



Office of the City Clerk



O2013-2555

Office of the City Clerk

City Council Document Tracking Sheet

Meeting Date: 4/10/2013

Sponsor(s): Emanuel, Rahm (Mayor)

Type: Ordinance

Title: Interim Stadium Agreement with Illinois Sports Facilities Authority for use of Parking Lots at 333 W 35th St by Department of Police

Committee(s) Assignment: Committee on Housing and Real Estate

HSG.



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

April 10, 2013

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

Ladies and Gentlemen:

At the request of the Commissioner of Fleet and Facility Management, I transmit herewith an ordinance authorizing the execution of a lease agreement.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

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

SECTION 1: On behalf of the City of Chicago, the Commissioner of the Department of Fleet and Facility Management is authorized to execute an Interim Stadium Agreement with Illinois Sports Facilities Authority for use of Parking Lots located at 333 West 35th Street by the Department of Police; such Interim Stadium Agreement to be approved by the Superintendent of the Department of Police and to be approved as to form and legality by the Corporation Counsel in substantially the following form:

INTERIM STADIUM RENTAL AGREEMENT

THIS RENTAL AGREEMENT (this "Agreement") is entered into this _____ day of _____, 2013, by and between the Illinois Sports Facilities Authority ("ISFA" or the "Authority"), and the City of Chicago, an Illinois Municipal Corporation and Home Rule unit of government (hereinafter referred to as "Occupant").

RECITALS

A. WHEREAS, ISFA is the owner of the real estate and facilities located at 333 West 35th Street, Chicago, Illinois, commonly known as the U.S. Cellular Field, and parking facilities and certain access ways adjacent thereto (collectively, the "Park").

B. WHEREAS, Occupant requests permission to use Parking Lot C at the U.S. Cellular Field, Chicago, Illinois ("Parking Lot") to conduct a vehicle training program for the Chicago Department of Police ("Police"), and to use Parking Lot G for other Police special Occupant Uses, and for use for City of Chicago general parking purposes (collectively, "Occupant Uses"). Parking Lot C and Parking Lot G together shall be referred herein from time to time as "Parking Lots." This Agreement shall be entered into effective as of date of execution ("Commencement Date") and shall end on the 31st day of March, 2014 unless sooner terminated as set forth in this Agreement. Provided, however that occupant shall not use the Lots on the dates as set forth in Exhibit A. In addition, the Occupant shall not use the Parking Lots on those dates when playoff games have been scheduled, games have been re-scheduled, or concerts are to occur, or for any other event as determined at the sole discretion of the ISFA.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereby agree as follows:

SECTION 1. USE OF THE PARK

1.1 Premises. Subject to the terms, conditions and restrictions set forth in this Agreement, ISFA desires to grant such permission to the Occupant to use only the Parking Lots.

1.2 Duration of Occupant Uses. Occupant agrees that its use of the Parking Lots will be limited to the Occupant Uses during the hours of 7:00 a.m. to 4:30 p.m. Monday through Friday. Notwithstanding the foregoing, the Occupant shall not have use of the Parking Lots on those dates as set forth in Exhibit A.

1.3 Rescheduled Date. Not Applicable.

1.4 Disruption of Use. If ISFA reasonably determines, for any reason, that the Parking Lots, or any part thereof, is unfit for the use contemplated herein, ISFA hereto

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may, at its discretion cancel this Agreement with ten (10) days prior written notice, and this Agreement thereafter shall be terminated at no cost or expense to ISFA.

1.5 **As Is.** ISFA makes no representations of any kind relating to the condition of the Parking Lots or of the improvements, fixtures or equipment thereon or the areas and facilities adjacent thereto, and Occupant accepts same on an "as is" basis. Except as otherwise provided by law, ISFA shall have no liability for any latent or patent defects therein.

