



# Office of the City Clerk



SO2012-5634

Office of the City Clerk

## City Council Document Tracking Sheet

<b>Meeting Date:</b>	9/12/2012
<b>Sponsor(s):</b>	Tunney, Thomas (44)
<b>Type:</b>	Ordinance
<b>Title:</b>	Revocable Use Agreement with Legacy Project, The
<b>Committee(s) Assignment:</b>	Committee on Transportation and Public Way

## SUBSTITUTE ORDINANCE

**WHEREAS**, the City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the City owns, for the benefit of the public, the public ways within the City of Chicago, including but not limited to the public ways falling within the 44<sup>th</sup> Ward's Lakeview area located between west Grace Street to the North, north Broadway Avenue to the East, west Barry Avenue to the South, and north Clark Street to West, all commonly known as the Lakeview community ("Lakeview"). Lakeview is recognized as the heart of Chicago's Gay, Lesbian, Bisexual and Transgender ("LGBT") community; and

**WHEREAS**, in or about 1998, the Grantor, by and through its Department of Transportation, improved the public ways along Halsted Street in Lakeview through Grantor's Streetscaping program, a program which improved the functionality of the 44<sup>th</sup> Ward's infrastructure along Halsted Street; and

**WHEREAS**, the Halsted Street Streetscaping improvements included the Grantor's installation of twenty (20) rainbow pylons ("Pylons") located at various points along the Lakeview Halsted Street corridor, as such locations are more fully described on Exhibit A attached hereto, now owned by the Grantor, situated within the sidewalk public way along Halsted Street in Lakeview; and

**WHEREAS**, Lakeview falls within Special Service Area Number 18, as authorized by the City Council of the City of Chicago ("City Council") on October 28, 1997, and subject to an Establishment Ordinance ("Establishment Ordinance"), which allows for certain special services such as public way maintenance, public way aesthetics, and beautification of Lakeview, to be managed and operated by a service provider. The Northalsted Area Merchants Association, doing business as Northalsted Business Alliance ("NBA") is the current service provider for the Special Service Area Number 18 falling within Lakeview; and

**WHEREAS**, The Legacy Project, an Illinois 501(c)(3) not-for-profit corporation ("Legacy"), has submitted a proposal to the Department of Transportation (the "Department") for the enhancement of Lakeview by commemorating the contributions of LGBT individuals and groups in world history and culture through the installation of an outdoor walking type of a museum consisting of cast-bronze commemorative plaques, lighting, hardware, and a sponsor plate to be located immediately below the plaque which may identify by name, in a consistent script and size, the sponsor (entity or person) providing funding for the plaque but may not include advertising, corporate symbols or stylized content (the "Plaques") honoring an individual LGBT person or group with one or two Plaques placed on each of the Pylons; and

**WHEREAS**, the City, in commemoration of the LGBT community and raising awareness about the contributions of various LGBT persons or groups, publicly honors the LGBT community with the Plaques located in the City Pylons, and in consideration of Legacy's agreement to install, construct, improve, repair, replace, remove, operate and maintain the Plaques within the Pylons in accordance with the terms and conditions of a revocable, non-transferable exclusive use agreement substantially in the form attached hereto as **Exhibit A** and made a part hereof (the "Revocable Use Agreement"), is willing to grant to Legacy a revocable, non-transferable exclusive use in and to the Pylons pursuant to the Revocable Use Agreement ; and

**WHEREAS**, the Commission on Human Relations, or other designated City department will assess, including but not limited to the appearance and content assessment of each proposed candidate for inclusion in the Legacy Walk, as set forth in the Revocable Use Agreement; now therefore,

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

**SECTION 1.** The foregoing recitals are hereby adopted as the findings of the City Council.

**SECTION 2.** The Commissioner of the Department (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a revocable, non-transferable exclusive use agreement between Legacy and the City substantially in the form attached hereto as **Exhibit A**, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Revocable Use Agreement, with any such amendments, changes, deletions and insertions as shall be authorized by the persons executing the Revocable Use Agreement, with the approval of the City's Corporation Counsel.

