

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Protect Our Parks, Inc., <i>et. al.</i>	)	
	)	
Plaintiffs,	)	
	)	No. 1:21-cv-02006
v.	)	
	)	
Pete Buttigieg, Secretary of the U.S.	)	Judge John Robert Blakey
Department of Transportation, <i>et. al.</i>	)	
	)	
Defendants.	)	

**UNOPPOSED MOTION OF CHICAGOLAND MUSEUMS  
FOR LEAVE TO FILE A BRIEF AS *AMICI CURIAE*  
IN SUPPORT OF DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

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**CORPORATE DISCLOSURE STATEMENT AND  
NOTIFICATION OF PUBLICLY HELD AFFILIATES**

Each *amicus curiae* Chicagoland Museum certifies that it is a non-profit corporation organized under 26 U.S.C. § 501(c)(3), has no parent corporation, does not issue stock, and has no publicly held affiliates.

/s/ *Randall E. Mehrberg*  
Randall E. Mehrberg

A broad and diverse group of world-class museums and cultural institutions in the Chicagoland area (together, the “Chicagoland Museums”)—which have been enriching and enlivening our communities for more than a century—respectfully request leave to file the accompanying *amici curiae* brief attached as Exhibit A in support of Defendants’ opposition to Plaintiffs’ motion for a preliminary injunction.

The Chicagoland Museums are as follows: Adler Planetarium, The Art Institute of Chicago, Bronzeville Children’s Museum, Chicago Academy of Sciences/Peggy Notebaert Nature Museum, Chicago Architecture Center, Chicago History Museum, DuSable Museum of African American History, Field Museum of Natural History, Illinois Holocaust Museum & Education Center, Shedd Aquarium, Lincoln Park Zoo, Millennium Park Foundation, Museum of Contemporary Art, Museum of Science and Industry, National Museum of Mexican Art, and The National Museum of Puerto Rican Arts & Culture.<sup>1</sup>

Defendants do not oppose the relief requested in this motion and consent to the Chicagoland Museums filing their brief. Plaintiffs do not oppose the Chicagoland Museums’ motion for leave or to the filing of their brief.

The motion should be granted for the following reasons:

1. The Seventh Circuit has explained that the filing of an *amicus curiae* brief is permissible if it offers “something different, new, and important.” *Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976 F.3d 761, 763 (7th Cir. 2020) (Scudder, J., in chambers); *see also Neonatology Assocs., P.A. v. Comm’r of Internal Revenue*, 293 F.3d 128, 132-33 (3d Cir. 2002) (Alito, J., in chambers). Such a perspective may include highlighting “legal nuance” not

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<sup>1</sup> A description of each of the Chicagoland Museums is appended to the proposed *amicus* brief submitted as Exhibit A with this motion.

fully addressed by the parties or “[p]roviding practical perspectives on the consequences of potential outcomes.” *Prairie Rivers Network*, 976 F.3d at 763.

2. For the same reasons, many district courts in this district have permitted the filing of *amicus curiae* briefs. *See also, e.g., Martinez v. City of Chicago*, 2021 WL 1402138, at \*1 (N.D. Ill. Apr. 14, 2021); *Nat’l Inst. of Family and Life Advocs. v. Schneider*, 484 F. Supp. 3d 596, 615 (N.D. Ill. 2020); *Prop. Cas. Insurers Ass’n of Am. v. Donovan*, 66 F. Supp. 3d 1018, 1034 & n.5 (N.D. Ill. 2014); *Chamberlain Grp., Inc. v. Interlogix, Inc.*, 2004 WL 1197258, at \*1 (N.D. Ill. May 28, 2004).

3. Indeed, a group of the Chicagoland Museums—the eleven museums operating at least in part on public parkland—filed a brief as *amici curiae* in earlier proceedings related to this case in this Court and in the Seventh Circuit.<sup>2</sup> *See* Brief of *Amici Curiae* The Eleven Park Museums In Support of Defendants’ Motion to Dismiss or For Judgment on the Pleadings, *Protect Our Parks, Inc. v. Chicago Park District*, No. 18-cv-03424 (N.D. Ill. 2018), ECF No. 61, *see id.* 77; *Amici Curiae* Brief of Eleven Park Museums In Support of Defendants-Appellees, *Protect our Parks, Inc. v. City of Chicago*, Nos. 19-2308, 19-3333 (consol.) (7th Cir. Feb. 27, 2020), ECF No. 59.

4. Here, proposed *amici* the Chicagoland Museums satisfy both bases for filing a brief in this case. First, as museums in the Chicagoland area—most of which operate at least in part on public parkland—proposed *amici* are in a unique position to provide the Court with insight and

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<sup>2</sup> Those eleven museums are: Adler Planetarium, Field Museum of Natural History, Shedd Aquarium, The Art Institute of Chicago, National Museum of Mexican Art, The National Museum of Puerto Rican Arts & Culture, Museum of Science and Industry, Museum of Contemporary Art, Chicago Academy of Sciences/Peggy Notebaert Nature Museum, Chicago History Museum, and the DuSable Museum of African American History, all of which are among the Chicagoland Museums seeking leave herein.

perspective beyond what the parties may offer about whether issuing an injunction is in the public interest. Second, proposed *amici* have a strong interest in this motion and the case more broadly because it may have implications for other museums in the Chicagoland area—including those operating at least in part on public parkland—and their operations going forward.

5. The Chicagoland Museums agree with Defendants that Plaintiffs’ motion for a preliminary injunction should be denied and that the public interest does not support issuing an injunction. The Chicagoland Museums’ proposed brief does not duplicate the arguments made by Defendants. Instead, the proposed brief provides the Court with historical context about the long tradition of museums in Chicagoland and in Chicago’s parks, information about the important services those museums provide, and awareness about potential practical consequences that may result if Plaintiffs’ motion is granted.

