



# City of Chicago



O2020-5729

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:** 11/16/2020

**Sponsor(s):** Lightfoot (Mayor)

**Type:** Ordinance

**Title:** Intergovernmental agreement with Illinois Housing Development Authority to reallocate portion of City's 2020 unused tax-exempt bond volume cap to facilitate financing of affordable housing or qualifying mortgage loans by IHDA

**Committee(s) Assignment:** Committee on Finance

## ORDINANCE

WHEREAS, the City of Chicago (the "City"), a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, has heretofore found and does hereby find that there exists within the City a serious shortage of decent, safe and sanitary housing available to persons of low- and moderate-income; and

WHEREAS, the Illinois Housing Development Authority ("IHDA") has advised the City that that there exists a serious shortage of decent, safe and sanitary housing available to persons of low- and moderate-income throughout the State of Illinois; and

WHEREAS, the City has determined that the continuance of a shortage of affordable single-family and multi-family housing is harmful to the health, prosperity, economic stability and general welfare of the City; and

WHEREAS, pursuant to Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), the City, as a constitutional home rule city, is allocated a certain amount of volume cap per calendar year in connection with the issuance of tax-exempt bonds by the City; and

WHEREAS, the Illinois Private Activity Bond Allocation Act, 30 ILCS 345/1 et seq., as amended, provides, among other things, that the corporate authorities of any home rule unit may reallocate all or any portion of its unused allocation of volume cap; and

WHEREAS, the City has available approximately \$250,686,502.57 of unused volume cap from calendar year 2019; and

WHEREAS; the City has available approximately \$269,128,453.74 of unused volume cap from calendar year 2020 ("2020 Cap"); and

WHEREAS, IHDA, a body politic and corporate established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 et seq., as amended, wishes to issue tax exempt qualified mortgage bonds, multi-family-housing revenue bonds or other tax-exempt obligations, pursuant to the Code (collectively, the "Tax-Exempt Obligations"); and

WHEREAS, the proceeds of the Tax-Exempt Obligations will be used to finance (a) a portion of the costs of the construction, acquisition and rehabilitation of affordable housing (collectively, the "Affordable Housing"); and/or (b) qualifying mortgage loans on residences which benefits low-income homebuyers purchasing homes ("Mortgage Assistance Program" and together with Affordable Housing, the "Affordable Housing Developments"); and

WHEREAS, IHDA has requested that the City reallocate a portion of its 2020 Cap to IHDA in connection with issuance by IHDA of Tax-Exempt Obligations for Affordable

Housing Developments, pursuant to an intergovernmental agreement in substantially the form attached hereto and incorporated herein as Exhibit A ("IGA"); 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 a part of this ordinance as though fully set forth herein.

SECTION 2. The Chief Financial Officer is hereby authorized to reallocate, in connection with the issuance by IHDA of Tax-Exempt Obligations for Affordable Housing Developments, approximately \$170,000,000 of the 2020 Cap (the "2020 Cap Reallocation"). The exact amount of the 2020 Cap Reallocation and the date on which the 2020 Cap Reallocation is effectuated shall be determined by the Chief Financial Officer based on the best interests of the City and on the amount of 2020 Cap available at the time of the 2020 Cap Reallocation in consultation with the Department of Housing; and further in accordance with the terms of the IGA.

SECTION 3. The City shall not charge IHDA a fee for the 2020 Cap Reallocation. After the 2020 Cap Reallocation has been made, the Chief Financial Officer shall file a certificate with the City Clerk stating the amount of 2020 Cap reallocated to IHDA pursuant to this ordinance. The City further shall notify the Office of the Governor of the State of Illinois of the 2020 Cap Reallocation within 14 days of the date of the 2020 Cap Reallocation.

SECTION 4. The Chief Financial Officer and the Commissioner of Housing is hereby authorized, subject to the approval of the Corporation Counsel, to enter into such agreements and other documents, including the IGA and any other agreements with IHDA, in connection with the 2020 Cap Reallocation as shall be deemed necessary or desirable by the Chief Financial Officer.

SECTION 5. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago (the "Municipal 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 of the other provisions of this ordinance.

SECTION 6. This ordinance shall be effective as of the date of its passage and approval.

