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City Council Document Tracking Sheet

Meeting Date:	1/18/2012
Sponsor(s):	Emanuel, Rahm (Mayor)
Type:	Ordinance
Title:	Expenditure of open space impact fee funds for community garden
Committee(s) Assignment:	Committee on Special Events, Cultural Affairs and Recreation



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

January 18, 2012

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 an expenditure of open space impact fee funds for a community garden.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

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, now known as the Department of Finance ("DOF") 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 ("HED") 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 and appearing on pages 69309-69311 of the Journal of the Proceedings of the City Council of the same date; and

WHEREAS, HED desires to use Open Space Fees collected by DOF in an amount described on Exhibit A for the purpose of providing additional funding for the Project which will provide open space for the benefit of the residents of the Community Area described on Exhibit A; and

WHEREAS, the Open Space Ordinance requires that the Open Space Fees be used for open space acquisition or capital improvements, or both, 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, HED has agreed to use the Open Space Fees, in the amounts set forth on Exhibit A, to pay for capital improvements relating to the Project; and

WHEREAS, HED has determined that the use of the Open Space Fees to assist the Project will

provide a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected in that the Open Space Fees used for the Project will come from the specific fund set up by DOF for the corresponding Community Area in which a Fee-Paying Development is located and from which the Open Space Fees were collected; and

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

WHEREAS, HED 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, as proposed on Exhibit A, 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 set forth on Exhibit A.

SECTION 3. The Commissioner of HED (the "Commissioner") and a designee of the Commissioner are each hereby authorized to provide the Open Space Fees for the Project in the amount listed on Exhibit A from the corresponding fund.

SECTION 4. Open Space Fees in an amount not to exceed \$108,000 from the Jefferson Park Community Area 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 and approval.

EXHIBIT A
Description of Project

Community Garden

Address:	4935 N. Central Avenue
Community Area:	Jefferson Park
Project Description:	Environmental clean up of a .015 acre park
Amount of Open Space Fees:	Not to exceed \$108,000