6. No party or counsel for a party authored this brief in whole or in part, and no person other than proposed *amici* or its counsel contributed any money to fund its preparation or submission. None of the proposed *amici* Chicagoland Museums is a subsidiary or affiliate of any publicly owned corporation.

7. The motion for leave by *amici* and their proposed brief are timely submitted. *Cf.* Fed. R. App. P. 29(a)(6) (allowing *amicus curiae* briefs to be filed “no later than 7 days after the principal brief of the party being supported is filed”).

8. No party would be prejudiced by the filing of the Chicagoland Museums’ proposed *amici* brief.

For the foregoing reasons, the Chicagoland Museums’ motion for leave should be granted, and the brief attached as Exhibit A should be filed.

Dated: July 15, 2021

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that, on July 15, 2021, a true and correct copy of the foregoing was filed with the Clerk of the United States District Court for the Northern District of Illinois via the Court's CM/ECF system, which will send notice of such filing to all registered CM/ECF users.

*/s/ Randall E. Mehrberg*

Randall E. Mehrberg

# **EXHIBIT A**



**IN THE UNITED STATES DISTRICT COURT  
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EASTERN DIVISION**

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Plaintiffs,	)	
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v.	)	No. 1:21-cv-02006
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Pete Buttigieg, Secretary of the U.S.	)	
Department of Transportation, <i>et. al.</i>	)	Judge John Robert Blakey
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**BRIEF OF CHICAGOLAND MUSEUMS AS *AMICI CURIAE*  
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/s/ Randall E. Mehrberg  
Randall E. Mehrberg

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### **INTEREST OF *AMICI CURIAE*<sup>1</sup>**

*Amici curiae* are a broad and diverse group of sixteen world-class museums and cultural institutions in the Chicagoland area (together, the “Chicagoland Museums”), which collectively have been enriching and enlivening our communities for more than a century: Adler Planetarium, The Art Institute of Chicago, Bronzeville Children’s Museum, Chicago Academy of Sciences/Peggy Notebaert Nature Museum, Chicago Architecture Center, Chicago History Museum, DuSable Museum of African American History, Field Museum of Natural History, Illinois Holocaust Museum & Education Center, Shedd Aquarium, Lincoln Park Zoo, Millennium Park Foundation, Museum of Contemporary Art, Museum of Science and Industry, National Museum of Mexican Art, and The National Museum of Puerto Rican Arts & Culture.

Each of the Chicagoland Museums is a non-profit institution dedicated to advancing the public interest. Eleven of the Chicagoland Museums have been operating at least in part on parkland for years—in some cases for more than a century—based on their long-term right to use parkland without charge under various arrangements, including, for example, use agreements with the Park District, so long as the land is used for museum purposes.<sup>2</sup> Although subject to different arrangements, the Chicagoland Museums that operate outside parkland have similarly longstanding traditions of serving the public interest and supporting projects that bring life to the City. Wherever they operate, each of the Chicagoland Museums strives to enrich the fabric of Chicago as a place to live, work, and play. They also serve as a critical educational resource and

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<sup>1</sup> No party or counsel for a party authored this brief in whole or in part, and no person or entity other than *amici curiae* and their counsel made a monetary contribution to fund the preparation or submission of this brief.

<sup>2</sup> Hereinafter, the various arrangements of museums with the Chicago Park District will be referred to as “use agreements.”

drive economic growth; every year, nearly thirty-five million people of all ages and backgrounds visit these remarkable, historic, and diverse cultural institutions.

*Amici* have a strong interest in having the Court deny Plaintiffs' request for an injunction. *Amici* also have a strong interest in ensuring that museums maintain the ability and flexibility to serve the public and advance their respective missions. *Amici* submit this brief to provide the Court with important context about the Chicagoland Museums, why issuing an injunction here would be against the public interest, and to urge this Court to deny Plaintiffs' motion.

### **INTRODUCTION AND SUMMARY OF ARGUMENT**

The Chicagoland area has a long and rich history of featuring world-class museums and cultural institutions. Museums provide major educational and economic benefits and advance the public's interest in knowledge and understanding. The Chicagoland Museums offer benefits to the public, the City, and the Chicago Park District—and offer benefits to each other when they are clustered together. Each museum is truly a treasure and Chicagoland, its residents, and visitors are fortunate to have them.

Every one of these museums started as an idea. Over more than a century, imagination and creativity brought these ideas to life. The process for creating a museum, though not always easy, affords stakeholders an opportunity to be heard and results in finality and certainty. And it results in new civic treasures that bring joy to millions in Chicagoland and across the world.

The Obama Presidential Center—the first museum in Chicagoland dedicated to a former President of the United States—aims to continue this tradition by laying roots in Jackson Park and becoming the twelfth museum located in a park in the City. Though unique in its subject matter, the Obama Presidential Center would be the latest in a long line of Chicagoland museums that benefit the public and serve the public interest. Like the other Chicagoland Museums, the Obama

Presidential Center is also expected to bring real, tangible economic benefits to the City and to the neighborhood where it is located.

The City Council unanimously approved allowing the Obama Presidential Center to be established in Jackson Park, under a proposed use agreement. In the past three years, the Obama Foundation underwent extensive public, city, and federal scrutiny of its plans.<sup>5</sup> And this Court previously held that the Obama Presidential Center could proceed as planned. The lead Plaintiff has nevertheless returned to court and now seeks extraordinary emergency relief based on some of the same arguments it raised unsuccessfully before and new contentions that certain governmental approvals were insufficiently considered. In essence, Plaintiffs once again seek to substitute their own views for the considered judgments of public officials informed by public opinion.

