

EXHIBIT A

FIRST AMENDMENT

TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN
THE COUNTY OF DUPAGE AND WESTMONT PARK DISTRICT FOR
PARTICIPATION IN THE LOCAL AMERICAN RESCUE PLAN ACT ("LARPA")
PROGRAM

WHEREAS, on June 14, 2022, the DuPage County Board passed Resolution FI-R-0241-22 appropriating funds to various park districts in an amount not to exceed \$1,874,485.00;

WHEREAS, the County seeks to amend said Resolution by decreasing the funding amount by \$218,911.76 to adjust for unspent and returned funds, resulting in an amended amount of \$1,655,573.24; and

WHEREAS, said resolution authorizes the DuPage County Board Chair to execute an agreement substantially similar in form to this Agreement; and

WHEREAS, the County of DuPage ("County") is a body corporate and politic; and

WHEREAS, the Westmont Park District ("District") is a park district created pursuant to the Park District Code (70 ILCS 1205/1, et seq.); and

WHEREAS, the County and District are hereafter sometimes referred to individually as the "Party" and collectively known herein as the "Parties"; and

WHEREAS, the County has created the Local American Rescue Plan Act ("LARPA") Program designed to assist local governmental units such as park districts, fire protection districts, and townships which did not receive direct allocations of funds from the federal government pursuant to ARPA; and

WHEREAS, the LARPA Program establishes eligible expenses categorized as follows:(1) Payroll, (2) Non-payroll, (3) Capital, and (4) Programs.

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

I. General Provisions

- 1.1 **Purpose of the Agreement.** The Purpose of this agreement is to provide a process to: (1) reimburse eligible payroll expenses; (2) reimburse eligible non-payroll expenses; (3)

- provide funding for eligible capital improvements; and (4) provide funding for eligible programs.
- 1.2 **Eligible Uses.** Funds appropriated by the County Board for disbursement under this Agreement shall be disbursed as the submittal requirements set forth in this Agreement are met by the District.
 - 1.3 **Limitations on Use of Funds.** Funds may not be used for purposes other than those which were submitted to the County's LARPA Portal. Furthermore, use of funds must be in compliance with ARPA rules and regulations.
 - 1.4 **Recitals.** The recitals to this Agreement are incorporated as though set forth fully herein.
 - 1.5 **Total Appropriation.** The County has appropriated an amended total of \$1,655,573.24. The County shall not disburse monies in excess of \$1,655,573.24.
 - 1.6 **Term.** This Agreement shall remain in effect through December 31, 2024.
 - 1.7 **Termination, Breach.** This Agreement may be terminated upon thirty (30) days' notice to the other Party. All terms of this Agreement shall be considered material terms and therefore all breaches shall be deemed material breaches. In the event of a breach of this Agreement by any Party, the non-breaching Party shall provide the breaching Party with written notice of the breach and shall provide a period of not less than thirty (30) days to cure said breach.
 - 1.8 **Failure to Cure, Liquidated Damages, Indemnification.** The County and the District agree that if the District fails to perform its duties under this Agreement, the District's failure to perform such duties will damage the County, but due to their nature, the amount of such damages are difficult to ascertain. Accordingly, a breach of this Agreement by the District shall require a payment of liquidated damages to the County in the total amount of the appropriated funds under this Agreement. These liquidated damages are not intended to be a penalty and are solely intended to compensate the County for damages. Further, in the event that the United States Department of Treasury or any other entity authorized by law, audits the County's disbursement of ARPA funds and determines that the funds disbursed to the District were used for purposes other than those permitted under ARPA, the District agrees to indemnify the County and hold the County harmless against any and all liabilities, including judgments, costs

and reasonable counsel fees, related to the disbursement of ARPA funds to the District. The District expressly agrees to reimburse the County for the cost of any penalty, fine, or judgment should the United States Federal Government penalize the County for any improper disbursement of ARPA funds under this Agreement.

- 1.9 **Venue, Applicable Law.** The exclusive venue for disputes arising from this Agreement shall be the 18th Judicial Circuit Court, sitting in Wheaton, Illinois. This Agreement shall be governed by the laws of the State of Illinois.

II. Payroll Requests

- 2.1 **Eligibility.** By submitting Payroll expenses through the LARPA portal and seeking reimbursement of those expenses from the County, the District warrants and avers that the requested payroll amounts reflect the proper number of hours worked and already paid by the District to individual employees and those hours were spent responding to or mitigating the COVID-19 Pandemic.
- 2.2 **Submittal.** The County must be able to verify the eligibility of Payroll expense submissions based on necessary documents. Necessary documents include, but are not limited to, timesheets, timekeeping reports, call logs, attestations from supervisors, regular work product, or correspondence demonstrating work on the COVID-19 response. The County will notify the District of any additional documents which the County requires.
- 2.3 **Payment.** Final payment is contingent upon: (1) compliance with LARPA and ARPA rules and regulations; (2) follow-up responses to all County inquiries; (3) Accounts Payable review by Finance Staff and County Audit Staff; and (4) completion of the fully executed Agreement. Payments for eligible expenses authorized under this Agreement shall be made within thirty (30) days of receipt of the fully executed copy of this Agreement.
- 2.4 **Applicability.** If the District has not been allocated Payroll funds as shown in the amended Exhibit B, Section II of this Agreement shall not apply.

