



Office of the City Clerk

City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
www.chicityclerk.com

Legislation Details (With Text)

File #: O2015-5429
Type: Ordinance
File created: 7/29/2015
Status: Passed
In control: City Council
Final action: 9/24/2015
Title: Intergovernmental agreement with Chicago Housing Authority regarding conduct of environmental reviews required under National Environmental Policy Act of 1969 (NEPA)
Sponsors: Emanuel, Rahm
Indexes: Intergovernmental
Attachments: 1. O2015-5429.pdf

Date	Ver.	Action By	Action	Result
9/24/2015	1	City Council	Passed	Pass
9/21/2015	1	Committee on Budget and Government Operations	Recommended to Pass	Pass
7/29/2015	1	City Council	Referred	

OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

July 29, 2015

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

Ladies and Gentlemen:

At the request of the Commissioner of Fleet and Facility Management, I transmit herewith an ordinance authorizing the execution of an intergovernmental agreement with the Chicago Housing Authority regarding NEPA Environmental Review.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

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 Chicago Housing Authority is a public housing agency and a municipal corporation under the laws of the State of Illinois, is subject to the planning zoning, sanitary and building laws, ordinances and regulations of the City (the "CHA"), and is engaged in the development and operation of safe, decent and sanitary housing throughout the City of Chicago for low-income families in accordance with the United States Housing Act of 1937, 42 U.S.C. §1437, et seq., regulations promulgated by the United States Department of Housing and Urban Development ("HUD") and the Housing Authorities Act, 310 ILCS 10/1, et seq., as amended from time to time, and all other applicable laws, regulations and ordinances; and

WHEREAS, under the National Environmental Policy Act of 1969, 42 USC 4321 et seq. and regulations regarding the same Act promulgated by 24 CFR 58 and 24 CFR 50 (together, "NEPA"), HUD has previously borne responsibility for conducting environmental reviews applicable to HUD federal funding awarded to the CHA, including federal funding assistance under HUD's Moving To Work Demonstration Program ("MTW"); and

WHEREAS, the CHA's Plan Forward (the "Plan"), formerly known as the Plan for Transformation, which has been approved by HUD as part of CHA's MTW agreement with HUD (the "MTW Agreement"), requires the performance of environmental reviews of various project sites that will be affected by the Plan, pursuant to the requirements of NEPA; and

WHEREAS, the CHA anticipates that the CHA shall receive HUD funding for additional projects and programs in the future (the "Other Programs"), such projects and programs also being subject to HUD-required environmental reviews pursuant to the requirements of NEPA; and

WHEREAS, the issuance and submission of certain HUD documentation related to the aforementioned environmental reviews is and will be required under the Plan, the MTW Agreement, and the Other Programs (the "HUD Documentation"); and

WHEREAS, the CHA desires, and the City, acting through its Department of Fleet and Facility Management (the "Department"), is willing and able, to perform the environmental reviews required under NEPA ("Environmental Reviews"), on the CHA's behalf, as a non-recipient responsible entity, as permitted by NEPA; and

WHEREAS, the CHA and the City have the authority to enter into intergovernmental agreements pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.; and

WHEREAS, the City has already begun conducting Environmental Reviews for the CHA, as described in Exhibit 1 to Exhibit A attached hereto and incorporated herein, and both the City and the CHA desire that such reviews be subject to the terms and conditions of the Agreement (as defined below); and

WHEREAS, the CHA and the City desire to enter into an intergovernmental agreement, in substantially the form attached as Exhibit A (the "Agreement"), to set forth the terms and

1

conditions governing both parties' obligations in connection with the Department performing the Environmental Reviews and issuing and submitting the HUD Documentation, including those Environmental Reviews that were commenced by the Department prior to execution of an agreement between the parties; now, therefore,

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

SECTION 1. The above recitals are incorporated here by this reference.

SECTION 2. Subject to the approval of the Corporation Counsel as to form and legality, the Commissioner of the Department or his or her designee is authorized to execute the Agreement, and such other documents as are necessary, between the City and the CHA in substantially the form attached as Exhibit A. The Agreement shall contain such other terms as are deemed necessary or appropriate by the City.

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 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 4. This ordinance takes effect upon passage and approval.

2

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CHICAGO AND
THE CHICAGO HOUSING AUTHORITY

See attached pages.

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF CHICAGO

AND

THE CHICAGO HOUSING AUTHORITY

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is entered into as of this day of _____, 2015, by and between the CHICAGO HOUSING AUTHORITY (the "CHA"), a municipal corporation of the State of Illinois (the "State"), and 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 through its DEPARTMENT OF FLEET AND FACILITY MANAGEMENT (the "Department").