**SECTION 3.** The Commission on Human Relations, or any other designee City Department is authorized to assess and make a determination as to the approval or denial of the content, appearance, and proposed candidates for inclusion in each of the Plaques.

**SECTION 4.** If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

**SECTION 5.** All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 6.** This ordinance shall be in full force and effect immediately upon its passage and approval.

Attachments:

Exhibit A - Revocable, Non-Transferable Exclusive Use Agreement

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Honorable Thomas M. Tunney  
Alderman 44<sup>th</sup> Ward

**EXHIBIT A**

**REVOCABLE, NON-TRANSFERABLE EXCLUSIVE USE AGREEMENT  
(attached)**

**REVOCABLE, NON-TRANSFERABLE  
EXCLUSIVE USE AGREEMENT  
(The Legacy Walk)**

This **REVOCABLE, NON-TRANSFERABLE EXCLUSIVE USE AGREEMENT** ("Agreement") is made on or as of the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and among the **CITY OF CHICAGO**, an Illinois municipal corporation, by and through its Department of Transportation ("CDOT") (the "Grantor"), and **THE LEGACY PROJECT**, an Illinois 501(c)(3) not-for-profit corporation, with its principal offices located at 3018 North Clybourn Avenue, Chicago, Illinois 60618 ("Grantee").

**RECITALS**

**WHEREAS**, the Grantor owns, for the benefit of the public, the public ways within the City of Chicago, including but not limited to the public ways falling within the 44<sup>th</sup> Ward's Lakeview area located between west Grace Street to the North, north Broadway Avenue to the East, west Barry Avenue to the South, and north Clark Street to West, all commonly known as the Lakeview community ("Lakeview"). Lakeview is recognized as the heart of Chicago's Gay, Lesbian, Bisexual and Transgender ("LGBT") community; and

**WHEREAS**, in or about 1998, the Grantor, by and through its Department of Transportation, improved the public ways along Halsted Street in Lakeview through Grantor's Streetscaping program, a program which improved the functionality of the 44<sup>th</sup> Ward's infrastructure along Halsted Street; and

**WHEREAS**, the Halsted Street Streetscaping improvements included the Grantor's installation of twenty (20) rainbow pylons ("Pylons") located at various points along the Lakeview Halsted Street corridor, as such locations are more fully described on **Exhibit A** attached hereto, now owned by the Grantor, situated within the sidewalk public way along Halsted Street in Lakeview; and

**WHEREAS**, Lakeview falls within Special Service Area Number 18, as authorized by the City Council of the City of Chicago ("City Council") on October 28, 1997, and subject to an Establishment Ordinance ("Establishment Ordinance"), which allows for certain special services such as public way maintenance, public way aesthetics, and beautification of Lakeview, to be managed and operated by a service provider. The Northalsted Area Merchants Association, doing business as Northalsted Business Alliance ("NBA") is the current service provider for the Special Service Area Number 18 falling within Lakeview; and

**WHEREAS**, Grantee is interested in enhancing Lakeview by commemorating the contributions of LGBT individuals and groups in world history and culture through the installation of an outdoor walking type of a museum ("The Legacy Walk") consisting of cast-bronze commemorative plaques, lighting, hardware, and a sponsor ("Sponsor") plate to be located immediately below the plaque which may identify by name, in a consistent script and size, the sponsor (entity or person) providing funding for the plaque but may not include advertising, corporate symbols or stylized content (together, the "Plaques") honoring an individual LGBT person, group, or historic milestone with one or two Plaques placed on each of the Pylons, as more fully described in the installation plans as shall be approved by CDOT ("Plans") attached hereto as **Exhibit B**; and

**WHEREAS**, the installation of the first Plaques will be undertaken in two (2) phases, the first phase starting in 2012, and the second phase in 2013. In 2014 it is anticipated that the Grantee may rotate the Plaques off of respective Pylons annually and relocate the Plaques into a Grantee controlled museum or gallery; and

**WHEREAS**, except as otherwise set forth in this Agreement, the Plaques shall be owned, managed, maintained, and insured by Grantee; and

**WHEREAS**, Grantee shall enter into a separate agreement, subject to the Grantor's sole review and approval, with NBA for certain maintenance and operating services of the Plaques. The City of Chicago shall be named as an additional insured on any/all of the Grantee's and NBA's (or its successors) insurance policies covering the Plaques placed within the Pylons; and