III. Non-Payroll Requests

- 3.1 **Eligibility.** By submitting Non-payroll expenses through the LARPA portal and seeking reimbursement of those expenses from the County, the District warrants and avers that the representations made as to the purpose,

application and use of the materials and equipment was accurately represented to the County and the equipment or materials were used to mitigate or respond to the COVID-19 pandemic.

- 3.2 **Submittal.** The County must be able to verify the eligibility of Non-payroll expense submissions based on necessary documents. Necessary documents include, but are not limited to: invoices, check stubs, bank statements, and explanations of why the submitted invoices are eligible LARPA expenses. The County will notify the District of any additional documents which the County requires.
- 3.3 **Payment.** Final payment is contingent upon: (1) compliance with LARPA and ARPA rules and regulations; (2) follow-up responses to all County inquiries; (3) Accounts Payable review by Finance Staff and County Audit Staff; and (4) completion of the fully executed Agreement. Payments for eligible expenses authorized under this Agreement shall be made within thirty (30) days of receipt of the fully executed copy of this Agreement.
- 3.4 **Applicability.** If the District has not been allocated Non-payroll funds as shown in the amended Exhibit B, Section III of this Agreement shall not apply.

IV. Capital Requests

- 4.1 **Eligibility.** By submitting its Capital project funding requests through the LARPA portal, the District warrants and avers that the representations made as to the purpose, application and use of the funds is accurately represented to the County and in compliance with the LARPA and ARPA programs.
- 4.2 **Reporting.** Effective September 1, 2022 the District shall submit monthly reports using the LARPA on-line portal. Said reports shall include monthly expenditures, cumulative expenditures and supporting documentation or invoices verifying this information. In addition, the District shall submit monthly performance measures using the LARPA on-line portal. Said performance measures shall be agreed upon and negotiated in good faith by the Parties prior to the execution of this Agreement.
- 4.3 **Inspection.** Upon notification that the portion of the project which utilized ARPA funds is substantially complete, the District shall notify the County, who shall inspect the project to ensure the work was completed and

the work performed is within the scope of the application submitted by the District.

- 4.4 **Payment.** Final payment is contingent upon: (1) compliance with LARPA and ARPA rules and regulations; (2) follow-up responses to all County inquiries; (3) Accounts Payable review by Finance Staff and County Audit Staff; and (4) completion of the fully executed Agreement. Payments for eligible expenses authorized under this Agreement shall be made within thirty (30) days of receipt of the fully executed copy of this Agreement.
- 4.5 **Applicability.** If the District has not been allocated Capital funds as shown in the amended Exhibit B, Section IV of this Agreement shall not apply.
- 4.6 **Clawback.** Should the District fail to use all of the funds distributed prior to the termination of this Agreement, and any amendments thereto, the District shall return all unused funds to the County of DuPage.

V. Programmatic Requests

- 5.1 **Eligibility.** By submitting its programmatic funding requests through the LARPA portal, the District warrants and avers that the representations made as to the purpose, application and use of the funds is accurately represented to the County and in compliance with the LARPA and ARPA programs.
- 5.2 **Submittal.** Effective September 1, 2022 the District shall submit monthly reports using the LARPA on-line portal. Said reports shall include monthly expenditures, cumulative expenditures and supporting documentation or invoices verifying this information. In addition, the District shall submit monthly performance measures using the LARPA on-line portal. Said performance measures shall be agreed upon and negotiated in good faith by the Parties prior to the execution of this Agreement.
- 5.3 **Payment.** Final payment is contingent upon: (1) compliance with LARPA and ARPA rules and regulations; (2) follow-up responses to all County inquiries; (3) Accounts Payable review by Finance Staff and County Audit Staff; and (4) completion of the fully executed Agreement. Payments for eligible expenses authorized under this Agreement shall be made within thirty (30) days of receipt of the fully executed copy of this Agreement.

- 5.4 **Applicability.** If the District has not been allocated Programmatic funds as shown in the amended Exhibit B, Section V of this Agreement shall not apply.
- 5.5 **Clawback.** Should the District fail to use all of the funds distributed prior to the termination of this Agreement, and any amendments thereto, the District shall return all unused funds to the County of DuPage.

THUS, in witness thereof, the parties have executed this agreement on the date first written below.

The County of DuPage

By: _____
Print Name: Deborah A. Conroy
Title: County Board Chair
Date: October 8, 2024

Westmont Park District

By: _____
Print Name: _____
Title: _____
Date: _____