File #: O2016-68, **Version:** 1

ORDINANCE

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

WHEREAS, the City has established a large bike sharing system in Chicago (the "System"); and

WHEREAS, the City has received grants totaling $28,000,000"(the,"Grant Funds") from the federal government to pay for the costs of purchase and installation of the infrastructure of the System, which will be supplemented by City funds in the amount of approximately $6,500,000; and - "

WHEREAS, the City, through its Department of Transportation ("CDOT"), desires to" act as a fiscal agent to a portion of the Grant Funds in the amount of $320,000 that will be granted to the City of Evanston ("Evanston") for the purpose of Evanston,' acquiring a substantially identical bike sharing system to the System such that the two systems will, inter alia, (i) be interoperable, (ii) share a brand identity through a licensing arrangement, and (iii) may share certain costs and revenues; and

WHEREAS, the City, through CDOT, also desires to act as a fiscal agent to a portion of the Grant Funds in the amount of $480,000 that will be granted to the Village of Oak Park ("Oak Park," and together with Evanston, the "Parties") for the purpose of Oak Park acquiring a substantially identical bike sharing system to the System such that the two systems will, inter alia, (i) be interoperable, (ii) share a brand identity through a licensing arrangement, and (iii) may share certain costs and revenues; and

• WHEREAS, the City and the Parties wish to enter into intergovernmental agreements in substantially the forms attached as Exhibit A and Exhibit B (the "Agreements") whereby the City shall grant $320,000 to Evanston and $480,000 to Oak Park, respectively; now, therefore,

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

SECTION 1. The above recitals are expressly incorporated "in arid made a part of this ordinance as though fully set forth herein. \.

SECTION 2. Subject to the approval of the Corporation Counsel of the City as to form and legality, the Commissioner of CDOT is authorized to execute and'deliver the Agreements in substantially the forms attached hereto as Exhibit A and Exhibit B, and'such other documents as are necessary, between the City and the Parties. '\

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 other provisions of this ordinance.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage and approval.

1

S:\SHARED\Finance\IGAs\CDOT\Bike <file://S:/SHARED/Finance/IGAs/CDOT/Bike> Sharing (DIVVY) \Oak Park and Evanston\Ordinance v.4.docx

*

EXHIBIT A

Evanston Intergovernmental Agreement

powered by Legistar™

S:\SHARED\Finance\IGAs\CDOT\Bike <file://S:/SHARED/Finance/IGAs/CDOT/Bike> Sharing (DIVVY)\Oak Park and Evanston\Ordinance v.4.docx

S:\SHARED\Finance\IGAs\CDOT\Bike <file://S:/SHARED/Finance/IGAs/CDOT/Bike> Sharing (DIWY)\Oak Park and Evanston\Evanston\Evanston Bike Sharing Program IGA v.7.docx

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CHICAGO AND THE CITY OF EVANSTON REGARDING THE CHICAGO CITY-WIDE BIKE SHARING SYSTEM

This Intergovernmental Agreement (the "Intergovernmental Agreement") is made and entered into this th day of , 20 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, by and through its Department of Transportation, and the City of Evanston ("Evanston"), a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois. The City and Evanston are sometimes referred to herein individually as a "Party" and together as the "Parties."

RECITALS

WHEREAS, the City has received grants totaling $28,000,000 (the "Grant Funds") from the federal government to pay for the costs of purchase and installation of the infrastructure of a bike sharing system within Chicago (the "System"), which will be supplemented by City funds in the amount of approximately $6,500,000; and

WHEREAS, the City desires to act as a fiscal agent to a portion of the Grant Funds in the amount of $320,000 that will be granted to Evanston (the "Evanston Pass-Through Grant") for the purpose of Evanston acquiring a substantially identical bicycle sharing system to the System such that the two systems will, inter alia, (i) be interoperable, (ii) share a brand identity through a licensing arrangement described herein, and (iii) may share certain costs and revenues in a manner described herein; and

WHEREAS, the City, as the fiscal agent, will provide the Evanston Pass-Through Grant through direct payments to the Bicycle Sharing Provider, as hereinafter defined, for costs related to the Evanston Project, as hereinafter defined; and