RECITALS

WHEREAS, the CHA, a public housing agency that serves low and very low income residents, is engaged in the development and operation of safe, decent and sanitary housing throughout the City of Chicago for low-income families in accordance with the United States Housing Act of 1937, 42 USC 1437 et seq., regulations issued by the United States Department of Housing and Urban Development ("HUD"), the State Housing Authorities Act, 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances; and

WHEREAS, under the National Environmental Policy Act of 1969, 42 USC 4321 et seq.. ("NEPA"), and regulations regarding the same Act promulgated at 24 CFR 50 (the "NEPA HUD Regulations"), HUD has previously borne responsibility for conducting environmental reviews applicable to HUD federal funding awarded to the CHA, including federal funding assistance under HUD's Moving To Work ("MTW") Demonstration Program (the "MTW Program"); and

WHEREAS, the CHA's Plan Forward (the "Plan"), formerly known as the Plan for Transformation, which has been approved by HUD as part of CHA's MTW agreement with HUD (the "MTW Agreement"), requires the performance of environmental reviews of various project sites that will be affected by the Plan, pursuant to the requirements of NEPA; and

WHEREAS, the City and the CHA anticipate that the CHA and HUD may enter into other agreements and/or programs (the "Other Programs") during the term of this Agreement pursuant to which the CHA shall receive HUD funding for additional projects in the future, such projects also being subject to HUD-required environmental reviews pursuant to the requirements of NEPA; and

WHEREAS, the issuance of certain documentation related to the environmental reviews contemplated by this agreement is and will be required under the Plan, the MTW Agreement, and the Other Programs ("HUD Documentation");

and

WHEREAS, pursuant to 24 CFR 58, responsible entities may be designated to assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in 24 CFR 58.5, and the City has previously served as the responsible entity for CHA projects; and

WHEREAS, the City certifies it is willing and authorized to: (1) perform duties as a non-recipient responsible entity as defined by 24 CFR 582(a)(7)(ii)(B), including, but not limited to, compliance with each provision of law under 24 CFR 58.5; and (2) perform environmental reviews ("Environmental Reviews" and each, an "Environmental Review"), including, but not limited to, decision making and actions, as set forth in 24 CFR 58.4, related to the execution of the certification portion of HUD's Request for Release of Funds and Certification (the "HUD Release Form"); and (3) perform, through the Department and/or through the City's Department of Planning and Development, the administration of the section 106 ("NHPA Section 106") process of taking into account the effects of federal undertakings on historic properties pursuant to the National Historic

Preservation Act 16 U.S.C. 470 etseq. ("NHPA") and regulations promulgated pursuant thereto as set forth in 36 CFR Part 800 - Protection of Historic Properties; and

WHEREAS, the CHA and the City have the authority to enter into intergovernmental agreements pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.; and

WHEREAS, pursuant to an ordinance of the City Council, dated _____, 2015, published at pages _____ to _____ of the Journal of Proceedings of the City Council, the City is authorized to enter into an intergovernmental agreement with CHA for the purposes indicated in this Agreement; and

WHEREAS, pursuant to Resolution No. 2015-CHA-28 of the CHA Board of Commissioners, dated April 21, 2015, the CHA is authorized to enter into an intergovernmental agreement with the City for the purposes indicated in this Agreement; and

WHEREAS, the City has already begun conducting Environmental Review(s) for the CHA sites more particularly described in Exhibit 1 attached hereto and made part of this Agreement, such reviews to be subject to the terms and conditions of this Agreement; and

WHEREAS, the CHA and the City desire to enter into this Agreement to have the City: (1) perform the Environmental Reviews; (2) issue such HUD Documentation as is required for CHA to obtain public housing grants; and (3) perform the administration of the NHPA Section 106 process.

NOW THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, the CHA and the City do hereby agree as follows:

ARTICLE 1. **INCORPORATION OF RECITALS**

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

ARTICLE 2. **DUTIES AND RESPONSIBILITIES**

Section 2.01 City's Services to be Performed and City's Responsibilities

A. Subject to the terms of Section 2.02(1) below, the City will perform or cause to be performed all Environmental

Reviews, including decision-making and actions related to the certification portion of the HUD Release Form, and issue or cause to be issued all HUD Documentation required by: (1) NEPA; (2) related provisions of the Council on Environmental Quality regulations (40 CFR 1500-1508); and (3) other applicable federal and State regulations (collectively, the "Services"), as more particularly described in 24 CFR 58.5 and in Exhibit 2 attached hereto and made a part of this Agreement.

- B. The City shall provide the CHA with notice of the identities of any subcontractors or consultants it employs in the provision of the contemplated Services whom will require physical access to CHA Environmental Review sites. The City agrees to provide notice to the CHA of the City's or its respective subcontractors' or consultants' intent to conduct on-site inspections or other activities related to the provision of Services, when such activities will require the presence of CHA personnel. Electronic communications shall be deemed

sufficient for all communications related to this subsection, pursuant to Article 7 of this Agreement.