This Court should deny Plaintiffs' request for an injunction. The Chicagoland Museums believe the Obama Presidential Center will be a cultural and economic treasure for Chicago that will benefit the public by bringing new amenities and positive development to the surrounding community, boosting the local economy, and serving as a magnet for visitors to the City and the region. It will serve as an enduring and powerful symbol of the promise of America and the American Dream. In other words, the public interest strongly favors allowing construction to move forward without any further delays. Moreover, the similarities between the Chicagoland Museums and the Obama Presidential Center mean that issuing an injunction could negatively impact some or all of the Chicagoland Museums and the museum-going public by potentially diverting resources from the museums' mission to serve the public interest. This potential harm—combined

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<sup>5</sup> *OPC Community Engagement Meetings*, Obama Foundation, <https://www.obama.org/designed-with-you-bak/meetings/> (last visited June 23, 2021); *Federal Review of Jackson Park Improvements*, Chicago Department of Planning and Development, [https://www.chicago.gov/city/en/depts/dcd/supp\\_info/jackson-park-improvements.html](https://www.chicago.gov/city/en/depts/dcd/supp_info/jackson-park-improvements.html) (last visited June 23, 2021).



with the time-honored practice of establishing museums in public parks in Chicagoland—provides a powerful reason to deny Plaintiffs’ motion.

## ARGUMENT

The Chicagoland Museums support the creation of the Obama Presidential Center in Jackson Park. The Chicagoland Museums write to highlight the long history of museums serving as providers of valuable public services, the importance of establishing museums in parks, and the potential consequences that may arise if Plaintiffs’ motion is granted.

### **I. Chicagoland’s Museums Advance Public Education, Enhance Knowledge And Understanding, And Boost The Economy.**

Chicagoland’s museums have proudly dedicated themselves to the public interest by serving as an unparalleled educational resource. The Chicagoland Museums are an extension of the educational system, inspiring children to explore and offering them new worlds to discover. Each year, more than 1.6 million school children visit the Chicagoland Museums through organized field trips. *Chicago-Area Museums, Gardens, Zoos, and Aquaria*, American Alliance of Museums, <https://www.aam-us.org/wp-content/uploads/2017/12/chicago-economic.pdf> (last visited June 27, 2021). Millions of these visits are free through various programs which helps ensure that the wonders of the museums are available to all. *See id.*; *2018 Impact Report*, Museums in the Park, <https://museumsinthepark.org/impactreport/> (last visited June 28, 2021). Students also experience the diverse offerings of each museum through traveling exhibits, after school programs, research assistance, online programming, and other initiatives.<sup>3</sup> In addition, students and recent

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<sup>3</sup> *See e.g., Teen Opportunities*, Adler Planetarium, <https://www.adlerplanetarium.org/teen-opportunities/> (last visited June 23, 2021) (offering science workshops, youth advocacy and leadership groups, and engineering competitions); *Educational Programs*, DuSable Museum of African American History, <https://www.dusablemuseum.org/blog/> (last visited June 23, 2021) (operating lunchtime learning programs and online discussion series). *See also* Appendix B for additional institution specific programming.

graduates can gain real, practical experience through the many internship programs sponsored by the museums.<sup>4</sup> Each connection enlivens the educational experience.

The venerable Chicagoland Museums reach more than just students. They educate the educators as well, serving 120,000 teachers per year through professional development programs and school visits, as well as research and content support.<sup>5</sup> For example, the museums assist educators by helping them plan successful field trips, providing customized programs to help them take advantage of the museums' rich offerings, and deepening their knowledge through courses dedicated to teachers. The museums reach the general public, too. They serve as a "reliable source of historical information."<sup>6</sup> As the Secretary of the Smithsonian Institution has explained, "[s]ince our founding, this nation has consistently placed [its] trust in its museums," which "are considered honest purveyors of information and places for conversation on issues of local and national significance." Dr. David Skorton, *Trusted Sources: Why Museums and Libraries Are More Relevant Than Ever*, *Smithsonian Insider* (Mar. 2, 2017). At a time when public trust in government is "near historic lows" but public trust in science has held largely steady,<sup>7</sup> it is ever

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<sup>4</sup> See e.g., *Internships*, Art Institute of Chicago, <https://www.artic.edu/internship-opportunities> (last visited June 24, 2021); *Internship Opportunities*, Lincoln Park Zoo, <https://www.lpzoo.org/about-the-zoo/join-our-team/student-internships/> (last visited June 24, 2021). See also Appendix B for additional institution specific programming.

<sup>5</sup> See e.g., *Training & Curriculum*, Chicago Architecture Center, <https://www.architecture.org/learn/schools-teachers/training-curriculum> (last visited June 24, 2021) (offering training and curriculums to educators); *Educator Resources*, Museum of Science and Industry, <https://www.msichicago.org/explore/whats-here/exhibits/brick-by-brick/educators/educator-resources> (last visited June 24, 2021) (offering downloadable lesson plans). See also Appendix B for additional institution specific programming.

<sup>6</sup> *Museum Facts & Data*, American Alliance of Museums, <https://www.aam-us.org/programs/about-museums/museum-facts-data/#ednref25> (last visited June 27, 2021).

<sup>7</sup> *Public Trust in Government: 1958-2021*, Pew Research Center, <https://www.pewresearch.org/politics/2021/05/17/public-trust-in-government-1958-2021> (last visited June 24, 2021); *Public confidence in scientists has remained stable for decades*, Pew

more important for museums to continue to serve the public interest and work to expand societal knowledge and understanding.