WHEREAS, Evanston is required to provide no less than $80,000 as the local match funds for the Evanston Pass-Through Grant (the "Local Match Funds"); and

WHEREAS, Evanston will provide the Local Match Funds through direct payments to the Bicycle Sharing Provider, as hereinafter defined, for eligible costs in connection with the Evanston Project, as hereinafter defined; and

powered by Legistar™

WHEREAS, Evanston will be the owner of all Bicycle Stations, as hereinafter defined, used in the Evanston System, as hereinafter defined; and

WHEREAS, the City is the owner of Federal trademark registrations for the marks "Divvy" (Reg. No. 4802363) and "Divvy and Design" (Reg. No. 4802362) and various trademarks, service marks, logos, trade dress and the like used in connection with the System and is the owner of for the Bike Sharing System (the "System Marks"); and

WHEREAS, Evanston desires that the Evanston System use the System Marks; and

WHEREAS, the City has entered into an agreement (the "Bicycle Sharing Agreement") with Motivate International, Inc. (the "Bicycle Sharing Provider"), for the Bicycle Sharing Provider to procure, install, operate and maintain the equipment necessary for the System (the installation, operation, maintenance of the equipment, displaying advertising on, repairing, replacing, dismantling and removing Bicycle Stations necessary for the System by the Bicycle Sharing Provider pursuant to the Bicycle Sharing Agreement shall be known herein as the "Project"); and

WHEREAS, the Bicycle Sharing Provider is licensed to use the System Marks in operating the System and related systems, including the Evanston System, subject to all restrictions and quality control provisions exercised by the City; and

WHEREAS, it is anticipated that Evanston will also enter into an agreement substantially similar to Bicycle Sharing Agreement (the "Evanston Bicycle Sharing Agreement") with the Bicycle Sharing Provider, for the Bicycle Sharing Provider to operate and maintain the equipment necessary for a bike sharing system in the City of Evanston, including all or most of the same service metrics as in the Bicycle Sharing Agreement (the "Evanston System," and collectively with the System, the "Entire System")(the installation, operation, maintenance of the equipment, displaying advertising on, repairing, replacing, dismantling and removing Evanston Bicycle Stations necessary for the System by the Bicycle Sharing Provider pursuant to the Evanston Bicycle Sharing Agreement shall be known herein as the "Evanston Project," and collectively with the Project, the "Entire Project"); and

WHEREAS, the City has entered into an agreement with Outfront Media LLC (f/k/a Van Wagner Communications, LLC), a New York limited liability company ("Outfront") to install, maintain, and remove advertising in connection with the System (the "Advertising Provider Agreement")(Outfront and its subcontractors will be collectively known as the "Advertising Provider"); and

WHEREAS, the Entire System shall benefit the Parties' residents, businesses and visitors by improving the environment and increasing the amenities of the Parties by providing an additional convenient transportation option; and

WHEREAS, the Evanston Project shall require that the Bicycle Sharing Provider install, operate and maintain certain necessary equipment (bicycles and related equipment known as "Bicycle Stations") on and at specific locations on and at property owned (or otherwise legally controlled) by Evanston (such property shall be known as "Evanston Property," such Bicycle Stations shall be known as "Evanston Bicycle Stations," and such locations shall be known as "Evanston Bicycle Station Locations"); and

WHEREAS, the Entire Project shall therefore require that Evanston grant (or cause to be granted to); (1) the Bicycle Sharing Provider and its contractor(s) and subcontractors (the Bicycle Sharing Provider, its contractors and subcontractor shall be known collectively as the "Contractors") and the Advertising Provider, appropriate rights of entry and access to the Evanston Bicycle Station Locations for purposes of installing, operating, maintaining, displaying advertising on, repairing, replacing, dismantling and removing the Evanston Bicycle Stations; and (2) members of the public (the "Member") appropriate rights of entry and access to the Evanston Bicycle Station Locations for purposes of using the Evanston Bicycle Stations and the System;

powered by Legistar™

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; DEFINITIONS

9

The recitals set forth above are incorporated herein by reference and made a part hereof. Any capitalized term used, but otherwise not defined, herein shall have the same meaning as ascribed to it in the Bicycle Sharing Agreement.