**WHEREAS**, in order to install, construct, improve, repair, replace, remove, operate and maintain the Plaques within the Pylons in accordance with the Plans (together, the "Grantee's Plaque and Pylon Purposes"), the Grantee requires an exclusive use agreement from Grantor; and

**WHEREAS**, Grantee shall represent and warrant that all individuals or groups to be honored as potential candidates (the "Legacy Designated Candidates") for inclusion on the Legacy Walk shall be selected by a designated multi-cultural, demographically balanced group of LGBT community activists and noted historians; and

**WHEREAS**, Grantee shall agree that all such potential Legacy Designated Candidates for inclusion will be pre-submitted to the City of Chicago, Commission on Human Relations, or other Grantor designated City department (the "City Department"), for an initial assessment ("Initial Assessment"), including but not limited to a review and approval process in the City Department's sole discretion of each proposed Plaque, of the appearance and content of each such Plaque, so as to be deemed acceptable as a candidate for inclusion in the Legacy Walk, which shall physically be housed on Grantor's public way in the Pylons; and

**WHEREAS**, Grantee shall represent, warrant, and provide to Grantor, prior to, and as a pre-condition of the Grantor's review and approval, each Legacy Designated Candidate's biographical text fully vetted academically by an independent scholar attesting to the historical accuracy of said submissions; and

**WHEREAS**, Grantee shall represent, warrant, and provide, as a pre-condition to the Grantor's approval of any installation of each proposed Plaque and commencement of any of the Grantee's Plaque and Pylon Purposes during the Term of this Agreement, that Grantee has acquired the authority over and the right to use, free and clear of any claims or rights of others, any copyrighted materials, know-how, trade secrets, trademarks, trade names, design, and confidential information (together, the "Intellectual Property Rights") to the content and appearance of each of the Plaques created by The Legacy Project and submitted to the City as a candidate for Legacy Walk; and

**WHEREAS**, upon the Grantor's approved Initial Assessment of any of the proposed Plaques, Grantee shall use its best efforts to secure a Sponsor for each Plaque approved through the Initial Assessment. Grantee shall notify Grantor, no later than five (5) months following the date of each respective Plaque's Initial Assessment, whether Grantee has been able to secure a Sponsor for each Initial Assessment approved Plaques. Grantee shall provide Grantor with all evidence of The Legacy Project's Intellectual Property Rights to each of the

respective Plaques within twenty-one (21) days of each such Plaque's Initial Assessment and approval. The Grantee shall not be allowed to install any Plaque, and/or be issued any permits without (1) providing the Grantor with the Intellectual Property Rights evidence; and (2) Grantor reviewing such evidence and giving final written approval for the installation of each respective Plaque, which such review and approval shall not be unreasonably withheld or delayed. In the event Grantee is unable to secure a Sponsor for any one or more of the approved Plaques and Grantee elects to not pay, at its own cost and expense, any and all costs associated with securing the necessary Intellectual Property Rights for the respective Plaques, Grantee shall notify Grantor no later than five (5) months following the date of the Initial Assessment of the proposed Plaques that those approved Plaques without a Sponsor will not be part of the Legacy Walk; and

**WHEREAS**, CDOT must review and approve, in its sole discretion any and all Plans, materials, removals, replacements, and repairs of any and all of Plaques. No permit shall be allowed to issue and the Grantee shall not be authorized to install any of the Plaques without such prior respective City Department and CDOT written approvals, which shall not be unreasonably withheld or delayed; and

**WHEREAS**, Grantee shall assume all liability for any and all content, appearance, and Intellectual Property Rights of each Plaque and shall indemnify and hold the City harmless for any and all Claims (as defined herein) arising out of Grantee's Intellectual Property Rights, Grantee's Plaque and Pylon Purposes, and any and all other Claims that may arise out of this Agreement; and

**WHEREAS**, prior to commencing any of Grantee's Plaque and Pylon Purposes, Grantee shall obtain all required permits from the Grantor, at Grantee's sole cost and expense, and shall provide the Grantor with such insurance and indemnification as reasonably required by the Grantor pursuant to the terms of this Agreement. The Grantor and NBA shall be named as an additional insureds on any/all insurance policies covering all of the Grantee's Plaque and Pylon Purposes; and

**WHEREAS**, Grantor has agreed to grant a revocable, non-transferable exclusive use of the Pylons to the Grantee upon the terms and conditions set forth herein, and for no other use or purpose.