SECTION 2. UNDERTAKINGS OF OCCUPANT

2.1 **Occupant Responsible for Occupant Uses.** Occupant shall perform or obtain, at Occupant's expense, all goods and services necessary to conduct the Occupant Uses not otherwise agreed to be provided by ISFA pursuant to Section 3.

2.2 **No Damage.** Occupant shall not permit or cause any damage to or waste of the Park by any party or person in relation to the Occupant Uses.

2.3 **Clean-Up, Repairs.** Immediately following the Occupant Uses, Occupant shall perform, or cause to be performed, at Occupant's sole cost and expense, any and all cleanup, repair, and maintenance.

2.4 **Prohibited Conduct.** Occupant shall not at any time permit, and Occupant shall take all reasonable steps to prohibit the sale or use of any controlled or illegal substances, or the engaging in any indecent or immoral conduct on the Parking Lots on the day(s) of the Occupant Uses.

2.5 **Parking.** Occupant shall at its sole cost and expense, be responsible for making all necessary arrangements for participant parking with the operator of the Parking Lot for the use of Parking Lots. Occupant shall not charge for participant parking.

2.6 **Security.** Occupant shall provide its own security at its expense if deemed necessary by the Occupant.

SECTION 3. UNDERTAKING OF ISFA

3.1 **Obligations of ISFA.** Subject to the provisions of Section 4. ISFA shall be obligated as follows:

(a) On the day(s) of the Occupant Uses, ISFA shall make available to Occupant the personnel ordinarily employed by to perform such functions to Occupant to assist Occupant in carrying out the obligations of this Agreement.

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(b) To the extent that ISFA and Occupant agree prior to the Occupant Uses, ISFA shall, for the duration of the Occupant Uses, operate the basic systems necessary for conducting the Occupant Uses.

3.2 **Parking Income.** Not Applicable.

3.3 **Reservation of Rights by ISFA.** ISFA reserves for itself the right to continue to use and occupy portions of the Parking Lots not covered by this Agreement. ISFA reserves the right to cancel training with five (5) days prior written notice. Occupant may terminate this Agreement with thirty (30) days prior written notice.

SECTION 4. RENTAL PAYMENTS, COSTS AND EXPENSES

4.1 **Rental Payments.** In consideration of the rights granted to Occupant herein, and the public nature and purpose, Occupant shall pay, or cause to be paid, to ISFA the amount of **\$ 0.00.**

4.2 **Responsibility for Costs.** Occupant shall also bear the expense of all costs direct or indirect, necessary or incidental to conducting the Occupant Uses and the performance of all of Occupant's obligations hereunder. Occupant agrees that it has discussed with the ISFA the terms of this Section 4.2 in sufficient detail prior to the execution of this Agreement.

4.3 **Non - Payment.** If Occupant shall fail to pay, or otherwise satisfy any obligations which Occupant is obligated to pay or satisfy herein, ISFA may at their option and in addition to any remedies available to them pursuant to the terms hereof or at law or in equity, pay or satisfy, any such obligation. All sums paid by ISFA in this regard do not in any way relieve Occupant of its obligations described herein and shall be immediately reimbursed by Occupant.

SECTION 5. INSURANCE

5.1 **Insurance.** Subject to Section 5.3, Occupant shall provide the letter of self insurance set forth in Exhibit B and comply with the provisions therein.

5.2 **Indemnification.** Occupant shall indemnify and hold harmless the parties as set forth in Exhibit C and comply with the provisions set forth therein.

5.3 **Self-Insurance.** ISFA agrees and acknowledges Occupant shall self-insure for the insurance requirements specified in Exhibit C.

SECTION 6. REPRESENTATIONS AND WARRANTIES

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6.1 **ISFA.** ISFA represents and warrants that it has full right, power and authority to enter into this Agreement and to perform its obligations hereunder, and this Agreement is valid and binding upon and enforceable against ISFA in accordance with its terms.

6.2 **Occupant.** Occupant hereby represents and warrants that it has full right, power and authority to enter into this Agreement and to perform its obligations hereunder, and this Agreement is valid and binding upon and enforceable against it in accordance with its terms.