The success of the Chicagoland Museums reverberates through the economy as well. Cultural institutions like museums “attract the ‘creative class’ and reverse ‘brain drain,’” and serve as “high-impact components of economic development programs.” *Arts & the Economy*, Nat’l Governors Ass’n (June 27, 2017), <https://www.nga.org/center/issues/arts-the-economy/>. That in turn attracts businesses, which relocate in search of high-skilled labor, and creates a positive feedback loop that benefits the economy. See *The Headquarters Checklist: How Do Companies Pick a Location?*, Wharton School of Business (Oct. 24, 2017), <https://knowledge.wharton.upenn.edu/article/headquarters-checklist-companies-pick-location/>. Indeed, museums are known for “making communities more attractive to highly desirable, knowledge-based employees,” “[s]erving as a centerpiece for downtown redevelopment and cultural renewal,” and “[c]reating vibrant public spaces, enhancing urban quality of life, expanding the tax base, and improving regional and community image.” *Arts & the Economy, supra*. One study found that “for every \$100 of value-added output created by museums, an additional \$220 of value added is created in other sectors of the US economy as a result of supply chain and employee expenditure impacts.” *Museums As Economic Engines: A National Report* 11, American Alliance of Museums (2017), <https://www.aam-us.org/wp-content/uploads/2018/04/American-Alliance-of-Museums-web.pdf>.

Locating museums in and around parks amplifies their positive economic effect. As Daniel Burnham recognized in developing his Plan of Chicago, if a city lost major museums “the

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Research Center, <https://www.pewresearch.org/fact-tank/2020/08/27/public-confidence-in-scientists-has-remained-stable-for-decades> (last visited June 24, 2021).

commercial loss to those cities would be very considerable.” Daniel H. Burnham and Edward H. Bennett, *Plan of Chicago – Plate 112* (1909).

In 2018, the eleven park museums generated an estimated \$1.2 billion in economic impact, supported 5,534 employees, and generated \$120 million in state and city tax revenue. *2018 Economic Impact Report, Museums in the Park*, <https://museumsinthepark.org/impactreport/> (last visited June 28, 2021). Those museums also served as the primary attraction for more than 5 million out-of-state visitors, who each spent an average of \$82 and infused the city and state with additional revenue. *See Chicago-area Economic Impact Statement, American Alliance of Museums* (2017), <https://www.aam-us.org/wp-content/uploads/2017/12/chicago-economic.pdf> (last visited June 24, 2021). The numbers would have been even higher if it had included the other five Chicagoland Museums. As the *Impact Statement* summed up: “Chicago-area museums have a major regional economic impact, leading to jobs, tourism, and improved quality of life.” *Id.* So too, “[m]useums are the number one reason tourists visit Illinois.” *Id.* Statewide, in 2017 museums generated more than 38,524 jobs, \$1.8 billion in income, and \$683.2 million in taxes. *Museums as Economic Engines: Illinois, American Alliance of Museums*, <https://www.aam-us.org/wp-content/uploads/2018/04/EE-Illinois.pdf> (last visited June 24, 2021).

The Obama Presidential Center (“OPC” or “Center”) is expected to similarly benefit the Chicagoland economy. According to the Economic Impact Assessment prepared by Deloitte Development, the Center is estimated to generate thousands of jobs during the construction phase and over 2,500 jobs after the center is open. *See OPC Economic Impact Assessment, Deloitte Development, LLC* (Nov. 7, 2019), <https://www.obama.org/wp-content/uploads/finalized-assumptions-modeled-inputs-11-7-19-for-posting.pdf>. The Center is estimated to have an economic impact of \$3.1 billion during construction and the first ten years of operation, including

\$16.5 million in state and local taxes just during the construction phase. *Id.* Between 625,000 to 760,000 visitors are expected per year. *Id.*

Because of what is known as the “cluster effect,” museums broadly benefit from being grouped together within public spaces.<sup>8</sup> The effect is particularly potent in urban centers, such as Chicago, where clustered museums have different subject matters, because “diversity of users and uses creates in the museum cluster the cultural, social and economic dynamics and contributes to its integration into the urban environment.” Nikolic, *supra* at note 8. Clustering “allows each member [of a cluster] to benefit as if it had great scale or as if it had joined with others without sacrificing its flexibility.” Michael E. Porter, *Clusters and the New Economics of Competition*, <https://hbr.org/1998/11/clusters-and-the-new-economics-of-competition> (last visited June 26, 2021). In short, each member of a cluster benefits from the success of the other—good performance by one member boosts others in the cluster, and successful clusters attract other resources and development.

Like other major cities around the world, Chicago has embraced the cluster model for museum development, particularly in and around public parks. The Museum Campus is home to the Field Museum, Shedd Aquarium, and Adler Planetarium; the Loop is home to the Art Institute of Chicago, Millennium Park, and the Chicago Architecture Center; and Lincoln Park is home to the Lincoln Park Zoo, The Peggy Notebaert Nature Museum, and the Chicago History Museum. On the south side, the Museum of Science and Industry, the DuSable museum, and the University

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<sup>8</sup> See e.g., Lena Mantzious, *Museum Cluster as Urban Defibrillator*, <https://iopscience.iop.org/article/10.1088/1757-899X/471/7/072046/pdf> (last visited June 26, 2021); Mila Nikolic, *City of Museums: Museum Cluster as a Manifesto of the Paradigm Shift*, [https://www.researchgate.net/publication/255172333\\_City\\_of\\_Museums\\_Museum\\_Cluster\\_as\\_a\\_Manifesto\\_of\\_the\\_Paradigm\\_Shift](https://www.researchgate.net/publication/255172333_City_of_Museums_Museum_Cluster_as_a_Manifesto_of_the_Paradigm_Shift) (last visited June 26, 2021); Chieh Ching Tien, *The Formation and Impact of Museum Clusters: Two Case Studies in Taiwan*, 25 *Museum Mgmt. and Curatorship* 69 (2010).

of Chicago are connected by the Midway Plaisance designed and built by Frederick Law Olmsted in 1871. The Obama Presidential Center will further develop that south side museum campus and continue Chicago's tradition of clustering museums to raise their profiles, expand their reach, and boost the surrounding neighborhoods.