- C. Upon completion of an Environmental Review by the City and/or one of its subcontractors, the City shall execute the certification portion of the HUD Release Form and/or any other required documentation. Additionally, the City shall provide or otherwise make available to the CHA copies of all non-confidential documentation and other paperwork filed with HUD, upon the CHA's request, and at the CHA's expense.
- D. The City shall prepare written Pay Requests (as defined in Section 4.01 of this Agreement) indicating costs incurred for Services rendered under this Agreement, pursuant to Article 4 of the same, and shall deliver such Pay Requests to the CHA pursuant to Article 7 of the same.
- E. The City will not assume responsibility for the provision of Services for sites that are currently undergoing environmental remediation under the Illinois Site Remediation Program. Currently, Park Boulevard Phase 2B (part of LPC# 316615260 - Stateway), Parkside Phase 2B (part of LPC# 316246339 - Cabrini), Oakwood Shores Phase 2 D (part of LPC# 316355082-Madden Wells Phase II) and City Gardens (part of LPC# 316003175 - Rockwell) are in the category of ongoing environmental remediation. On completion of the environmental remediation and reporting, the City will be forwarded a No Further Remediation Letter for those sites. If required, the CHA may retain a party other than the City to perform Environmental Reviews for such sites.
- F. City agrees to ensure that its consultants and contractors comply with the City's Minority and Women's Business Enterprise ("MBE/WBE") requirements in accordance with the City's MBE/WBE Policy.

Section 2.02 CHA's Duties and Responsibilities

- A. For each Environmental Review CHA desires the City to conduct, CHA will submit to the city an Environmental Review Application ("Application") on forms prescribed and provided by the City with attachments, as necessary. Applications shall be mailed, emailed or hand-delivered to the address(es) designated by the City on the forms, pursuant to Article 7 of this Agreement. Applications that are hand-delivered shall be delivered to the Department during normal business hours.
- B. The CHA will be responsible for making an advance partial payment to the City for Environmental Reviews. An advance partial payment in the amount of \$75,000 will be made within 14 days of execution of this Agreement. .
- C. The CHA will serve as liaison with local community groups and residents regarding all aspects of the City's Services under this Agreement, and will be responsible for, among otherthings, scheduling, and participating in, public meetings. The CHA will provide the City with prior written notice of all meetings that relate to the Services, to provide the City the opportunity to participate in such meetings.
- D. During the term of this Agreement, the CHA will not, without the signed, written consent of the Commissioner of

the Department (the "Commissioner") or his or her duly appointed representative, engage any entity other than the City to perform any Services contemplated by this Agreement, and will provide notice to the Department if it becomes aware that actions taken by the CHA or any other entity shall have an effect on the Services contemplated by

4

this Agreement. Electronic communications shall be deemed sufficient for all communications related to this subsection, pursuant to Article 7 of this Agreement.

- E. To enable the performance of the Services, the CHA hereby grants permission to the City, its officers, employees, consultants-and contractors to enter any relevant Environmental Review location to perform the agreed upon work, provided that reasonable advance notice has been given by the City to the CHA when the presence of CHA personnel will be required. The City's consultants and contractors shall provide CHA with evidence of insurance to its satisfaction and the City's satisfaction prior to entering any Environmental Review location. In addition, such consultants and contractors shall name the CHA as an additional insured, if applicable.
- F. The CHA agrees to adhere in full to all recommendations provided by the Illinois State Historic Preservation Officer when such recommendations are issued as part of the Services, and further agrees that, where consultation with the Advisory Council for Historic Preservation ("Advisory Council") is required, CHA shall prepare all submittals pursuant to Advisory Council recommendations. Under no circumstances will the City bear responsibility for coordinating with the Advisory Council, unless required under the NHPA and the regulations promulgated pursuant thereto.
- G. The CHA agrees to ensure compliance in full with all conditions in conditional, draft and final No Further Remediation ("NFR") letters issued by the Illinois Environmental Protection Agency (the "IEPA") when an NFR letter is required as a condition of the Services, and further agrees that, where enrollment in the IEPA Site Remediation Program is required, CHA shall prepare all submittals pursuant to 35 ILCS Part 740. Under no circumstances will the City bear responsibility for coordinating with the IEPA.
- H. CHA shall not request a "Certificate of Occupancy" from the City until CHA has completed any and all conditions of the corresponding Environmental Review.
- I. Notwithstanding anything to the contrary in this Agreement, the CHA agrees to provide the City with documentation that adequately describes the full scope, purpose, and interrelationships of the HUD assisted, privately financed and non-federally financed CHA projects included in the Plan and MTW Agreement, as well as any other documents and/or information requested by the City that the City reasonably believes is necessary to perform the Services required under this Agreement; such requirements are further described by Exhibit 3 attached hereto and made part of this Agreement.
- J. The CHA agrees that it will not begin work on an activity or project, as defined by 24 CFR 58.2 and 24 CFR 58.22 in the HUD regulations, including but not limited to, acquisition, disposition, construction or rehabilitation, at a site undergoing Environmental Review until such time that the City has issued to the CHA a signed Environmental Compliance Certification memorandum ("Clearance Memo"). The CHA agrees to abide by all terms and conditions the City requires within a Clearance Memo.
- K. The CHA agrees that it will notify the Chicago Department of Public Health prior to undertaking rehabilitation work that includes asbestos and/or lead-based paint abatement. The CHA will be responsible for the abatement and/or oversight of abatement for asbestos and lead based paint, and for any other abatement required.

- L. The CHA agrees that it will forward all Environmental Review related correspondence, and any other correspondence related to the provision of Services under this Agreement to the Department. Electronic communications shall be deemed sufficient for all communications related to this subsection, pursuant to Article 7 of this Agreement.