EXHIBIT A

**INTERGOVERNMENTAL AGREEMENT FOR  
VOLUME CAP ALLOCATION**

This **INTERGOVERNMENTAL AGREEMENT FOR VOLUME CAP ALLOCATION** ("Agreement") is made and entered into as of the \_\_\_ day of \_\_\_\_, 20\_\_ by and between the **CITY OF CHICAGO**, a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, acting by and through its Chief Financial Officer (the "City"), and the **ILLINOIS HOUSING DEVELOPMENT AUTHORITY**, a body politic and corporate established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 under the laws of the State of Illinois ("IHDA").

**RECITALS**

**WHEREAS**, IHDA wishes to issue tax-exempt qualified mortgage bonds, multi-family-housing revenue bonds or other tax-exempt obligations (collectively, the "Tax-Exempt Obligations") as defined in the Internal Revenue Code of 1986, as amended (the "Code") to finance (a) a portion of the costs of the construction, acquisition and rehabilitation of affordable housing ( the "Affordable Housing"); and/or (b) qualifying mortgage loans on residences which benefits low-income homebuyers purchasing homes ("Mortgage Assistance Program" and together with Affordable Housing, the "Affordable Housing Developments"); and

**WHEREAS**, pursuant to Section 146 of the Code, the City, as a constitutional home rule city, is allocated a certain amount of volume cap per calendar year in connection with the issuance of tax-exempt bonds by the City; and

**WHEREAS**, the Illinois Private Activity Bond Allocation Act, 30 ILCS 345/1 et seq., as amended, provides, among other things, that the corporate authorities of any home rule unit may reallocate all or any portion of its unused allocation of volume cap; and

**WHEREAS**, the City has available unused volume cap from calendar year 2020 ("2020 Cap"); and

**WHEREAS**, IHDA has requested that the City reallocate a portion of its unused 2020 Cap, to IHDA for the Tax-Exempt Obligations and the City has agreed to such request; and

**WHEREAS**, pursuant to an ordinance adopted by the City Council of the City on \_\_\_\_\_, 2020, the Chief Financial Officer was authorized to reallocate, approximately \$170,000,000 in the aggregate of the 2020 Cap and also to enter into this Agreement, and such other documents as shall be deemed necessary or desirable, to effectuate the 2020 Cap Reallocation (as defined herein); and

**WHEREAS**, the Executive Director or other officer of IHDA, pursuant to and as authorized by that certain resolution adopted on or about December 18, 2020 by the

Members of IHDA's Board, has authority to enter into this Agreement; **NOW, THEREFORE,**

### AGREEMENTS

In consideration of the recitals set forth above, which constitute a material part of this Agreement, and the mutual covenants contained in this Agreement, the sufficiency of which consideration is hereby acknowledged by the parties, the City and IHDA hereby agree as follows:

1. Reallocation of Unused 2020 Cap. Subject to the terms and conditions of this Agreement, the City hereby reallocates to IHDA approximately \$170,000,000 of unused 2020 Cap for the Tax-Exempt Obligations ("2020 Cap Reallocation"). The exact amount of the 2020 Cap Reallocation and the date of the reallocation shall be effectuated prior to December 30, 2020. IHDA shall carry forward the 2020 Cap Reallocation, along with IHDA's own volume cap, on or before February 15, 2021 ("Carry Forward Date"), thereby preserving use of the carried forward volume cap through calendar year 2023 ("Carryforward Period").

2. Term of Agreement. This Agreement shall be effective as of the date hereof and shall terminate as of the Carry Forward Date, except the provisions of Sections 4. A through 4.C. hereof; which will survive until the end of the Carryforward Period.

3. No Payment of Fee to City. The City shall not charge IHDA a fee for the 2020 Cap Reallocation.

4. Covenants. In order to ensure that the Tax-Exempt Obligations are issued as tax-exempt and shall maintain such tax-exempt status, IHDA covenants that IHDA shall:

A. Comply with the Act and the "State of Illinois Allocation of Bonding Authority in Accordance with the Tax Reform Act of 1986 and 30 ILCS 345 Guidelines and Procedures for the Allocation of Private Activity Bonding Authority in Accordance with the Tax Reform Act of 1981 and 30 ILCS 345, Office of the Governor Effective January 1, 2018", as may be amended or supplemented (the "Guidelines and Procedures"), including but not limited to (i) submitting an information report to the Office of the Governor upon the issuance of a Tax-Exempt Obligation, pursuant to Section 7 of the Act and page 12 and Appendix A of the Guidelines and Procedures; and (ii) maintaining all records as required by the Act and the Guidelines and Procedures.