ARTICLE TWO: THE BICYCLE SHARING AGREEMENT, THE VILLAGE BICYCLE STATIONS AND THE VILLAGE BICYCLE STATION LOCATIONS

1. Evanston hereby acknowledges and agrees to comply with (i) all applicable terms and conditions of the Bicycle Sharing Agreement and (ii) the City's exercise of the control over the quality of the goods and services offered under the System Marks through its license with Motivate, all of which will be no more onerous than that which the City exercises over the System, all as directed by the City. Evanston acknowledges that City is the owner of the System Marks and that Evanston has no ownership interest in the System Marks.

2. Evanston shall not act or fail to act in such a manner as to cause the City or the Bicycle Sharing Provider to violate or be in default under the Bicycle Sharing Agreement.

3. Evanston, prior to entering into the Evanston Bicycle Sharing Agreement, shall furnish the City with a copy for the City's review and approval.

4. Evanston will determine potential Evanston Bicycle Station . Locations (the "Potential Evanston Bicycle Station Locations"). Evanston shall use as its basis for the proper siting of the Bicycle Station Locations such factors as reservation of sites for future projects, aesthetics, crowd and traffic control, general safety and visibility, landscaping issues, and other factors "which may affect the mission of the Evanston. The Illinois State Historic Preservation Officer (SHPO) shall be given the opportunity to review all Potential Evanston Bicycle Station Locations to ensure that they meet the Secretary of Interior's standard for rehabilitation and guidelines for rehabilitating historic buildings as contained in 36 CFR 67 and concur in a finding of no adverse effect pursuant to 36 CFR 800.

5. In addition to the Evanston Bicycle Stations funded from the proceeds of the Evanston Pass-Through Grant, Evanston may install additional Bicycle Stations funded by other sources. Such Bicycle Stations shall be considered Evanston Bicycle Stations, a part of the Evanston System and therefore a part of the Entire System, and subject to all of the terms and conditions of this Intergovernmental Agreement.

6. Evanston shall provide, or cause to be provided, to the City and Contractors the relevant information and documentation (including documentation evidencing Evanston's ownership or control of Evanston Property) regarding the Potential Evanston Bicycle Station Locations, the Evanston Bicycle Station Locations, and, to the extent necessary, the applicable Evanston Property(ies) necessary for purposes of installing, operating, maintaining, displaying advertising on, repairing, replacing, dismantling and removing Evanston Bicycle Stations. Evanston shall provide any and all permits to install said Evanston Bicycle Stations at no cost to the Contractors.

7. Evanston hereby grants to the City, the City's agents and employees, Contractors and the Advertising Provider a right of entry to Evanston Bicycle Station Locations and, to the extent necessary, the applicable Evanston Property(ies) for purposes of (i) installing, operating, maintaining, displaying advertising on, repairing, replacing, dismantling and removing the Evanston Bicycle Stations and (ii) inspection of

powered by Legistar™

compliance with quality standards that the City enforces with the System. Five days prior to the installation of such Evanston Bicycle Station, the Bicycle Sharing Provider shall provide written notice to Evanston's representative identified in Article Nineteen of its intention to install Evanston Bicycle Stations and its associated infrastructure, subject to Evanston's approval, which may include the necessity of

opening secured areas, providing locates and conducting before and after installation walkthroughs to determine damage and restoration if needed.

Evanston hereby also grants to the Members a right of entry to the Evanston Bicycle Station Locations and, to the extent necessary, the applicable Evanston Property(ies), for the purpose of using Evanston Bicycle Stations and the Evanston System. The terms and conditions of the rights of entry described in this paragraph 7 shall be coterminous with the Bicycle Sharing Agreement, as may be amended from time to time, only upon agreement of the parties hereto. Further, the Contractors shall keep, or cause to be kept, the Evanston Stations in a clean, well-maintained condition, and shall not use Evanston Property for any purpose other than those related to this Agreement, including but not limited to parking vehicles, storage or equipment or debris for longer than necessary to complete necessary construction and maintenance tasks.