SECTION 7. MISCELLANEOUS PROVISIONS

7.1 **Entire Agreement.** The Agreement, together with the dates of prohibited use attached hereto as Exhibit A, the Letter of Self - Insurance, attached hereto as Exhibit B, and the Insurance and Indemnification Letter Agreement, attached hereto as Exhibit C constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements with respect hereof. This Agreement may not be changed or modified except by a written instrument signed by all of the parties hereto.

7.2 **Binding Effect.** All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto.

7.3 **Severability.** If any provision hereof is held invalid or unenforceable by any court of competent jurisdiction, such provision shall be deemed severed from this Agreement to the extent of such invalidity or unenforceability and the remainder hereof will not be affected thereby, each of the provisions hereof being severable in any such instance.

7.4 **Relationship of the Parties.** The parties to this Agreement are and at all times shall be considered as independent contractors and in no way agents of or employees, partners or joint venturers with each other. Except as provided herein, neither party may bind another party to any obligation.

7.5 **Governing Law.** This Agreement shall be governed by and be construed in accordance with the laws of the State of Illinois.

7.6 **Section Headings.** Section headings have been included merely for convenience of reference and are not to be considered part of, or to be used in interpreting, this Agreement.

7.7 **Occupant Uses Images.** Occupant is entitled to maintain all participant and spectator images of any of the Occupant Uses but shall not be permitted to utilize any images involving Major League Baseball or U.S. Cellular Field.

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7.8 **Snow Removal.** Occupant shall provide and pay for snow removal of the Parking Lot when necessary for Occupant's use as determined by the Occupant.

7.9 **Other Uses.** Police will have authority to use the Parking Lots to park vehicles for other police programs and other ISFA approved special Occupant Uses other than the specified in this Agreement. Occupant will be required to receive written approval from ISFA prior to engaging in such other special occupant uses. ISFA shall not unreasonably withhold such approval.

7.10 **Amendments.** From time to time, the parties hereto may amend this Agreement with respect to any provisions reasonably related to Occupant's use of the Premises and/or ISFA's administration of said Agreement. Provided, however, that such Amendment(s) shall not serve to extend the term of the Agreement 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 ISFA and Occupant. Such Amendment(s) shall only take effect upon execution by both parties. Upon execution, such Amendment(s) shall become a part of this Agreement and all other provisions of this Agreement shall otherwise remain in full force and effect.

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IN WITNESS WHEREOF, parties hereunder have executed this Agreement on the date first above written.

ILLINOIS SPORTS FACILITIES AUTHORITY:

By: _____
Kelly Krapf
Its: _____
CEO/Executive Director

OCCUPANT:

CITY OF CHICAGO,
an Illinois Municipal Corporation and Home Rule Unit of Government

By: THE DEPARTMENT OF FLEET AND FACILITY MANAGEMENT

By: _____
Commissioner

APPROVED:

By: THE DEPARTMENT OF POLICE

By: _____
Superintendent of Police

APPROVED AS TO FORM AND LEGALITY:

By: DEPARTMENT OF LAW

By: _____
Deputy Corporation Counsel
Real Estate Division

**EXHIBIT A
PROHIBITED USE DATES**

APRIL 2013

April 1st
April 3rd through April 7th
April 14th through April 16th
April 19th through April 28th

MAY 2013

May 3rd through May 4th
May 10th through May 12th
May 20th through May 22nd
May 24th through May 28th

JUNE 2013

June 6th through June 12th
June 25th through June 26th
June 28th through June 30th

JULY 2013

July 2nd through July 4th
July 16th
July 19th through July 28th

AUGUST 2013

August 5th through August 7th
August 9th through August 14th
August 23rd through August 28th

SEPTEMBER 2013

September 9th through September 18th
September 26th through September 29th

EXHIBIT B

Letter of Self Insurance

[To come]