B. File the Internal Revenue Service Form 8038, an informational return, after the issuance of each Tax-Exempt Obligation.

C. The City shall notify the Office of the Governor of the State of Illinois of the 2020 Cap Reallocation within 14 days of the date of the City ordinance authorizing the 2020 Cap Reallocation.

D. IHDA understands and acknowledges that the City's preference is that the Affordable Housing Developments financed with Tax Exempt Obligations using the 2020 Cap be located within the City. IHDA agrees to use reasonable efforts to accommodate this preference but no assurance is given that this will be achieved and IHDA shall have no liability to the City under this Section 4.D.

5. Notices. All notices and communications concerning this Agreement shall be sent to:

If to the City: Chief Financial Officer  
City of Chicago  
121 North LaSalle Street, Suite 700  
Chicago, Illinois 60602  
Attention:

and to: Commissioner of Housing  
City of Chicago  
121 North LaSalle Street, 10th Floor  
Chicago, Illinois 60602  
Attention:

With a copy to: City of Chicago Corporation Counsel  
121 North LaSalle Street, 6th Floor  
Chicago, Illinois 60602  
Attention: Finance and Economic Development Division

If to IHDA: Illinois Housing Development Authority  
111 E. Wacker Drive, Suite 1000  
Chicago, Illinois 60601  
investments@ihda.org  
Attention: Andrew Nestlehut

and to: General Counsel  
Illinois Housing Development Authority  
111 E. Wacker Drive, Suite 1000  
Chicago, Illinois 60601

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth above and shall be effective as follows: (a) if delivered by personal service, upon delivery, (b) if sent by overnight courier, effective one business day after delivery to such courier, or (c) if sent by registered or certified

mail, return receipt requested, effective three business days after the date of mailing. A party's address for notices may be changed by giving notice in the manner specified in this Section.

6. Amendment. This Agreement may not be altered, amended, changed or modified in any respect without the written consent of both the City and IHDA.

7. Assignment. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall be in the other party's sole discretion. This Agreement shall inure to the benefit of and be binding upon the City, IHDA and their respective successors and permitted assigns.

8. No Third Party Beneficiary. This Agreement is for the sole and exclusive benefit of IHDA and the City and their respective successors and permitted assigns. No other person or entity is an intended third party beneficiary of this Agreement or shall have the right to enforce any of the provisions of this Agreement. Nothing contained in this Agreement may be construed to create or imply any partnership, joint venture or other association between the City and IHDA.

9. Headings. The section headings contained herein are for convenience only and are not intended to limit, expand or modify the provisions of such sections.

10. Non-Liability of Public Officials. No official, employee or elected or appointed representative of IHDA or the City may be held personally liable for any breach of any provision of this Agreement or any damage, loss or injury arising out of the performance of the Affordable Housing Developments.

11. Counterpart Execution/Signatures Electronic Transmission. This Agreement may be executed in multiple counterparts, the signature pages of which, taken together, shall constitute an original execution copy. A signed copy of this Agreement transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement.

12. Authority. The persons signing this Agreement certify that they have the power and authority to enter into and execute this Agreement.

13. Section 42(m) Determination. IHDA hereby retains its rights and responsibilities with respect to the determinations required under Section 42(m)(2)(D) of the Code relative to the availability to the Affordable Housing Developments of low-income housing tax credits provided for under Section 42 of the Code.

[Signatures Appear On Next Page]

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective as of the date first set forth above.

**CITY OF CHICAGO**

\_\_\_\_\_  
Jennie Huang Bennett, Chief Financial Officer

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_



FIN



OFFICE OF THE MAYOR  
CITY OF CHICAGO

LORI E. LIGHTFOOT  
MAYOR

November 16, 2020

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

Ladies and Gentlemen:

At the request of the Commissioner of Housing, I transmit herewith an ordinance authorizing the transfer of unused tax-exempt bond volume cap to the Illinois Housing Development Authority.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours

A handwritten signature in black ink that reads "Lori E. Lightfoot".

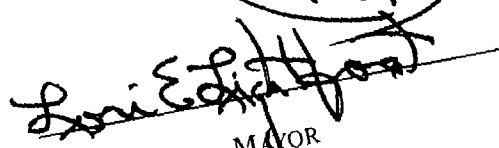
Mayor

APPROVED

  
CORPORATION COUNSEL

DATED: 12/17/20

APPROVED

  
MAYOR

DATED: 12/17/20