8. Evanston acknowledges that the Evanston Bicycle Stations, and all related equipment installed at the Evanston Bicycle Station Locations by the Contractors, are and shall remain the property of Evanston. Evanston also agrees that all Evanston Bicycle Stations and other equipment purchased for the Evanston System shall be identical to the equipment in the System.

9. Evanston shall be responsible for all costs related to the Evanston Project and Evanston Bicycle Stations, including the costs described in subparts (a), (b) and (c) below:

a) Damage to Bicycles.

i) Evanston will be responsible for costs associated with damage to bicycles if the damage clearly occurred within Evanston (the "Evanston Costs").

ii) The City will be responsible for the costs associated with damage to bicycles if the damage clearly occurred within the City (the "City Costs").

iii) The costs of damage to bicycles that are not Evanston Costs nor City Costs, nor attributable to a particular Member, will be divided in proportion to the number of bicycles in a jurisdiction's system compared to the number of bicycles in the Entire System.

b) Stolen or Missing Bicycles. Except as provided in the Evanston Bicycle Sharing Agreement, Evanston will be responsible for costs associated with stolen or missing bicycles (the "Costs of Missing Bicycles") in proportion to the number of bicycles in the Evanston System as compared to the number of bicycles in the Entire System. Solely for the purpose of illustration, and not of limitation, if the number of bicycles in the Evanston System is ten, and the number of bicycles in the Entire System is 100, the Evanston would be responsible for ten percent of the Costs of Missing Bicycles in the Entire System; provided, however, the Evanston's share of the Costs of Missing Bicycles shall not exceed any maximum amount of such cost stated in the Evanston Bicycle Sharing Agreement. Costs in excess of such maximum shall be the responsibility of the Bicycle Sharing Provider, and not of the City.

c) Damage to Stations. Except as provided in the Evanston Bicycle Sharing Agreement, Evanston will be responsible for all costs associated with damage to Evanston Bicycle Stations, no matter the source of the damage.

powered by Legistar™

10. The authorizations granted in or pursuant to this Intergovernmental Agreement (including but not limited to the right of entry and license referenced in Section 6 above) shall be nonexclusive and nothing contained in this Intergovernmental Agreement shall be construed to limit, alter, or waive the right of Evanston to authorize persons other than the City, the Contractors and Advertising Provider to access and use the Evanston Property for any purpose, other than the operation of a bicycle sharing program.

11. At the conclusion of the Project, Evanston shall cause the Contractor to remove, or cause to be removed, any and all infrastructure, improvements, fixtures, signage or markings associated with the Project unless otherwise requested by the City. All removals from Evanston property must be within ninety (90) days of the conclusion of this Intergovernmental Agreement, or if the Project has been terminated by the City with their vendors due to any reason, including bankruptcy, impracticability, impossibility, abandonment or any other reason for early conclusion of this Project, within 90 days of termination.

12. Evanston agrees that the following elements of the Entire System shall be determined by the City, in its sole discretion: pricing, hours of operation, seasons of operation, emergency system shut down, software and technology upgrades, branding, colors, logo, the number and types of specialty bikes, and all advertising and promotional materials (in print or electronic form) incorporating the System Marks. The City reserves the right to modify this list at its sole discretion.

ARTICLE THREE: THE REVENUE SHARING AGREEMENT

1. Memberships. The revenue related to membership fees shall be distributed as follows:

a) Annual Memberships.

i) The City shall be entitled to the membership fee related to an annual membership that is purchased by a Member with a mailing address located within the City, the membership fee related to an annual membership that is purchased by a Member with a mailing address that is neither located within the City nor within Evanston, and any overage fees related to such trips that originate within the City.

ii) Evanston shall be entitled to the membership fee related to an annual membership that is purchased by a Member with a mailing address that is located within Evanston and any overage fees related to trips that originate within Evanston.

b) 24-hour Passes.

i) The City shall be entitled to the fee related to any 24-hour pass that is purchased within the City and any overage fees related to such 24-hour pass for trips that originate within the City.