EXHIBIT C

Insurance and Indemnification Letter Agreement

_____, 2013

City of Chicago
Department of Fleet and Facility Management
30 North LaSalle Street
Suite 300
Chicago, Illinois 60602
Attn: Commissioner David J. Reynolds

Re: Use of U.S. Cellular Field

Dear Commissioner Reynolds:

This letter is to confirm our understanding regarding indemnification responsibilities of the City of Chicago (“Occupant”) regarding the use of U.S. Cellular Field Parking Lot C and G (the “Parking Lots”) commencing on _____, 2013. You acknowledge that this letter is being entered into by you as an additional inducement to the Indemnified Parties to allow you to utilize such portions of U.S. Cellular Field, and that each of the Indemnified Parties is a third party beneficiary of this letter.

The Occupant acknowledges that it has surveyed and examined the Parking Lot and have deemed them to be safe and without danger to the participants.

The Occupant will defend, indemnify and hold harmless Illinois Sports Facilities Authority, the State of Illinois, Chicago White Sox, Ltd., Chisox Corp., Chicago White Sox Charities, Inc., At Your Service, LLC, At Your Service Management Corporation, Illinois Sportservice, Inc., CWS Maintenance Company, Roclab Athletic Instruction LLC, Jerry Reinsdorf, Jerry M. Reinsdorf Trusts, Levy Premium Food Service Limited Partnership, GRG – U.S. Cellular Field Management Company LLC, and their respective directors, owners, partners, members, employees and agents; and any subsidiaries or affiliates, or thereof, (hereafter referred to as the “Indemnified Parties”) or any under their control or supervision of any of the foregoing, against liability for damages, costs, attorney fees and expenses caused by the Occupant or its invitees on account of injury to, or death of, any person, or loss or damage to any property of the “Indemnified Parties” caused by the Occupant or its invitees during the Occupant’s use of the Parking Lot during the term of the Agreement.

The Occupant shall defend all such claims and causes of action against the Indemnified Parties at its expense, but the Indemnified Parties shall have the right to participate in litigation, in which event the Indemnified Parties shall be responsible for their legal expenses caused by participation in such litigation.

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The Occupant also hereby releases, discharges, and covenants not to sue the Indemnified Parties from, and with respect to, any and all claims, demands, causes of action for losses other than allegations of willful and/or wanton misconduct or gross negligence or criminal behavior that hereinafter may accrue against them and that is caused by the Occupant's use of the Parking Lot as described herein.

The Occupant shall carry and obtain insurance as follows:

Comprehensive General Liability insurance, with limits of liability of not less than \$1,000,000, per occurrence and in the aggregate and fire, legal liability in the amount of \$100,000 per occurrence, combined for bodily injury including death and property damage. Such blanket contractual liability shall cover the hold harmless/indemnification provisions of the agreement.

Automobile Liability coverage for bodily injury and property damage with a combined single limit per accident of \$1,000,000.

Worker's compensation insurance in compliance with the Worker's Compensation Act of the State of Illinois.

Employer's Liability insurance on all employees, for injuries caused by accidents or disease, for limits of not less than \$1,000,000 for each employee for accidents and disease and a policy limit for disease.

Umbrella Liability coverage with limits of liability of not less than \$5,000,000, per occurrence and in the aggregate combined for bodily injury including death and property damage that specifically identifies each of the policies described above on the schedule of underlying coverage, and shall provide coverage at least as broad as each, and every one of the underlying policies.

ISFA acknowledges and agrees that Occupant is self-insured for the insurance requirements specified herein and in the Agreement.

Sincerely,

ILLINOIS SPORTS FACILITIES AUTHORITY

Kelly Krapf
CEO/Executive Director

ACCEPTED and AGREED to this

_____ Day of _____, 2013

**333 West 35th Street
Department of Police
Lease No. 12063**

SECTION 2: This Ordinance shall be effective from and after the date of its passage and approval.