**II. Chicagoland Has A Rich Tradition Of World-Class Museums, Including In Public Parkland.**

Chicagoland's parks and museums have been joined together in service of the public interest for more than 150 years. Lincoln Park Zoo was established in the park in 1868 and has since grown side by side with the City of Chicago. *See About the Zoo*, Lincoln Park Zoo, <https://www.lpzoo.org/about-the-zoo/history/> (last visited June 24, 2021). A few decades later—when more than thirty percent of the population of the United States came to Chicago for the World's Fair—civic leaders invited the Art Institute to move to Grant Park and what is now the Chicago Academy of Sciences/Peggy Notebaert Nature Museum to move to Lincoln Park. *See Remarks of Gary T. Johnson before the Chicago Plan Commission* (May 17, 2018). Jackson Park was transformed to feature an entire “White City” of public buildings, and its Palace of Fine Arts—which was designed specifically to house the Field Museum of Natural History—later became the home of the Museum of Science and Industry. *Museum Facts*, Museum of Science and Industry, <https://www.msichicago.org/explore/about-us/museum-facts/> (last visited June 24, 2021); *Field Museum History*, Field Museum of Natural History, <https://www.fieldmuseum.org/about/history> (last visited May 20, 2021). In each case, the museums were placed front and center in communities across Chicagoland precisely because they would benefit the people, the City, and the institutions alike.

Chicago continued its tradition of hosting important cultural institutions in publicly owned parks long after the Columbian Exposition. In 1921, the Field Museum moved from Jackson Park

to its current site on Chicago Park District property on the lakefront south of Grant Park, as part of Daniel Burnham’s 1909 Plan of Chicago. *Field Museum History, supra*; see also Journal of the Proceedings of the City Council of the City of Chicago, 85875, 85878 (Oct. 31, 2018) (“Ordinance”) (noting the Plan of Chicago “advocated building great public institutions” in parks). The Shedd Aquarium and Adler Planetarium opened nearby shortly thereafter, creating a “Museum Campus” that offered first-rate institutions geared to every part of the natural world—the land, the water, and the sky. See *Field Museum History, supra*. The City continued recognizing the value of marrying museums with public land when it “endorse[d] the placement of cultural facilities ‘within the lakeshore parks’ and ‘other large park locations’ in the City” as part of the 1972 Lakefront Plan of Chicago. Ordinance at 85878. Within a year, the DuSable Museum of African American History relocated to its current location in Washington Park. Kat Eschner, *America’s Oldest Museum of Black Culture Started in a Living Room*, Smithsonian Magazine (Nov. 1, 2017), <https://www.smithsonianmag.com/smart-news/americas-oldest-museum-black-culture-started-living-room/>.

Chicagoland’s commitment to supporting museums in parks has been repeatedly reaffirmed by the addition of a diverse group of new museums. For example, the National Museum of Mexican Art and The National Museum of Puerto Rican Arts & Culture took root in Chicago parks in 1987 and 2000, respectively.<sup>9</sup> In the late 1990s, at the invitation of the City and the Chicago Park District, the Peggy Notebaert Nature Museum moved within Lincoln Park to its then newly constructed home at Fullerton Avenue and Stockton Drive, transferring its existing facilities

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<sup>9</sup> See *About Us*, National Museum of Mexican Art, <https://nationalmuseumofmexicanart.org/content/about-us-0> (last visited June 24, 2021); *About The National Museum of Puerto Rican Arts And Culture*, The National Museum of Puerto Rican Arts & Culture, <https://nmprac.org/about/> (last visited June 24, 2021).

to the Lincoln Park Zoo as part of the Zoo’s expansion.<sup>10</sup> Millennium Park—with the Jay Pritzker Pavilion, Harris Theater, Tribune ice rink, Crown Fountain, Anish Kapoor’s “Cloud Gate” (commonly known as the “bean”), and many other features—opened to the public in 2004 and has since become one of the world’s top tourist destinations visited by more than 20 million people annually.<sup>11</sup>

The history of museums in Chicagoland reflects the longstanding belief that locating museums in public parks would both enhance the parks and serve the community. The same principle remains strong today. When the City Council approved making the Obama Presidential Center the twelfth museum in a Chicago park, it noted the museum “will not only benefit Chicago residents and attract visitors from around the world, but will also enhance both accessibility and usability of Jackson Park.” Ordinance at 85881.

**III. Plaintiffs’ Positions Are Contrary To Historical Precedent And Inconsistent With The Museums’ Ability To Serve The Public Interest.**

Each Chicagoland Museum has its own unique origin and history, and each has a right to operate—whether on parkland or elsewhere—that flows from its own particular individual circumstances. As a result, the Public Trust Doctrine applies differently and to varying degrees (if at all) to each of the Chicagoland Museums based on each institution’s distinct history. Still, each museum has a strong interest in ensuring that the Obama Presidential Center can flourish

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<sup>10</sup> See *History*, Chicago Academy of Sciences/Peggy Notebaert Nature Museum, <https://naturemuseum.org/explore/history/> (last visited June 24, 2021).

<sup>11</sup> See *History of the Park and the Foundation*, Millennium Park Foundation, <https://millenniumparkfoundation.org/the-foundation/> (last visited June 24, 2021).



in Jackson Park. And each has a strong interest in this Court denying Plaintiffs' motion for a preliminary injunction.

