



City of Chicago



O2015-4720

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 6/17/2015

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Intergovernmental agreement between Chicago City Treasurer and Public Building Commission regarding investment portfolio management

Committee(s) Assignment: Committee on Finance

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois; and

WHEREAS, the Public Building Commission of Chicago (the "Commission") is an Illinois municipal corporation; and

WHEREAS, the Commission has requested that the City, acting by and through its Office of the City Treasurer, provide certain services with respect to a portion of the Commission's investment portfolio, which will remain in the name of the Commission, and which services shall include assisting the Commission in executing trades of approved securities at the Commission's direction and transferring funds between investment accounts and the Commission as appropriate at the Commission's direction; now, therefore,

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

Section 1. The recitals of this ordinance are hereby incorporated into this text as if set out herein in full.

Section 2. The City Treasurer (the "Treasurer") or a designee thereof is hereby authorized to execute, subject to the review of the Corporation Counsel as to form and legality, an agreement with the Commission in substantially the form attached hereto as Exhibit 1, and such other documents as are deemed necessary, between the City and the Commission, which agreement and other necessary documents may contain such other terms as are deemed necessary or appropriate by the Treasurer. The Treasurer and the designees thereof are authorized to execute such additional documents, information, assurances and certifications and to take such additional actions as may be necessary or required pursuant to the aforementioned agreement as contemplated therein.

Section 3. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall be controlling. 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 of the other provisions of this ordinance.

Section 4. This ordinance shall take effect upon its passage and approval.

EXHIBIT 1

INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF CHICAGO OFFICE OF THE CITY TREASURER
AND THE CHICAGO COMMISSION
REGARDING INVESTMENT PORTFOLIO MANAGEMENT

This Intergovernmental Agreement (the "Agreement") is made and entered into this ____ day of _____, 2015 by and between the City of Chicago (the "City"), a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, acting by and through its Office of the City Treasurer (the "Treasurer's Office"), and the Public Building Commission of Chicago (the "Commission"), an Illinois municipal corporation.

RECITALS

WHEREAS, the Commission has requested that the Treasurer's Office provide certain services with respect to a portion of the Commission's investment portfolio, which will remain in the name of the Commission, and which services shall include assisting the Commission in executing trades of approved securities at the Commission's direction and transferring funds between investment accounts and the Commission as appropriate at the Commission's direction (such services shall be referred to herein as the "Services").

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

TERMS AND CONDITIONS

ARTICLE ONE: INCORPORATION OF RECITALS

The recitals set forth above are incorporated herein by reference and made a part hereof.

ARTICLE TWO: COMPLIANCE WITH ALL LAWS

The parties shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, as well as the parties' respective policies, programs and procedures, all as may be in effect from time to time, pertaining to or affecting the Services or the parties as related thereto.

ARTICLE THREE: THE SERVICES

1. General Scope of Services. The Treasurer's Office will provide the Services described below with the respect to certain of the Commission assets ("Assets") on behalf of the Commission. In carrying out the Services, the Treasurer's Office will have the following responsibilities:

- a. with the assistance of, and input from, the Commission, recommend an asset allocation strategy based on prior discussions in accordance with state and federal law, and Commission policies, cash flow needs and risk tolerances, with such strategy subject to the Commission's approval;
- b. prior to the finalization of an investment plan, provide a detailed report documenting the proposed investment plan and justifying the basis of the recommended approach to achieve the Commission's investment goals, and update such reports and make such presentations as the Commission deems necessary;

- c. recommend investments on an ongoing weekly basis;
- d. provide ongoing communications with the Commission's Treasurer on market conditions, performance of investments and proactively identifying adjustments to better meet the Commission's ongoing needs;
- e. maintain accurate and detailed records of all financial transactions related to Commission accounts on an ongoing basis;
- f. prepare performance reports on no less than a monthly basis documenting whether and how the investment approach has met the Park District's goals;
- g. provide such mark-to-market or other investment valuations as the Park District shall request within twenty-four (24) hours of such request; and
- h. prepare or otherwise arrange for the execution of any recommended investments approved by the Commission (provided, however, the actual execution of any purchase, sale or other transfer of any investment shall be made by the Commission).

2. **Costs.** The Treasurer's Office shall incur monthly fees for use of financial markets data and analytical software. The Commission shall pay for a subscription to Bloomberg to assist the Treasurer's Office in performing the Services. In the event other fees or costs are incurred by the City in the future that can be directly attributed to the Services, the Commission shall only be responsible for fees or costs that are incremental to the Commission's portion of the costs. The City shall request reimbursement or direct payment of such incremental fees or costs from the Commission.

3. **Audit.** The Treasurer's Office will cooperate with the Commission's auditors with respect to the Services.

4. **Investment Policy.** The Treasurer's Office shall follow the authorized investment policy of the Commission (the "Policy," a current copy of which is attached and incorporated herein as Exhibit A) in making any recommendations to the Commission at all times in the performance of the Services. The Commission is responsible for providing any written updates of the Policy to the Treasurer's Office.

All recommendations will be made in accordance with the Prudent Investor Rule as specified in the Policy.

