



# Office of Chicago City Clerk



O2011-1022

Office of the City Clerk

## City Council Document Tracking Sheet

<b>Meeting Date:</b>	<b>2/9/2011</b>
<b>Status:</b>	Introduced
<b>Sponsor(s):</b>	<b>Mayor Daley</b>
<b>Type:</b>	Ordinance
<b>Title:</b>	Expenditure of Open Space Impact Funds for Bowmanville Garden
<b>Committee(s) Assignment:</b>	Committee on Parks and Recreation

PARKS



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RICHARD M. DALEY  
MAYOR

February 9, 2011

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

Ladies and Gentlemen:

At the request of the Commissioner of Housing and Economic Development, I transmit herewith an ordinance authorizing the expenditure of open space impact fee funds for the Bowmanville Garden.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard M. Daley".

Mayor

## ORDINANCE

**WHEREAS**, the City of Chicago (the "City"), is a home rule unit of government under Article VII, Section 6(a) of the Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the City is authorized under its home rule powers to regulate the use and development of land; and

**WHEREAS**, it is a reasonable condition of development approval to ensure that adequate open space and recreational facilities exist within the City; and

**WHEREAS**, on April 1, 1998, the City Council of the City (the "City Council") adopted the Open Space Impact Fee Ordinance codified at Chapter 18 of Title 16 (the "Open Space Ordinance") of the Municipal Code of Chicago (the "Code") to address the need for additional public space and recreational facilities for the benefit of the residents of newly created residential developments in the City; and

**WHEREAS**, the Open Space Ordinance authorizes, among other things, the collection of fees from residential developments that create new dwelling units without contributing a proportionate share of open space and recreational facilities for the benefit of their residents as part of the overall development (the "Fee-Paying Developments"); and

**WHEREAS**, pursuant to the Open Space Ordinance, the Department of Revenue ("DOR") has collected fees derived from the Fee-Paying Developments (the "Open Space Fees") and has deposited those fees in separate funds, each fund corresponding to the Community Area (as defined in the Open Space Ordinance), in which each of the Fee-Paying Developments is located and from which the Open Space Fees were collected; and

**WHEREAS**, the Department of Housing and Economic Development ("DHED") has determined that the Fee-Paying Developments built in the Community Area listed on Exhibit A attached hereto have deepened the already significant deficit of open space in the Community Area, which deficit was documented in the comprehensive plan entitled "The CitySpace Plan," adopted by the Chicago Plan Commission on September 11, 1997 and adopted by the City Council on May 20, 1998 pursuant to an ordinance published at pages 69309-69311 of the Journal of the Proceedings of the City Council (the "Journal") of the same date; and

**WHEREAS**, the City owns an approximately 0.11 acre property at 5384 North Bowmanville Avenue, Chicago, Illinois 60660 ("Property") and intends to construct thereon a park for use as a public garden including a path, trees, rock wall and fencing (the "Project"), and to create open spaces and recreational facilities in the Community Area listed on Exhibit A; and

**WHEREAS**, the City wishes to pay for a portion of the environmental remediation costs at the Property as part of the construction of the Project, in the amount described on Exhibit A, from the proceeds of the Open Space Fees collected by DOR from the Community Area; and

**WHEREAS**, the Open Space Ordinance requires that the Open Space Fees be used for open space acquisition and capital improvements, which provide a direct and material benefit to the new development from which the fees are collected; and

**WHEREAS**, the Open Space Ordinance requires that the Open Space Fees be expended within the same or a contiguous Community Area from which they were collected after a legislative finding by the City Council that the expenditure of the Open Space Fees will directly and materially benefit the developments from which the Open Space Fees were collected; and

**WHEREAS**, DHED has determined that the use of the Open Space Fees to fund the Project will provide a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected; and

**WHEREAS**, DHED has determined that Open Space Fees to be used for the purposes set forth herein have come from the specific fund set up by DOR for the corresponding Community Area in which a Fee-Paying Development is located and from which the Open Space Fees were collected; and

**WHEREAS**, DHED has recommended that the City Council approve the use of the Open Space Fees for the purposes set forth herein and on Exhibit A through this ordinance; and

**WHEREAS**, DHED has recommended that the City Council make a finding that the expenditure of the Open Space Fees as described herein will directly and materially benefit the Fee-Paying Developments from which the Open Space Fees were collected; now, therefore,

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

**SECTION 1.** The above recitals are expressly incorporated in and made part of this ordinance as though fully set forth herein.

**SECTION 2.** The City Council hereby finds that the expenditure of the Open Space Fees will directly and materially benefit the residents of those Fee-Paying Developments from which the Open Space Fees were collected and approves the use of the Open Space Fees for the purposes described herein.

**SECTION 3.** The Commissioner or Acting Commissioner of DHED (the "Commissioner") and a designee of the Commissioner are each hereby authorized, subject to the approval of the Corporation Counsel, to disburse Open Space Fees in an amount not exceeding the amount listed on Exhibit A from the corresponding fund.

**SECTION 4.** Open Space Fees in the amount on Exhibit A from the Lincoln Square Community Area Open Space Fees Fund are hereby appropriated for the purposes described herein.

**SECTION 5.** To the extent that any ordinance, resolution, rule, order or provision of the Code, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any other provisions of this ordinance.

**SECTION 6.** This ordinance shall be in full force and effect from and after the date of its passage.

**EXHIBIT A**

**DESCRIPTION OF PROJECT**

Bowmanville Garden Project

Address: 0.11 acre located at 5384 North Bowmanville Avenue, Chicago, Illinois 60660 (the "Property")

Permanent Index Number ("PIN"): 14-07-104-014

Community Area: Lincoln Square

Description of Project: Environmental remediation at the Property as part of the construction of a park and public garden for purposes of providing open space and recreational facilities to the residents of the Community Area.

Amount of Open Space Fees: \$100,000