**A. The Use Agreement Governing The Obama Presidential Center Is Similar To Use Agreements Governing Other Museums.**

Stretching back to the Nineteenth Century, and as recently as 2007, the Chicagoland Museums that operate in whole or in part on parkland have entered into use agreements that identify the terms of their use of public parkland. Those use agreements and the use agreement governing the Obama Presidential Center are similar in three important ways.

*First*, although their specific focus varies, the Obama Presidential Center and the Chicagoland Museums are all dedicated to serving the public interest and advancing knowledge. *See* Use Agreement with the Barack Obama Foundation (“OPC Use Agreement”) § 6.1 & (Sub) Ex. E.

*Second*, the terms of the use agreement governing the Obama Presidential Center envision that it will operate in a similar fashion as the Chicagoland Museums that operate on parkland. For example, the Obama Presidential Center's public access, admission fee policies for Chicago residents and low-income individuals and families, and parking rates must be “substantially consistent” with “other Museums in the Park.” OPC Use Agreement §§ 6.1, 6.2(a), 6.10.<sup>12</sup> The Obama Presidential Center similarly may only engage in ancillary activities that are “present in

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<sup>12</sup> The OPC Use Agreement defines “Museums in the Park” as “the museums located on the Park District's land that are supported by the Aquarium and Museum Operating Fund,” which includes eleven of the Chicagoland Museums appearing as *amici curiae*. *See* OPC Use Agreement art. I at 7. Although the OPC will be located on parkland, “[t]he operations and construction of the Obama Presidential Center will be entirely funded by private donations.” *About the Obama Presidential Center*, Obama Presidential Center, <https://www.obama.org/chicago/opc-faq/>. “Moreover, the Foundation will not receive tax revenues collected by the Park District under Section 2 of the Museum Act.” *See* Defs' Answer & Affirmative Defs. to Pls.' Compl. at 13, *Protect Our Parks*, No. 18-cv-03424 (N.D. Ill. Oct. 22, 2018), ECF No. 38.

other Museums in the Park,” *id.* § 6.1(f), and host events to support the museum “that are customary for support of the other Museums in the Park,” *id.* § 6.2(c)(iii).

*Third*, the Obama Presidential Center and the Chicagoland Museums that operate on parkland have each entered into a use agreement that generally embodies the same basic arrangement and conditions of termination if they fail to live up to that arrangement. The capital and operating costs of each museum are largely borne by the museums and in exchange each museum “uses park land free of charge and each has a long-term right to occupy its buildings rent-free, so long as the buildings are used for museum purposes in compliance with the Museum Act.” Ordinance at 85877; *see, e.g.*, OPC Use Agreement §§ 4.2, 7.1, 7.2, 9.2.

If one of the museums fails to comply with the Museum Act, or to abide by the relevant use agreement, then the government may seek to make the museum leave the public land it occupies and any improvements built on that land. *See, e.g.*, NMMA Agreement art. 12; Agreement between the Chicago Academy of Sciences and the Chicago Park District (March 31, 1995) § 8(b); DuSable Agreement § 1(m); NMPRAC Agreement § 6. So too with the Obama Presidential Center: “any and all Project Improvements placed or constructed” in the park “become the property of the City and shall remain the property of the City during the Term” and “title to such Project Improvements shall remain vested in the City” if the Term ends. OPC Use Agreement § 4.4; *see also id.* § 18.2 (requiring that the Obama Foundation “at its sole cost and expense, immediately vacate the Subject Property and the Project Improvements” if the Term ends); Ordinance at 85886 (“[T]he OPC Site will revert to the Park District if the land is not used for the OPC.”).

At bottom, under the guiding principles of the use agreements governing the eleven Chicagoland Museums and the proposed use agreement governing the Obama Presidential Center,

the public gets all of the upside and none of the downside: the public benefits from having a museum, without needing to operate it, and may make the museum leave public land (along with improvements to that land) if the museum stops serving the public.

**B. Plaintiffs' Position, If Adopted, May Harm The Chicagoland Museums And May Divert Precious Museum Resources From Their Missions.**

Chicagoland's parks and museums have long been joined together in service of the public interest. The Chicagoland Museums have proudly dedicated themselves to the public interest by serving as an unparalleled education resource. The Obama Presidential Center seeks to do the same by providing Chicagoland, and Chicago's south side in particular, with a presidential museum celebrating the nation's first African American President and First Lady, and their legacy of public service.

If this Court finds that the Obama Presidential Center cannot be established in Jackson Park or enjoins its further development, that ruling may have the unintended consequence of undermining the very public interest that Plaintiffs seek to vindicate.

This is not an abstract concern. The Chicagoland Museums are non-profit institutions that depend on every dollar of revenue to fulfill their public-interest mission. Plaintiffs' position of challenging the definition of public interest risks diverting those precious resources away from serving the public. Maintaining and developing the museums and their offerings is an evolving civic project that is furthered by the understanding that museums will have a home in the parks and across Chicagoland. Baseless efforts like Plaintiffs' risk distracting attention and diverting resources that would otherwise be dedicated to advancing the Chicagoland Museums' important mission.

**CONCLUSION**

For the foregoing reasons, *amici curiae* the Chicagoland Museums respectfully urge this Court to deny Plaintiffs' motion for a preliminary injunction.

Dated: July 15, 2021

Respectfully submitted,

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**APPENDIX A**  
**DESCRIPTION OF *AMICI CURIAE* CHICAGOLAND MUSEUMS**

**Adler Planetarium:** The mission of the Adler Planetarium is to connect people to the Universe and each other under the sky we all share. Whether it is introducing a guest to the Ring Nebula, a neighborhood school to a community partner, a research team to a network of citizen scientists, or one staff member to another, the Adler’s focus on meaningful connections dates back nearly a century.