Section 2.03 Timeliness of Environmental Reviews

- A. CHA acknowledges that the City shall require a minimum term of one hundred twenty (120) days from the acceptance of a CHA Application to complete the corresponding Environmental Review. Environmental Reviews which exceed the 120 day term to complete will require no additional action by the City, unless such Environmental Review shall exceed (or shall be anticipated to exceed) a term of 180 days to complete, at which point the CHA may submit to the City a request for information concerning the delay.
- B. CHA acknowledges that the City will under no circumstances, rush or accelerate the term of completion of an Environmental Review or a Clearance Memo. The City may and does conduct Environmental Reviews for other parties, and nothing in this Agreement may be construed as granting CHA Services a higher or lower priority than similar services performed for other parties.
- C. Electronic communications shall be deemed sufficient for all communications related to this Section 2.03, pursuant to Article 7 of this Agreement.

Section 2.04 Dedicated Environmental Review Professional

The Department will assign an environmental review professional dedicated to performing the Environmental Reviews of CHA Properties (the "Professional") to facilitate expedited completion of the Environmental Reviews contemplated herein. The Professional shall be selected by, and report directly to the Department. The salary and benefits of the Professional shall be funded by the CHA. Costs for compensation for the Professional shall be included, and separately identified, in the Pay Requests.

Section 2.05 Audit Requirement and Maintenance of Records

The City acknowledges the irrevocable right of HUD to independently, or through a third party, review and/or audit the City's books and records pertaining to this Agreement. The City acknowledges that such right extends for three (3) years from the completion of Services, and will retain applicable records for no less than this term of years, or for such longer period as may be required by applicable laws or regulations. CHA will have no right whatsoever to audit any City records pertaining to the provision of Services under this Agreement.

Section 2.06 Assignments

Neither the CHA nor the City shall assign this Agreement, or any portion thereof, without the express written approval of the other party. This Agreement shall inure to the benefit of and shall be binding upon the City and the CHA, and each of their respective successors and assigns. This Agreement is intended to be and is for the sole and exclusive benefit of the parties hereto and such successors and assigns.

Section 2.07 Force Majeure

In the event of war, flood, riot, epidemic, act of governmental authority in its sovereign

capacity, act of God, or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing, during the term of this Agreement, neither the CHA nor the City shall be liable to the other party for any nonperformance under this Agreement resulting from such event.

ARTICLE 3. TERM OF AGREEMENT

Section 3.01 Term and Extension Options

This Agreement shall be effective for a period of five (5) years, or until the Agreement has been terminated in accordance with its terms, whichever occurs first. This Agreement may be renewed by mutual agreement of both parties if expressly approved by the Commissioner and the CHA's Chief Executive Officer ("CEO"). In such event, the Agreement shall be modified to reflect the time extension in accordance with the provisions of Section 6.03 hereof.

Section 3.02 Termination

- A. The CHA may terminate this Agreement at any time by giving ninety (90) days written notice to the City.
- B. The City may terminate this Agreement if the CHA fails to comply with any of its obligations under Section 2.02 of this Agreement. Prior to issuing a notice of termination under this provision, the City shall provide the CHA with written notice that specifically details the CHA's failure to comply with its obligations under Section 2.02. If, within thirty (30) days of receipt of said written notice, the CHA fails to take corrective measures to comply with said obligations, the City shall provide the CHA with 90 days written notice of its intent to terminate pursuant to this Section 3.02(B), and the CHA will forfeit the right to submit new applications for Services under Section 2.02(A) of this Agreement.
- C. In the event that Services are ongoing upon the termination of this Agreement, the City shall either, at the City's own discretion, refund any portion of any advance partial payments made by the CHA pursuant to Section 2.02 (B) and Section 4.01 of this Agreement not already applied to actual costs incurred by the performance of Services, or agree to complete the Services as requested, with the express understanding that ongoing Services costs will be reimbursed by CHA pursuant to Article 4 of this Agreement. Notwithstanding anything to the contrary, any and all ongoing Services at such time that this Agreement is terminated will continue to be governed by the terms of this agreement until completion.

ARTICLE 4. COMPENSATION

Section 4.01 Reimbursement of Costs Costs incurred by the City shall be reasonable (as such term is defined in 2 CFR 200.404) and documented, and the documentation shall be provided by the City to the CHA. Requests for payment (each "Pay Request", and collectively, "Pay Requests") shall be submitted by the City to the CHA quarterly unless the Pay Request is submitted at the conclusion or termination of this Agreement. All Pay Requests shall reflect and deduct any and all prior advance partial payments made to the City by the CHA under Section 2.02(B) of this Agreement and under this Section 4.01. Amounts deducted from prior advance partial payments shall be supported by invoices and/or receipts from the City and any consultants or contractors. In addition, the Pay Requests will include an estimate by the City of the total costs of providing the Services for the next quarter (the "Quarterly Estimate") and assess an advance partial payment in

an amount acceptable to the City, but not to exceed 50% of the total anticipated costs to the City. The Quarterly Estimate shall include sufficient detail for the CHA to estimate costs for each anticipated project included in the Quarterly Estimate. Within 30 days after the receipt of a Pay Request, the CHA may appeal the reasonableness of such Pay Request, including amounts deducted from prior advance partial payments, additional amounts charged in excess of those offset by prior advance partial payments, and the amount of the Quarterly Estimate. Appeals to the Department shall be made in writing by the CHA and delivered pursuant to Article 7 of this Agreement.

