its rights or benefits under this Agreement to any entity or person. The rights and benefits under this Agreement are exclusive to the Village and the Park District and do not inure to any successors of the Village or the Park District. This Agreement is not intended to, and does not, confer any rights on any third party.

Section 10. Notices. Any notice under this Agreement will be deemed sufficient if made in writing and sent by certified mail, return receipt requested, by personal service, or by e-mail to the persons and addresses indicated below:

If to the Village:

Village Manager

Village of Oak Park

123 Madison Street

Oak Park, Illinois 60302

E-mail: villagemanager@oak-park.us

If to the Park District:

Executive Director

Park District of Oak Park

218 Madison Street

Oak Park, Illinois 60302

E-mail: jan.arnold@pdop.org

Notice by certified mail and notice by e-mail will be deemed effective on the first business day after the notice is sent.

Section 11. Waiver. No waiver by either the Village or the Park District of any breach of this Agreement will be deemed to imply or be a waiver of any other breach at any time of this Agreement.

Section 12. Governing Law. The laws of the State of Illinois will apply to the interpretation of this Agreement.

Section 13. Binding Authority. The Village and the Park District each represent that the persons signing this Agreement have been properly authorized by the corporate authorities to do so.

Section 14. Severability. If any of the provisions of this License shall be deemed illegal, invalid, unconstitutional or unenforceable by any court of law having competent jurisdiction, such decisions shall not invalidate or negate the other remaining provisions of this License.

Section 15. Effective Date. The effective date of this Agreement as reflected above shall be the last date of its execution by either the Village or the Park District.

Section 16. Headings and Titles. The headings and titles provided in this Agreement are for convenience only and shall not be deemed a part of this Agreement.

Section 17. Counterparts; Facsimile or PDF Signatures. This Agreement shall be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement. A facsimile or pdf/email copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the Village and the Park District have caused this Agreement to be signed by their duly authorized representatives on the dates set forth below.

VILLAGE OF OAK PARK

PARK DISTRICT OF OAK PARK

Cara Pavlicek, Village Manager

Sandy Lentz, Park Board President

Date: _____, 2019

Date: _____, 2019

ATTEST

ATTEST

Vicki Scaman, Village Clerk

Chris Wollmuth, Park Board Secretary

Date: _____, 2019

Date: _____, 2019