**The Art Institute of Chicago:** Founded in 1879, the Art Institute is one of the world’s major museums, housing an extraordinary collection of objects from across places, cultures, and time. It is also a place of active learning for all—dedicated to investigation, innovation, education, and dialogue—continually aspiring to greater public service and civic engagement.

**Bronzeville Children’s Museum:** The Bronzeville Children’s Museum is the first and only African American children’s museum in the country. Founded in 1993 on Chicago’s south side, BCM is a not-for-profit organization with the goal of bringing African and African-American history and culture to life for young people in and outside of the neighborhood.

**Chicago Academy of Sciences/Peggy Notebaert Nature Museum:** The Chicago Academy of Sciences, which operates as the Peggy Notebaert Nature Museum, was founded in 1857, so that enthusiasts and experts alike could study and share plant and animal specimens they collected. Today, the museum continues to build on its legacy of natural history education and strives to create a positive relationship between people and nature through collaborations, education, research and collections, exhibitions, and public forums to grow our region’s urban connection to the world of nature and science.

**Chicago Architecture Center:** The CAC was founded in 1966 as an architectural preservation organization. Since its inception, the CAC has become the leading, award winning cultural organization devoted to celebrating and promoting Chicago as a center of architectural

innovation. The CAC offers nearly 7,000 architectural tours per year, hosts more than 7,800 students per year on educational trips, organizes the free, two-day festival Open House Chicago, and is staffed in great part by volunteer docents.

**Chicago History Museum:** Founded in 1856 as the Chicago Historical Society and incorporated in 1857 by an act of the state legislature, the Chicago History Museum is dedicated to sharing Chicago's stories, serving as a hub of scholarship and learning, inspiration, and civic engagement. The Museum's programs and events, exhibitions, educational initiatives, publications, and collecting activities touch the lives of all Chicagoans and help them make meaningful and personal connections to history.

**DuSable Museum of African American History:** The DuSable Museum is dedicated to the collection, documentation, preservation, study and dissemination of the history and culture of Africans and Americans of African Descent. It carries out its mission through exhibitions, archives and a diverse array of educational and public programs designed to interpret and illuminate the lives and experiences of people of the African Diaspora for audiences of all ages.

**Field Museum of Natural History:** The Field Museum of Natural History fuels a journey of discovery across time to enable solutions for a brighter future rich in nature and culture. Since opening in 1894, its collection has grown to nearly 40 million artifacts and specimens. It continues to research the objects in its collections, document previously unknown species, conserve ecosystems in our backyard and across the globe, educate budding scientists, invite cross-cultural conversation, and more—all to ensure that our planet thrives for generations to come.

**Illinois Holocaust Museum & Education Center:** The Illinois Holocaust Museum & Education Center is dedicated to preserving the legacy of the Holocaust by honoring the memories of its victims and teaching universal lessons that combat hatred, prejudice, and indifference. The

Museum both documents the atrocities of the past and presents forward-looking exhibits focusing on social justice and educating guests about tools to stand against hatred.

**Shedd Aquarium:** Founded in 1924 and opened in 1930, Shedd Aquarium welcomes two million guests each year for unforgettable encounters with animals from aquatic environments around the world. Its scientists are saving endangered species and their habitats; its animal care experts rescue and rehabilitate wildlife in need, across the country and around the world; its conservationists are restoring the health of the Great Lakes; and its educators spark compassion, curiosity, and conservation for the aquatic animal world.

**Lincoln Park Zoo:** Lincoln Park Zoo first opened in 1868 with two swans and has since grown to a 35-acre zoo housing more than 1,000 animals and 200 species. More than 3.6 million people visit the zoo each year, completely free of charge. Lincoln Park Zoo also operates one of the largest zoo-based conservation and science programs in the country.

**Millennium Park Foundation:** The Millennium Park Foundation is responsible for the stewardship of Millennium Park as an arts and cultural space free and open to the public. Millennium Park is one of the world's leaders on public art, from sculpture to musical performances to architecture to summer film series. Millennium Park has an estimated 20 million visitors annually, operates over 500 free public programs, and serves as a critical public space in the heart of downtown Chicago.

**Museum of Contemporary Art:** The MCA is an artist-activated and audience-engaged contemporary art museum. It is one of the world's largest museums dedicated to art since 1967. Since its inception, the MCA has served as an innovative and compelling center of contemporary art where the public can experience the work and ideas of living artists, and understand the historical, social, and cultural context of the art of our time.

**Museum of Science and Industry:** The MSI—one of the largest science museums in the world—is home to more than 400,000 square feet of hands-on exhibits designed to spark scientific

inquiry and creativity. MSI has welcomed more than 190 million guests since it opened in 1933, in a building from 1893's Columbian Exposition, and offers facilitated exhibits, special access tours, hands-on laboratory experiences, lectures, and special overnight events.

**National Museum of Mexican Art:** The NMMA is home to one of the country's largest Mexican art collections and stands out as one of the most prominent first-voice institutions for Mexican art and culture in the United States. Its mission is to showcase the beauty and richness of Mexican culture by sponsoring events and presenting exhibitions, to develop, conserve, and preserve a significant permanent collection of Mexican art, to encourage the professional development of Mexican artists; and, to offer arts-education programs.

**The National Museum of Puerto Rican Arts & Culture:** The NMPRAC is devoted to the promotion, integration and advancement of Puerto Rican arts and culture through exhibitions and programming that enhance the visibility and importance of the rich Puerto Rican arts tradition. Located in Humboldt Park, in the heart of Chicago's Puerto Rican community, NMPRAC is the only self-standing museum in the nation devoted to showcasing Puerto Rican arts and cultural exhibitions year-round.