5. **Reporting.** The Treasurer's Office shall provide investment reporting to the Commission, so long as the desired reports are feasible with current report generation systems in place at the Treasurer's Office. Subject to the foregoing, the Treasurer's Office shall provide monthly reports to the Commission which shall include the following by fund/account:

- Description of Portfolio Holdings by Asset Class
- Coupon Rate
- Rate of Return (yield)
- CUSIP #
- Total Cost
- Market Value

- Maturity date, Purchase date
- Duration
- Quality (rating)

6. Custodianship. Investments will be in the name of the Commission and held by a custodian, as designated by the Commission (the "Custodian"). The Commission will wire monies directly to the Custodian, who will be responsible for the custody and possession of the purchased investments, the collection of interest, dividends and other income attributable to investments in the account. The Treasurer's Office shall not have custody or possession of Assets or of any other funds or securities in which the Commission has a beneficial interest, nor will the Treasurer's Office be allowed to wire monies to a third party other than for the settlement of investment purchases.

7. Liquidation of Assets. The Commission reserves the right to liquidate Assets that have been wired to the Custodian. The Commission may direct the Treasurer's Office that Assets be liquidated and returned within two (2) business days or that Assets be sold on behalf of the Commission within accounts based on liquidity needs of the Commission.

8. Account Instructions and Authorized Persons. There will be funds (ACH or fedwire) transferred from the Commission to the Custodian, with directions to deposit in various funds/accounts and anticipated duration of the investments for each fund/account. The Commission from time to time will provide the Treasurer's Office with a written "Draw Down Schedule" specifying amounts of cash that the Commission will require in the account as of particular dates, and the Treasurer's Office will recommend investments having maturities corresponding to such cash requirements to the Commission.

Only those persons (the "Authorized Persons") listed on Exhibit B attached and incorporated herein, are authorized to provide instructions or directions on behalf of the Commission with respect to account assets. Exhibit B may be amended from time to time by the Commission with written notice to the Treasurer's Office.

9. Broker-Dealers. The Treasurer's Office will provide to the Commission a City-approved list of broker-dealers and include information as to whether such broker-dealers are registered with the United States Securities and Exchange Commission (or exempt from registration) and whether such broker-dealers are minority- or women-owned businesses. Information regarding the utilization of broker-dealers will be provided quarterly by the Treasurer's Office to the Commission.

ARTICLE FOUR: TERM

The Term of the Agreement shall commence on the date of its execution and shall terminate upon 60 (or less upon written agreement of the parties) calendar days written notice from one party to the other.

ARTICLE FIVE: INDEMNITY; DEFAULT AND REMEDIES

1. Indemnity. (a) The Commission agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses, (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with: (1) the Services (but not including the City's negligence or intentional actions); or (2) the Commission's failure to comply with any of the terms, covenants and conditions contained within this Agreement. The Commission shall not have a duty to indemnify to the City for losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses to the extent such are caused by the negligence or willful misconduct of the

City. (b) The City agrees to indemnify, defend and hold the Commission harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses, (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the Commission arising from or in connection with: (1) the Services (but not including the Commission's negligence or intentional actions); or (2) the City's failure to comply with any of the terms, covenants and conditions contained within this Agreement. The City shall not have a duty to indemnify to the Commission for losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses to the extent such are: (i) caused by the negligence or willful misconduct of the Commission; or (ii) the result of Services previously approved and accepted by the Commission.

2. Default and Remedies. (a) The failure of the Commission to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Commission under this Agreement or any related agreement shall constitute an "Event of Default" by the Commission hereunder. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy. In the event the Commission shall fail to perform a covenant which the Commission is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Commission has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those defaults which are not capable of being cured within such thirty (30) day period, the Commission shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured. (b) The failure of the City to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the City under this Agreement or any related agreement shall constitute an "Event of Default" by the City hereunder. Upon the occurrence of an Event of Default, the Commission may terminate this Agreement and all related agreements. The Commission may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy. In the event the City shall fail to perform a covenant which the City is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the City has failed to cure such default within thirty (30) days of its receipt of a written notice from the Commission specifying the nature of the default; provided, however, with respect to those defaults which are not capable of being cured within such thirty (30) day period, the City shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

ARTICLE SIX: CONSENT

Whenever the consent or approval of one or both parties to this Agreement is required hereunder, such consent or approval shall not be unreasonably withheld.

ARTICLE SEVEN: NOTICE

Notice to Commission shall be addressed to:

Executive Director
Public Building Commission of Chicago
50 West Washington Street – Room 200
Chicago, Illinois 60602

with a copy to: Neal & Leroy, LLC
203 North LaSalle Street – Suite 2300
Chicago, Illinois 60601

Notice to the City shall be addressed to:

City of Chicago
Office of the City Treasurer
City Hall, Room 106
121 North LaSalle Street
Chicago, Illinois 60602

and

City of Chicago
Department of Law
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Finance and Economic
Development Division

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addressed set forth above, by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified mail, return receipt requested.