**NOW, THEREFORE**, in consideration of the foregoing premises and the respective representations, warranties, agreements, covenants and conditions, mutual benefits and detriments herein contained, and other good and valuable consideration, the parties agree as follows:

1. **Incorporation of Recitals.** The above recitals are incorporated herein and made a part hereof as if fully set forth herein.
2. **Grant and Term.** Grantor hereby grants to the Grantee a revocable, non-transferable exclusive use in and to the Grantor's Pylons, for the purposes of permitting the Grantee to complete any of the Grantee's Plaque and Pylon Purposes, and for no other use or purpose, for a term ("Term") of ten (10) years commencing on the date of execution of this Agreement ("Commencement Date") and expiring on \_\_\_\_\_, 2022 ("Termination Date").



3. **Intellectual Property Rights.**

Grantee represents and warrants that it is the sole and exclusive owner of all right, title and interest (including, without limitation) in and to the Intellectual Property Rights of each Plaque.

4. **Performance.** Grantee shall enter into a separate agreement, subject to the Grantor's sole review and approval, with NBA for certain maintenance and operating services of the Plaques. NBA shall not be involved in any of the installation of any of the Plaques unless otherwise approved by the Grantor.

Any and all work and services for the Grantee's Plaque and Pylon Purposes shall be performed by the Grantee, NBA, or any of their respective agents, contractors, subcontractors, architects, and/or engineers (together, the "Contractors"), at the Grantee's sole cost and expense in a good and workmanlike manner and in accordance with all applicable federal, state and local laws, ordinances and regulations. If any mechanic's or materialmen's lien is asserted or recorded against the any of the Pylons, Plaques, public way, or any of the Grantor's property associated with the installation, maintenance, and operation of the Plaques, the Grantee shall or shall cause its prompt removal and, defend, indemnify and hold harmless the Grantor and its respective officials, officers, employees, agents, and attorneys from and against any and all damages, liabilities, and Claims (as defined herein) arising therefrom. The Grantee, NBA, and any of their Contractors shall take all reasonable safety precautions (such as installing barricades and warning signs, if necessary) to adequately secure the site during the performance of any work on the Plaques. The Grantee shall provide reasonable protection of the Grantors' Property from damage by users of the Improvements, and shall be maintained by the City, or any other governmental agency, in a good, safe and clean condition.

The Grantee shall, and shall require NBA, and Contractors to add Grantor as additional insured, on a primary, non-contributory basis on each policy of insurance that the Grantee, NBA, and Contractors are required to procure as a condition of this Agreement, and NBA's and Contractors contract with the Grantee for the performance of any work on the Pylons and the public way, and the Grantee shall, upon Grantor's request, promptly provide Grantor with proof of all such insurance coverages.

5. **Grantor Access and Authority to Remove.** Grantor reserves the right to access the Pylons and the Plaques for any purpose that shall not be inconsistent with the rights herein granted to the Grantee. Grantor reserves its right to remove and/or relocate any of the Pylons and shall provide Grantee with thirty (30) days prior notice to any such Pylon removal.

6. **Permits.** After City Department issues its written approval of each Plaque to be installed by Grantee pursuant to the approval provisions contained herein, Grantee shall and shall cause NBA, or Contractors to obtain all required permits, including but not limited to any sign permits, from the Grantor and/or other required governmental permits and approvals, at Grantee's sole cost and expense, for any/all of the Grantee's Plaque and Pylon Purposes, and shall provide the Grantor with such insurance and indemnification as reasonably required by the Grantor, and/or other required governmental agency. Upon written notice from Grantee that the required permit(s) has/have been issued, the Grantee shall, within twenty-one (21) days, implement, or cause to be implemented, at the Grantee's expense, all reasonable safety precautions to protect the Pylons and public way while Grantee is engaged in any of the Grantee's Plaque and Pylon Purposes, including, but not limited to, temporarily restricting or

eliminating access to adjoining portions of the public way, installing barricades and warning signs, if necessary.