Section 4.02 Recordkeeping for City Services

Costs incurred by the City shall be clearly identified by Project and tracked by the City using site-specific codes. The following types of costs shall be documented and supported by detailed invoices, time sheets, and expense records as applicable:

- A. Services costs (direct and indirect);
- B. Travel and/or vehicle expenses;
- C. Professional contractual costs;
- D. Laboratory costs;
- E. Graphics;
- F. Other contractual costs; and
- G. Other costs, as agreed.

Section 4.03 Submittal of Payment

Unless appealed in accordance with Section 4.01 of this Article, payments for costs incurred by the City for the performance of Services under this Article shall be submitted to the City within 30 days after receipt of an Pay Request by the CHA.

Section 4.04 Manner of Payment

Payment shall be made by check, money order or electronic funds transfer made payable to "Chicago Department of Fleet and Facility Management". The check or money order shall include the invoice number as provided in the Pay Request and the federal employer identification number of the CHA. Payment shall be mailed, electronically delivered or hand delivered to the address or account number designated by the City on the Pay Request. Payments that are hand-delivered shall be delivered to the Department during normal business hours.

Section 4.05 Non-Appropriation

Funding for this Agreement is subject to: (1) availability of federal funds from HUD, and (2) the approval of funding by CHA's Board of Commissioners. In the event that insufficient funds are appropriated and budgeted in any fiscal period of the CHA for payments to be made under this Agreement, the CHA shall provide written notice to the City of such insufficiency, and this Agreement shall terminate on the earlier of: (1) the last day of the fiscal period for which sufficient appropriation was made, or (2) upon exhaustion of the funds appropriated for payment under this Agreement. No payments shall be made or due to the City under this Agreement beyond those amounts appropriated and budgeted by the CHA to fund payments hereunder. Notwithstanding the terms of this Section, CHA will not be released from its duties under this Agreement with respect to Services begun prior to the date of notice, unless the City exercises its right to cease provision of

those services and refund to the CHA the unused portion of an advance payment, pursuant to Section 3.02(C) of this Agreement.

ARTICLE 5. SPECIAL CONDITIONS

Section 5.01 Non-liability of Public Officials

No official, employee or agent of either party shall be charged personally by the other party or by an assignee or subcontractor of the other party with any liability or expenses of defense, or be held personally liable under any term or provision of this Agreement, because of such party's execution or attempted execution of this Agreement, or because of any breach hereof.

Section 5.02 Resolution of Disputes

HUD shall be the final arbiter when determining the sufficiency of the City's Environmental Reviews, and any other action required under the Services. In the event that a dispute arises over conclusions drawn or reached by the City, the conditions required by an Environmental Review, or HUD Documentation issued by the City, while conducting the Services contemplated by this Agreement, and the parties do not wish to terminate the contract, HUD shall be given the discretion to resolve such dispute.

A dispute between the CHA and the City involving the terms and conditions of this Agreement not subject to HUD authority, or involving a dispute HUD declines to arbitrate, shall be referred to the Commissioner and the CEO. Either party may give written notice of the dispute to both the Commissioner and the CEO, who shall meet within 30 days of notification to resolve the dispute. In the event the Commissioner and the CEO fail to resolve the dispute, each party may pursue its remedies at law, and shall endeavor to do so within one (1) year of the date notification of the dispute is given. '

Section 5.03 Conflict of Interest

- A. No Member of the governing body of the CHA or other units of government and no other officer, employee, or agent of the CHA or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and/or CHA employee shall be entitled to any share or part of this Agreement or to any financial benefit arising from it.

The City covenants that it, its employees, and its subcontractors presently have no interest and shall acquire no interest, direct or indirect, in this Agreement, which would conflict in any manner or degree with the performance of the Services hereunder. The City further covenants that in the performance of this Agreement no person having any such interest shall be employed in violation of the terms of this Section.

Additionally, pursuant to the conflict of interest requirements in OMB Circular A-102 and 2 CFR §200.318(c)(1), no person who is an employee, agent, consultant, officer, or appointed official of the CHA and who exercises or has exercised any functions or responsibilities with respect to HUD assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such HUD activities, may obtain a financial

9

interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those whom he or she has family or business ties, during his or her tenure or for one year thereafter.

- B. The City represents that it is and will remain in compliance with federal restrictions on lobbying set forth in §319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal year 1990, 31 U.S.C. Subsection 1352, and related rules and regulations set forth at 54 Fed. Reg. 52309 ff. (1989), as amended.