Such addresses may be changed when notice is given to the other party in the same manner as provided above. Any notice, demand or request sent pursuant to clause (a) hereof shall be deemed received upon such personal service. Any notice, demand or request sent pursuant to clause (b) shall be deemed received on the day immediately following deposit with the overnight courier and, if sent pursuant to clause (c) shall be deemed received two (2) days following deposit in the mail.

ARTICLE EIGHT: ASSIGNMENT; BINDING EFFECT

This Agreement, or any portion thereof, shall not be assigned by either party without the prior written consent of the other.

This Agreement shall inure to the benefit of and shall be binding upon the City, the Commission and their respective successors and permitted assigns. This Agreement is intended to be and is for the sole and exclusive benefit of the parties hereto and such successors and permitted assigns.

ARTICLE NINE: MODIFICATION

This Agreement may not be altered, modified or amended except by written instrument signed by all of the parties hereto.

ARTICLE TEN: COMPLIANCE WITH LAWS

The parties hereto shall comply with all federal, state and municipal laws, ordinances, rules and regulations relating to this Agreement.

ARTICLE ELEVEN: GOVERNING LAW AND SEVERABILITY

This Agreement shall be governed by the laws of the State of Illinois. If any provision of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, ordinance, rule of law or public policy, or for any reason, such circumstance shall not have the effect of rendering any other provision or provisions contained herein invalid, inoperative or unenforceable to any extent

whatsoever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part hereof.

ARTICLE TWELVE: COUNTERPARTS

This Agreement may be executed in two counterparts, each of which shall be deemed an original.

ARTICLE THIRTEEN: ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and cannot be modified or amended except by mutual written agreement of the parties.

ARTICLE FOURTEEN: AUTHORITY

Execution of this Agreement by the City is authorized by an ordinance adopted by the City Council on _____, 2015 (the "Agreement Ordinance"). Execution of this Agreement by the Commission is authorized by resolution of the Commission on _____, 2015. The parties represent and warrant to each other that they have the authority to enter into this Agreement and perform their obligations hereunder.

ARTICLE FIFTEEN: HEADINGS

The headings and titles of this Agreement are for convenience only and shall not influence the construction or interpretation of this Agreement.

ARTICLE SIXTEEN: DISCLAIMER OF RELATIONSHIP

Nothing contained in this Agreement, nor any act of the City or the Commission shall be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City and the Commission.

ARTICLE SEVENTEEN: CONSTRUCTION OF WORDS

The use of the singular form of any word herein shall also include the plural, and vice versa. The use of the neuter form of any word herein shall also include the masculine and feminine forms, the masculine form shall include feminine and neuter, and the feminine form shall include masculine and neuter.

ARTICLE EIGHTEEN: NO PERSONAL LIABILITY

No member, official, employee, commissioner or agent of the City or the Commission shall be individually or personally liable in connection with this Agreement.

ARTICLE NINETEEN: REPRESENTATIVES

Immediately upon execution of this Agreement, the following individuals will represent the parties as a primary contact in all matters under this Agreement.

For the Commission: [name, title]
Public Building Commission of Chicago
50 West Washington Street – Room 200
Chicago, Illinois 60602
Phone: _____
Email: _____

For the City: [name, title]
City Treasurer's Office
121 N LaSalle Street
City Hall Room 106
Chicago, IL 60602
Phone: (312) 742-_____
Email: _____

Each party agrees to promptly notify the other party of any change in its designated representative, which notice shall include the name, address, telephone number and email address of the representative for such party for the purpose hereof.

[Balance of this page is intentionally left blank.
The signature page immediately follows this page.]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed and delivered as of the date first above written.

CITY OF CHICAGO, ILLINOIS

By: _____
City Treasurer

PUBLIC BUILDING COMMISSION OF CHICAGO

By: _____
Executive Director

EXHIBIT A, THE POLICY
(see attached)
[NOT ATTACHED FOR PURPOSES OF ORDINANCE]

EXHIBIT B, AUTHORIZED PERSONS
(see attached)
[NOT ATTACHED FOR PURPOSES OF ORDINANCE]



FW.

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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

June 17, 2015

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

Ladies and Gentlemen:

At the request of the City Treasurer, I transmit herewith an ordinance authorizing the execution of an intergovernmental agreement with the Public Building Commission regarding asset management.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

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CHICAGO July 29, 2015

To the President and Members of the City Council:

Your Committee on Finance having had under consideration

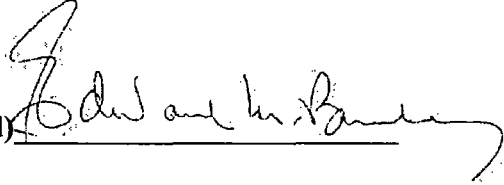
An ordinance authorizing the City Treasurer to enter into and execute an Intergovernmental Agreement with the Public Building Commission regarding asset management.

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Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Ordinance Transmitted Herewith

This recommendation was concurred in by _____ (a viva voce vote) of members of the committee with _____ dissenting vote(s).

Respectfully submitted

(signed) 

Chairman

APPROVED
Robert R. Pitts
CORPORATION COUNSEL

APPROVED
Kathleen E. Emmert
8110715 MAYOR