7. **Good, Safe, Clean Condition/Alterations.** Grantee shall, and shall cause NBA and Contractors to, at all times, maintain the Plaques, the Pylons, and the public way at the location of each of the Pylons in a good, clean and safe condition. No alterations to the Pylons and the public way shall be performed without the Grantor's prior written consent.

8. **Breach.** In the event of a material breach of this Agreement by Grantee that is not cured within sixty (60) days after written notice to Grantee specifying such breach, the Grantor reserves its right to all of its remedies under law and equity, including but not limited to, specific performance, and attachment. Such remedies shall include, but not be limited to, the right of the Grantor to revoke and or terminate this Agreement, as set forth in Section 9 herein. Grantee shall reimburse the Grantor for any and all costs, expenses, including reasonable outside attorney's fees, and Claims, which Grantor incurs in connection with the enforcement of its rights under this Agreement.

9. **Termination/Revocation/Expiration.** Grantor may terminate this Agreement at any time by giving Grantee thirty (30) days prior written notice of its intention to terminate or revoke this Agreement. Upon any such revocation, termination, or expiration the Grantee shall, at its sole cost and expense, remove the Plaques within sixty (60) days of delivery of such prior written notice in this Section 9 and restore the Pylons to the same or better condition than that which existed prior to the commencement of any Grantee Plaque and Pylon Purposes. The Grantor may, in its sole discretion, but is not obligated to, remove, recycle, or dispose of any/all of the Plaques where the Grantee fails to remove the Plaques within the time allowed for such removal. Grantee shall indemnify and hold the Grantor harmless from any and all costs, expenses, and Claims (defined herein) associated with any such Grantor or Grantee removal, recycling, disposition of, or any other handling of the removed Plaques.

Grantee may not terminate this Agreement without the prior written consent of the Grantor which such consent shall be in the Grantor's sole discretion.

10. **Insurance.** Grantee shall procure, maintain, or cause to be procured and maintained, at Grantee's sole cost and expense (or the cost and expense of NBA or Contractors as applicable), during the entire term of this Agreement, the types and amounts of insurance set forth below with insurance companies authorized to do business in the State of Illinois, covering all of the Grantee's Plaque and Pylon Purposes under this Agreement, whether performed by or on behalf of Grantee.

(a) **Worker's Compensation and Employer's Liability Insurance.** Grantee, NBA, and Contractors shall procure and maintain Worker's Compensation Insurance, as prescribed by applicable law, covering all employees who are to provide a service under this Agreement, and Employer's Liability Insurance with limits of not less than \$100,000 each accident or illness.

(b) **Commercial General Liability Insurance (Primary and Umbrella).** Grantee NBA, and Contractors shall procure and maintain Commercial General Liability Insurance, or equivalent, with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability; provided, however, subcontractors performing work in connection with this Agreement may maintain limits of \$1,000,000 if the subcontract amount is less than \$100,000. Coverage shall include, at a minimum, all

premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Grantor shall be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the Grantee's Plaque and Pylon Purposes in Lakeview.

(c) Automobile Liability Insurance (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with the Grantee's Plaque and Pylon Purposes, Grantee and its contractors and subcontractors shall procure and maintain Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage; provided, however, subcontractors performing work in connection with this Agreement may maintain limits of \$1,000,000 if the subcontract amount is less than \$100,000.

(d) All Risk Personal Property. Grantee, NBA, and Contractors shall be responsible for all loss or damage to personal property (including without limitation, material, equipment, tools and supplies), owned, rented or used by Grantee, NBA, and Contractor.

(e) The City of Chicago shall be named as an additional insured with respect to such coverage on a primary, non-contributory basis.