Section 5.04 Business Relationships

Pursuant to Section 2-156-030(b) of the Chicago Municipal Code, it is illegal for:

i) 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 any business relationship that creates a "Financial Interest" (as defined in Section 2-156-010 of the Municipal Code) on the part of the official, or the "Domestic Partner" (as defined in Section 2-156-010 of the Municipal Code) or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months, and

ii) for any elected official to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has any business relationship that creates a Financial Interest on the part of the official, or the Domestic Partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

Any 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 CHA hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030(b) has occurred with respect to this Agreement or the transactions contemplated hereby.

ARTICLE 6. **GENERAL CONDITIONS**

Section 6.01 Entire Agreement

This Agreement and the Exhibits attached hereto and incorporated herein, shall constitute the entire Agreement between the parties with respect to the subject matter hereof, and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Agreement that are not expressly addressed herein and therein.

Section 6.02 Counterparts

10

This Agreement may be comprised of several identical counterparts, each to be fully executed by the parties and each to be deemed an original having identical legal effect.

Section 6.03 Amendments

No changes, amendments, modifications, or discharges of this Agreement, or any part thereof, shall be valid unless in writing and signed by the authorized agent of the City and by the Chief Executive Officer of the CHA or his respective designees. The CHA shall incur no liability for Services rendered beyond the scope of this Agreement without a written amendment to this Agreement pursuant to this Section.

Section 6.04 Compliance with All Laws/Governmental Orders

The CHA and the City shall at all times observe and comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government, now existing or hereinafter in effect, which may in any manner affect the performance of this Agreement.

Section 6.05 Governing Law

This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois.

Section 6.06 Severability

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 in all cases because it conflicts with any other provision or provisions hereof or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained 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 thereof.

Section 6.07 Interpretation

Any headings, article titles, or section titles of this Agreement are for convenience of reference only and are not intended to be part of or affect the meaning or interpretation of this Agreement. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions hereof and thereof. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this Agreement.

Section 6.08 Waiver

1 1

Whenever under this Agreement either party, by a proper authority, waives the other party's performance in any respect or waives a requirement or condition of the other party's performance, the waiver so granted, whether express or implied, shall only apply to the particular instance and shall not be deemed a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver shall be construed as a modification of the Agreement regardless of the number of times either party may have waived the performance, requirement or condition.

Section 6.09 Disclaimer of Relationship

The terms and provisions of this Agreement will be binding upon and inure to the benefit of, and be enforceable by, the respective successors and permitted assigns of the Parties. This Agreement will not run to the benefit of, or be enforceable by, any person or entity other than a Party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the City or the CHA, will 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 or the CHA.

Section 6.10 Exhibits

Any exhibits to this Agreement will be construed to be an integral part of this Agreement to the same extent as if

the same had been set forth verbatim herein.

Section 6.11 Foreign Assets Control Lists

Neither the CHA, nor any affiliate 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 law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For the purposes of this paragraph "Affiliate", when used to indicate a relationship with a specified person or entity, will mean a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity will 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.

Section 6.12 Inspector General.

Pursuant to Section 2-56-090 of the Municipal Code, it shall be the duty of every officer, employee, department, agency, contractor, subcontractor and licensee of the city, and every applicant for certification of eligibility for a city contract or program, to cooperate with the inspector general in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Each department's premises, equipment, personnel, books, records and papers shall be made available as soon as practicable to the inspector general. Every city contract and every bid, proposal, application or solicitation for a city contract, and every application for certification of eligibility for a city contract or program shall contain a statement that the person understands and will abide by all provisions to Chapter 2-56 of the Municipal Code.

12

Section 6.13 Time Periods

All time periods referenced herein shall refer to calendar days, unless otherwise specified. In the event that the due date for any action falls on a Saturday, Sunday, City or CHA holiday, said action shall be due on the immediately following business day.

ARTICLE 7. COMMUNICATION AND NOTICES

Section 7.01 Communication Between the Parties

All verbal, electronic and written communication, including required reports and submissions, shall be between the City and the CHA's Development Department, Capital Construction Division, or as provided in Section 7.02 below. No verbal or electronic communication between the parties shall change any of the terms and conditions of this Agreement. Nothing stated herein shall be construed as a waiver or modification of the requirements for notice or service of process of litigation, as set forth in the Illinois Code of Civil Procedure, the Federal Rules of Civil Procedure, the local rules of the Circuit Court of Cook County, and the local rules governing U.S. District Court for the Northern District of Illinois.

Section 7.02 Notices

Notices sent to the City shall be mailed by certified mail, postage prepaid to:

City of Chicago
Department of Fleet and Facility Management 30 North
LaSalle St., Suite 300 Chicago, IL 60602 Attention:
Commissioner

And: City of Chicago Corporation Counsel
City Hall, Room 600 121 N. LaSalle
St. Chicago, IL 60602
Attention: Finance and Economic Development Division

Notices sent to the CHA shall be mailed by certified mail, postage prepaid to:

Chicago Housing Authority 60 E. Van Buren St.,
12th Floor Chicago, Illinois 60605 Attention:
Chief Executive Officer

With a Copy to: Chicago Housing Authority
60 E. Van Buren St., 12th Floor Chicago, Illinois
60605 Attention: Chief Legal Officer

13

Electronic communications to the City, when deemed sufficient by the terms of this Agreement, shall be sent to:

City of Chicago: Kimberly.Worthington@cityofchicago.org
<mailto:Kimberly.Worthington@cityofchicago.org>

And: Kevin.Laberge@cityofchicago.org <mailto:Kevin.Laberge@cityofchicago.org>

Electronic communications to the CHA, when deemed sufficient by the terms of this Agreement, shall be sent to:

CHA: Scott Ammarell
sammarell@thecha.org <mailto:sammarell@thecha.org>

And: Kari Saba
ksaba@thecha.org <mailto:ksaba@thecha.org>

And: Diane Martin
dimartin@thecha.org <mailto:dimartin@thecha.org>

ARTICLE 8. AUTHORITY

Section 8.01 CHA Authority

Execution of this Agreement is authorized by Resolution 2015-CHA-28 of the CHA's Board of Commissioners, adopted April 21, 2015, authorizing this Intergovernmental Agreement, and pursuant to the United States Housing Act of 1937, 42 U.S.C. §1437 et seq., regulations promulgated by HUD, the State Housing Authorities Act, 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances.

Section 8.02 City's Authority

Execution of this Agreement by the City is authorized by an ordinance approved by the City Council of the City of Chicago on _____, 2015, published at pages _____ to _____ of the Journal of Proceedings of the City Council.

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY.]

14

IN WITNESS WHEREOF, the CHA and the City have executed this Agreement as of the _____ day of _____, 2015.

CHICAGO HOUSING AUTHORITY

CITY OF CHICAGO

By:
Dionna Brookens
Its Deputy Chief of Procurement
Department of Procurement and Contracts

By:
David Reynolds
Its Commissioner
Department of Fleet and Facility
Management

Approved as to Form and Legality: Chicago
Housing Authority Office of the General Counsel

By:
Scott W. Ammarell Its Chief
Legal Officer

15

EXHIBIT 1

CHA Sites Currently Undergoing Environmental Review

The following CHA locations are currently undergoing NEPA Environmental Reviews by the Department:

1. Jeffery Towers Apartments, 7020-40 S. Jeffery Blvd., Chicago, IL 60649.

Project Description: The property contains 135 units which are owned and will be rehabilitated by Interfaith Housing Development Corporation. Forty-three (43) of the rehabilitated units will receive Project Based Vouchers through CHA's Rental Assistance Program.

Department Services: The Department, through its environmental consultant, will prepare a NEPA Environmental Assessment (EA) and Certification pursuant to 24 CFR Part 58. Upon completion of the EA, and assuming a Finding of No Significant Impact (FONSI), the Department will advertise the FONSI notification and Notice of Intent to Request Release of Funds.

CHA Duties and Responsibilities: CHA, shall provide all supporting documentation, including but not limited to, correspondence, environmental reports, noise assessments, etc., as necessary for the Department to complete its Environmental Review.

2. Altgeld Blocks 7 & 8, East 132^{na} St. & S. Ingleside Ave., Chicago, IL 60627.

Project Description: These properties contain approximately 221 units which are owned and will be rehabilitated by CHA for continued use as public housing. Sources of funding include Moving to Work and Capital Grant funds.

Department Services: The Department, through its environmental consultant, will prepare a NEPA Environmental Assessment (EA) and Certification pursuant to 24 CFR Part 58. Upon completion of the EA, and

assuming a Finding of No Significant Impact (FONSI), the Department will advertise the FONSI notification and Notice of Intent to Request Release of Funds.

CHA Duties and Responsibilities: CHA shall provide all supporting documentation, including but not limited to, correspondence, environmental reports, noise assessments, etc., as necessary for the Department to complete its Environmental Review.

3. St. Edmund's Oasis, 6100-24 S. Prairie Ave, 217-221 E. 61st St., 300-310 E. 61st St., and 6141-43 S. Indiana Ave., Chicago, IL 60637.

Project Description: New construction of 58 townhome style family rental units located in four buildings on four scattered sites. Sources of funding include CHA Moving to Work funds and other public (City HOME funds) and private (tax credits) funding

16

sources.

Department Services: The Department, through its environmental consultant, has previously prepared an Environmental Review record and environmental compliance certification, pursuant to 24 CFR Part 58, for the City's Department of Planning and Development. The Department will recertify its environmental findings, pursuant to 24 CFR Part 58.47, and prepare a Request Release of Funds for the CHA Moving to Work portion of the development.

CHA Duties and Responsibilities: CHA shall provide all supporting documentation, including but not limited to, correspondence, environmental reports, noise assessments, etc., as necessary for the Department to recertify its Environmental Review and prepare the Request for Release of Funds.

4. Murray Homes Blocks 15 and 16, Bounded by E. 131st St., S. Langley Ave., E. 133rd St., and S. St. Lawrence Ave., Chicago, IL 60627.

Project Description: Demolition of fifteen buildings on Block 15 and ten buildings on Block 16. Sources of funding include HUD Capital Funds.

Department Services: The Department, through its environmental consultant, will prepare a NEPA Environmental Assessment (EA) and Certification pursuant to 24 CFR Part 58. Upon completion of the EA, and assuming a Finding of No Significant Impact (FONSI), the Department will advertise the FONSI notification and Notice of Intent to Request Release of Funds.