**APPENDIX B**  
**CHICAGOLAND MUSEUMS PROGRAMMING RESOURCES**

**Educational Opportunities**

*Learn With Us*, Art Institute of Chicago, <https://www.artic.edu/learn-with-us> (last visited June 23, 2021)

*TEENS*, Chicago Academy of Sciences/Peggy Notebaert Nature Museum, <https://naturemuseum.org/schools-teachers/out-of-school-time-programs/teens/> (last visited June 23, 2021)

*Camps & Classes*, Chicago Architecture Center, <https://www.architecture.org/learn/families/camps-and-classes> (last visited June 23, 2021)

*Research Center*, Chicago History Museum, <https://libguides.chicagohistory.org/research/> (last visited June 23, 2021)

*Services*, Field Museum of Natural History, <https://www.fieldmuseum.org/science/research/area/library/services> (last visited June 23, 2021)

*Resources for Students & Educators*, Illinois Holocaust Museum & Education Center, <https://www.ilholocaustmuseum.org/pages/learn/student-programs/> (last visited June 23, 2021)

*Underwater Robotics Program*, Shedd Aquarium, <https://www.sheddaquarium.org/programs-and-events/> (last visited June 23, 2021)

*Youth Programs*, Lincoln Park Zoo, <https://www.lpzoo.org/youth-programs/> (last visited June 23, 2021)

*Family Fun Festival*, Millennium Park Foundation, <https://millenniumparkfoundation.org/programs/family-fun-festival/> (last visited June 23, 2021)

*SPACE*, MCA Chicago, <https://mcachicago.org/Learn/Schools/SPACE/> (last visited June 23, 2021)

*Out-of-School Time Programs*, Museum of Science and Industry, <https://www.msichicago.org/education/out-of-school-time/> (last visited July 15, 2021)

*Museum in the Classroom*, National Museum of Mexican Art, <http://nationalmuseumofmexicanart.org/content/museum-classroom> (last visited June 23, 2021)

*Programs*, National Museum of Puerto Rican Arts & Culture, <https://nmprac.org/programs/> (last visited June 23, 2021)

## **Internships**

*Internships*, Adler Planetarium, <https://www.adlerplanetarium.org/learn/teens/teen-opportunities/> (last visited June 24, 2021)

*Internship Opportunities*, Chicago Academy of Sciences/Peggy Notebaert Nature Museum, <https://naturemuseum.org/about/jobs-internships/internship-opportunities/> (last visited June 24, 2021)

*Internships*, Chicago History Museum, <https://www.chicagohistory.org/internships/> (last visited June 24, 2021)

*Internships*, Field Museum of Natural History, <https://www.sheddaquarium.org/about-shedd/careers/internships> (last visited June 24, 2021)

*Internships*, Illinois Holocaust Museum & Education Center, <https://www.ilholocaustmuseum.org/get-involved/internships/> (last visited June 24)

*Internships*, Shedd Aquarium, <https://www.sheddaquarium.org/about-shedd/careers/internships> (last visited June 24, 2021)

*About Internships*, MCA Chicago, <https://mcachicago.org/About/Internships/> (last visited June 24, 2021)

*Farrell Fellows Summer Internship*, Museum of Science and Industry, <https://www.msichicago.org/education/out-of-school-time/summer-interns/> (last visited June 24, 2021)

*Volunteer*, National Museum of Mexican Art, <https://nationalmuseumofmexicanart.org/content/volunteer> (last visited June 24, 2021)

## **Educator Resources**

*Educator Hub*, Adler Planetarium, <https://www.adlerplanetarium.org/learn/educators/> (last visited June 27, 2021)

*Educator Resources*, Art Institute of Chicago, <https://www.artic.edu/learn-with-us/educators/tools-for-my-classroom/resource-finder> (last visited June 24, 2021)

*Teacher Professional Development Programming*, Chicago Academy of Sciences/Peggy Notebaert Nature Museum, <https://naturemuseum.org/schools-teachers/teacher-resources/> (last visited June 27, 2021)

*Educators: Classroom Resources*, Chicago History Museum, <https://www.chicagohistory.org/educators/?cat=classroomresources> (last visited June 24, 2021)

*Teacher Professional Development*, Field Museum of Natural History, <https://www.fieldmuseum.org/educators/teacher-professional-development> (last visited June 24, 2021)

*Resources for Students & Educators*, Illinois Holocaust Museum & Education Center, <https://www.ilholocaustmuseum.org/students-educators/> (last visited June 24, 2021)

*Professional Development*, Shedd Aquarium, <https://www.sheddaquarium.org/programs-and-events/shedd-science-educator-conference> (last visited June 24, 2021)

*Resources for Educators*, Lincoln Park Zoo, <https://www.lpzoo.org/resources/resources-for-educators> (last visited June 24, 2021)

*Teacher Institute*, MCA Chicago, <https://mcachicago.org/Learn/Teachers/Teacher-Institute/> (last visited June 24, 2021)

*Educator Resources*, National Museum of Mexican Art, <https://nationalmuseumofmexicanart.org/content/educator-resources> (last visited June 24, 2021)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Protect Our Parks, Inc., <i>et. al.</i>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:21-cv-02006
	)	
Pete Buttigieg, Secretary of the U.S.	)	
Department of Transportation, <i>et. al.</i>	)	Judge John Robert Blakey
	)	
Defendants.	)	

**[PROPOSED] ORDER**

The Court, having considered the Motion Of Chicagoland Museums For Leave To File A Brief As *Amici Curiae* In Support Of Defendants’ Opposition to Plaintiffs’ Motion for A Preliminary Injunction, and with cause appearing, GRANTS the Motion.

Accordingly, it is hereby ORDERED that the brief of *amici curiae* Chicagoland Museums attached to their Motion is filed in this case.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
HON. JOHN ROBERT BLAKEY