Grantee shall deliver, or cause NBA, and Contractors to deliver, to the Grantor certificates of insurance required hereunder. The receipt of any certificate does not constitute agreement by the Grantor that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements set forth herein. The failure of the Grantor to obtain certificates or other evidence of insurance from Grantee (or its contractors or subcontractors as applicable) shall not be deemed to be a waiver by the Grantor of the insurance requirements set forth herein. Grantee, NBA, and Contractors shall advise all insurers of the insurance requirements set forth herein. Non-conforming insurance, or failure to submit a Certificate of Insurance evidencing such coverages, shall not relieve Grantee of the obligation to provide insurance as specified herein. The Grantor may terminate this Agreement for non-fulfillment of the insurance conditions, and retains the right to stop work until proper evidence of insurance is provided.

Grantee, NBA, or Contractors as applicable shall be responsible for any and all deductibles or self-insured retentions. Grantee agrees and shall cause NBA, and Contractors to agree that insurers shall waive their rights of subrogation against the Grantor, its employees, elected officials, agents, and representatives. Grantee expressly understands and agrees that any coverages and limits furnished by it, NBA, or Contractors as applicable shall in no way limit Grantee's liabilities and responsibilities specified in this Agreement or by law. Grantee expressly understands and agrees that its insurance (or that of NBA, or Contractors as applicable) is primary and any insurance or self-insurance programs maintained by the Grantor shall not contribute with insurance provided by Grantee (or its contractors or subcontractors as applicable) under this Agreement. The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

Grantee shall require NBA, and Contractors to maintain the above-described coverage or Grantee may provide such coverage for NBA, and/or Contractors. If Grantee, NBA, or any Contractors wants additional coverage, such party shall be responsible for the acquisition and

cost of such additional protection. The Grantor shall have no responsibility to provide insurance or security for the Property, material, supplies, or equipment to be used by Grantee, NBA, or any Contractors in connection with the Grantee's Plaque and Pylon Purposes in Lakeview.

The City of Chicago, Department of Finance, Office of Risk Management, maintains the right to modify, delete, alter or change these requirements.

11. **Security.** Grantee, NBA, and Contractors are responsible for properly securing the Plaques and all activities that shall take place at the Plaques during the term of this Agreement.

12. **Indemnification.** During any of the Grantee's Plaque and Pylon Purposes, and/or the use of the Pylons and the public way, and/or Grantor's removal, recycling, disposition of, or any other handling of the removed Plaques from the Pylons as set forth in Section 9 herein, the Grantee shall, or shall cause, NBA, and Contractors to, defend (through an attorney reasonably acceptable to the Grantor) and hold the Grantor, and its officers, agents, agencies, departments and employees, harmless from and against any and all actions, claims, suits, losses, damages, liens, liabilities, fines, costs and expenses (including, without limitation, reasonable outside attorney's fees and court costs) ("Claims"), including but not limited to, any and all third party Claims, incurred in connection with, arising out of or incident to (a) any act or omission of Grantee, NBA, Contractors, or their respective agents, employees, contractors, subcontractors or consultants, invitees, licensees, and any and all third parties, or (b) any of the Grantee's Plaque and Pylon Purposes by or on behalf of Grantee, NBA, Contractors, their respective agents, employees, contractors, subcontractors or consultants, invitees, licensees, and any and all third parties, in connection with this Agreement, except to the extent that any such Claims arise from the negligence or intentional conduct of the Grantor, its officials, officers, employees, agents, and attorneys. The foregoing indemnity shall survive any termination of this Agreement.

13. **Notice.**

If to the Grantor:

**All notices except requests for approval of the content and appearance of each Plaque:**

City of Chicago  
Department of Transportation  
30 North LaSalle Street  
11<sup>th</sup> Floor  
Chicago, Illinois 60602  
Attn: Commissioner

**Requests for the Commission on Human Relations to approve the content and appearance of each Plaque:**

City of Chicago  
Commission on Human Relations  
740 North Sedgwick Street, Suite 300  
Chicago, Illinois 60654  
Attn: Commissioner

with a copy to:

Corporation Counsel's Office  
121 North LaSalle Street  
Room 600  
Chicago, Illinois 60602  
Attn: Deputy Corporation Counsel  
Real Estate Division and Land Use Division

If to the Grantee:

The Legacy Project  
3018 North Clybourn Avenue  
Chicago, Illinois 60618  
Attn: Victor Salvo

with a copy to:

Leavens, Strand, Glover & Adler, LLC  
203 N. LaSalle  
Suite 2550  
Chicago, IL 60601  
ATTN: Jerry Glover, Esq.