CHA Duties and Responsibilities: CHA shall provide all supporting documentation, including but not limited to, correspondence, environmental reports, noise assessments, etc., as necessary for the Department to complete its Environmental Review.

)7

EXHIBIT 2

Description of Services

1. The Department's role in the NEPA Environmental Review process is that of a government regulator.
2. The Department, in conjunction with one or more of its environmental consultants, will perform NEPA Environmental Reviews, in accordance with 24 CFR Part 58, for CHA rehabilitation and redevelopment projects which utilize HUD public housing funds. Environmental Reviews will determine if proposed actions are considered exempt, categorically excluded, or subject to environmental assessment (EA) or Environmental Impact Statement (EIS) determinations.
3. The Department may elect to perform a Tier 1 Programmatic Review, for broad categories of proposed actions which CHA expects to repeat at multiple sites throughout the term of this Agreement. A Tier 1 Programmatic Review does not allow CHA to begin work at specific sites, but will significantly shorten the environmental review process for these sites in the future.
4. The Department and/or its consultant will perform all review work necessary to complete the environmental review record and statutory worksheets pursuant to the review. Review work shall be defined as limited collection, maintenance, and evaluation of data, which is reasonably obtainable, as required by 24 CFR Part 58.
 - a. This shall not be interpreted as the performance of Phase I Environmental Site Assessments, Phase II Subsurface Investigations, Comprehensive Site Investigation Reports, Remedial Objective Reports, Remedial Action Plans, Remedial Action Completion Reports, Noise Assessments, or Surveys.
 - b. The Department will gather such data as wetlands information, flood insurance rate maps (Firmettes), local, State, and federal environmental records which are reasonably obtainable, identification of Historic Resources through web-based applications, informal noise analysis (HUD DNL calculator), etc. as necessary to complete the Environmental Review.
 - c. The Department and/or its consultant may perform Site visits to document existing environmental conditions and to determine if performance of the proposed work will have an adverse effect.
5. Upon completion of an Environmental Review, and assuming a Finding of No Significant Impact (FONSI), the Department will advertise the FONSI notification and Notice of Intent to Request Release of Funds.

6. The Department may condition its Environmental Review findings on CHA's agreement to perform or complete specific activities related to document compliance. Such activities may include, but shall not be limited to, asbestos and lead abatement, underground storage tank (UST) removal, entering the Site into the Illinois Site Remediation Program for purposes of obtaining a comprehensive final No further

18

Remediation letter, initial consultation/compliance with the Illinois Historic Preservation Agency (IHPA) or equivalent agency, compliance with IHPA or equivalent agency requests or requirements, and implementation of noise attenuation measures.

7. The City shall monitor the CHA's compliance with any conditions of Environmental Reviews and compliance with the consultation process required under NHPA Section 106. The Department may require CHA to provide documentation of compliance with such conditions.
8. Upon completion of an exempt or categorically excluded Environmental Review, or upon receipt of HUD Authorization to Use Grant Funds, the Department will issue its environmental compliance certification (Environmental Clearance Memo) to CHA.
9. The Department will notify the CHA of any noncompliance issues identified in accordance with Section 8 above and the CHA will have 15 days to provide corrective and preventive actions and a schedule for their implementation. Any issues not corrected within 60 days will be forwarded to HUD for potential enforcement.

EXHIBIT 3

CHA's Duties and Responsibilities

1. CHA shall initiate all requests for NEPA environmental clearance on forms to be provided by the Department. Requests for environmental clearance must be clear and thoroughly describe the scope of services anticipated at the Site.
2. CHA, at its own expense, shall provide the Department with copies of all supplemental information required, and requested by, the Department for purposes of completing the Environmental Review. Such information may include, but shall not be limited to, Phase I Environmental Site Assessments, Phase II Subsurface Investigations, Comprehensive Site Investigation Reports, Remedial Objective Reports, Remedial Action Plans, Noise Assessments, Surveys, and/or documentation reflecting consultation with the Advisory Council on Historic Preservation, among others and copies of correspondence with local, State, and federal agencies.
3. CHA acknowledges that the timely performance of the Environmental Reviews will depend upon the availability and quality of supplemental information.
4. CHA shall not have any direct communication with the Department's NEPA environmental consultant without the express written consent of the Department. Electronic communications shall be deemed sufficient for purposes of requesting and providing such consent.
5. CHA shall not begin any physical work, including but not limited to acquisition, disposition, construction, or rehabilitation at project Sites without the express written environmental compliance certification provided by the Department.
6. CHA agrees to follow and be bound by any conditions identified by the Department and incorporated into environmental compliance certifications (Environmental Clearance Memos). The CHA will be notified of any noncompliance issues identified in accordance with Exhibit 2 Section 9 and will have 15 days to provide corrective and preventive actions and a schedule for their implementation. Any issues not corrected within 60 days will be forwarded to HUD for potential enforcement.
7. CHA shall be responsible for coordinating any public meetings that may be deemed necessary for completion of the environmental review process.