Either party may change the address for notice by notice to the other party. Notice served under this Agreement may be by United States certified mail, return receipt requested, with postage prepaid. Notice may be delivered by hand or by any other receipted method or means prescribed by law. For purposes of this Agreement, notices shall be deemed to have been "given" or "delivered" on personal delivery thereof or forty-eight (48) hours after having been deposited in the United States mail as provided in this Agreement.

14. **Business Relationships.**

The Grantee acknowledges (a) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (b) that it has read such provision and understands that pursuant to such Section 2-156-030 (b) it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (c) notwithstanding anything to the contrary contained in this Agreement, that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Grantee hereby represents and warrants that no violation of Section 2-145-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

15. **Patriot Act Certification.**

The Grantee represents and warrants that neither the Grantee nor any Affiliate (as hereafter defined) thereof is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable Laws: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. As used in this Section 29, an "Affiliate" shall be deemed to be a person or entity related to the Grantee that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the Grantee, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

16. **Prohibition On Certain Contributions – Mayoral Executive Order NO. 2011-4.**

A. The Grantee agrees that the Grantee, any person or entity who directly or indirectly has an ownership or beneficial interest in the Grantee of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, the Grantee's contractors (i.e., any person or entity in direct contractual privity with the Grantee regarding the subject matter of this Agreement) ("Contractors"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (the Grantee and all the other preceding classes of persons and entities are together the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee (a) after execution of this Agreement by the Grantee, (b) while this Agreement or any Other Contract (as hereinafter defined) is executory, (c) during the term of this Agreement or any Other Contract, or (d) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated. This provision shall not apply to contributions made prior to May 16, 2011, the effective date of Executive Order 2011-4.

B. The Grantee represents and warrants that from the later of (a) May 16, 2011, or (b) the date the City approached the Grantee, or the date the Grantee approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

C. The Grantee agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

D. The Grantee agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

E. Notwithstanding anything to the contrary contained herein, the Grantee agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any

covenant or warranty under this Section 17 or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted, unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including, without limitation, termination for default) under this Agreement, and under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

F. If the Grantee intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the execution of this Agreement as authorized by City Council, the City may elect to decline execution of this Agreement.

G. For purposes of this provision:

(i) "Bundle" means to collect contributions from more than one source, which contributions are then delivered by one person to the Mayor or to his political fundraising committee.

(ii) "Other Contract" means any other agreement with the City to which the Grantee is a party that is (i) formed under the authority of Chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City Council.

(iii) "Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

(iv) Individuals are "domestic partners" if they satisfy the following criteria:

(a) they are each other's sole domestic partner, responsible for each other's common welfare; and

(b) neither party is married; and

(c) the partners are not related by blood closer than would bar marriage in the State of Illinois; and

(d) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and

(e) two of the following four conditions exist for the partners:

(1) The partners have been residing together for at least 12 months.

(2) The partners have common or joint ownership of a residence.

(3) The partners have at least two of the following arrangements:

(A) joint ownership of a motor vehicle;

(B) joint credit account;

(C) a joint checking account;

(D) a lease for a residence identifying both domestic partners as tenants.

(4) Each partner identifies the other partner as a primary beneficiary in a will.

(v) "Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

17. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute a single, integrated instrument.

18. **Cumulative Remedies.** The remedies of any party hereunder are cumulative and the exercise of any one or more of such remedies shall not be construed as a waiver of any other remedy herein conferred upon such party or hereafter existing at law or in equity, unless specifically so provided herein.

19. **Date for Performance.** If the final date of any time period set forth herein falls on a Saturday, Sunday or legal holiday under the laws of Illinois or the United States of America, then such time period shall be automatically extended to the next business day.

20. **Entire Agreement; Modification.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreements, negotiations and discussions. This Agreement may not be modified or amended in any manner without the prior written consent of the parties hereto. No term of this Agreement may be waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the party benefited by such term.

21. **Exhibits.** All exhibits referred to herein and attached hereto shall be deemed part of this Agreement.

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

23. **Headings.** The headings of the various sections and subsections of this Agreement have been inserted for convenience of reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

24. **Waiver.** Waiver by the City or the Grantee with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Grantee in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. Neither prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such party's rights or of any obligations of any other party hereto as to any future transactions.



25. **Severability.** If any term of this Agreement or any application thereof is held invalid or unenforceable, the remainder of this Agreement shall be construed as if such invalid part were never included herein and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

26. **Successors and Assigns.** Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall apply to and bind the successors and assigns of the parties.

27. **Authority.** The Parties represent and warrant to each other that they have the full right and lawful authority to enter into this Agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed by their duly authorized officers on the date first written above.

**THE LEGACY PROJECT,**  
an Illinois not-for-profit corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**CITY OF CHICAGO**  
an Illinois municipal corporation

By: \_\_\_\_\_  
Commissioner  
Department of Transportation

Approved as to form and legality:

By: \_\_\_\_\_  
Senior Corporation Counsel

This document was prepared by:  
Karen Bielarz  
Senior Counsel  
City of Chicago  
Department of Law  
121 N. LaSalle Street  
Chicago, Illinois 60602  
(312) 744-6910

## **EXHIBIT A**

### **Locations of the Pylons**

1. 3707 North Halsted, Chicago, Illinois
2. 3641 North Halsted, Chicago, Illinois
3. 3617 North Halsted, Chicago, Illinois
4. 3541 North Halsted, Chicago, Illinois
5. 3511 North Halsted, Chicago, Illinois
6. 3443 North Halsted, Chicago, Illinois
7. NBA INFO Kiosk
8. 3340 North Halsted, Chicago, Illinois
9. 3311 North Halsted, Chicago, Illinois
10. NBA INFO Kiosk
11. 3246 North Halsted, Chicago, Illinois
12. 3314 North Halsted, Chicago, Illinois
13. 3343 North Halsted, Chicago, Illinois
14. 3418 North Halsted, Chicago, Illinois
15. 3444 North Halsted, Chicago, Illinois
16. 3512 North Halsted, Chicago, Illinois
17. 3540 North Halsted, Chicago, Illinois
18. 3614 North Halsted, Chicago, Illinois
19. NBA INFO Kiosk
20. 3704 North Halsted, Chicago, Illinois

**EXHIBIT B**

**PLANS FOR THE  
INSTALLATION OF THE PLAQUES IN THE PYLONS**



# CITY COUNCIL

## CITY OF CHICAGO

### COUNCIL CHAMBER

CITY HALL—SECOND FLOOR  
121 NORTH LA SALLE STREET  
CHICAGO, ILLINOIS 60602  
TELEPHONE: 312-744-4096  
FAX: 312-744-8155

## COMMITTEE MEMBERSHIPS

TRANSPORTATION & PUBLIC WAY  
(CHAIRMAN)

BUDGET AND GOVERNMENT OPERATIONS

COMMITTEES, RULES AND ETHICS

EDUCATION AND CHILD DEVELOPMENT

FINANCE

PUBLIC SAFETY

WORKFORCE DEVELOPMENT AND AUDIT

## ANTHONY A. BEALE

ALDERMAN, 9TH WARD  
34 EAST 112TH PLACE  
CHICAGO, ILLINOIS 60628  
TELEPHONE: (773) 785-1100  
FAX: (773) 785-2790

E-MAIL: WARD09@CITYOFCHICAGO.ORG

September 26, 2012

To the President and Members of the City Council:

Your Committee on Transportation and Public Way begs leave to report and recommend that Your Honorable Body pass An ordinance authorizing the Legacy Project to install, construct, improve, repair, replace, remove, operate and maintain plaques within the pylons located at various points along the Lakeview Halsted Street corridor, in accordance with the terms and conditions of a revocable, non-transferable exclusive use agreement. This ordinance was referred to the Committee on September 12, 2012.

This recommendation was concurred unanimously by a viva voce vote of the members of the Committee with no dissenting vote.

(Ward 44)

Respectfully submitted,

Anthony Beale,  
Chairman