ii) Evanston shall be entitled to the fees related to any 24-hour pass that is purchased within Evanston and any overage fees related to such 24-hour pass for trips that originate within Evanston.

c) Gift Memberships and Gift 24-Hour Passes.

i) The City shall be entitled to the fee related to a Gift Membership or Gift 24-hour pass is activated by a Member with a mailing address located within the City, and by a Member with a mailing address that is neither located within the City nor within Evanston.

ii) Evanston shall be entitled to the fee related to a gift membership or a gift 24-hour pass that is activated by a Member with a mailing address located within Evanston.

powered by Legistar™

(d) Notwithstanding the foregoing in subsection (c) above, if a Gift 24-hour Pass or Gift Membership is not activated within six months of the date of purchase (the "Unactivated Membership"), each Party shall be entitled to the share of the Unactivated Membership fee that is in proportion to the number of docking points in a particular jurisdiction divided by the number of docking points in the Entire System.

2. Licensed Merchandise

Grant: City grants Evanston a non-exclusive and non-sublicensable license to use the System Marks on the following goods: hats, t-shirts, bicycle helmets and sweatshirts ("Merchandise"). Should Evanston wish to use the System Marks on any other products not identified in the definition of "Merchandise," it must request permission in writing from City. Evanston acknowledges and agrees that all use of the System Marks on the Merchandise by Evanston inures to the benefit of the City.

Quality Control: Prior to manufacture of the Merchandise, Evanston must submit to City in writing samples of all Merchandise, specifications regarding materials and information regarding the manufacturer of the Merchandise for approval by City. Evanston must provide City with samples of Merchandise for sale or distributed to the public pursuant to the license in this paragraph on the anniversary of the effective date of this Agreement. If any of the Merchandise is modified in a material manner by Evanston, including a change in the identity of the manufacturer, samples and information regarding the manufacturer shall be provided to City for approval before the modified Merchandise is offered for sale or otherwise distributed to the public. Should City require any changes to Merchandise, Evanston will have thirty (30) days to modify the Merchandise as required by City. Should Evanston fail to do so, City may terminate the license granted under this paragraph. Any unsold merchandise in Evanston's possession as of the termination date must be given to City or otherwise disposed of as City directs.

All revenues from sales of Merchandise shall be distributed as follows:

(a) The City shall be entitled to all revenue from Merchandise purchased in and shipped to locations within the City, and shipped to locations neither within the City nor Evanston.

b) Evanston shall be entitled to revenue from Merchandise created by Evanston and purchased in Evanston, less a ten percent licensing fee charged by the City (the "City Licensing Fee").

c) Within 30 days following the end of each quarter, Evanston shall provide a report to the Bicycle Sharing Provider detailing the revenue obtained from Merchandising for such quarter. The Bicycle Sharing Provider shall then invoice Evanston in the amount of the City Licensing Fee. Evanston shall pay the amount of the invoice to the Bicycle Sharing Provider, who will deposit the funds as provided in the Bicycle Sharing Agreement.

3. Advertising.

(a) If Evanston agrees that the City will contract with the Advertising Provider to install advertising on the Evanston Bicycle Stations, Evanston does hereby grant to the City, the Contractors, and the Advertising Provider a license to use the Evanston Bicycle Station Locations for said purpose. The term of license described in this Section 3 shall be coterminous with the Bicycle Sharing Agreement and the Evanston Bicycle Sharing Agreement, as both may be amended from time to time. Ten percent of the gross revenue shall be allocated to the City as an administrative fee and such fee shall be in addition to and shall not be deducted from or

o

powered by Legistar™

considered a part of the City's share of the operating revenue. Evanston shall be entitled to all revenue, if any, generated by advertising from the Evanston Bicycle Stations remaining after payment of the City's administrative fee and the Advertising Provider's commission based on the rates in the Advertising Provider Agreement. Such advertising shall comply with the City's established standards for advertising content and format.

(b) Evanston may enter into agreements to install, maintain and remove advertising in connection with the Evanston Bicycle Stations with alternative advertising providers. Such advertising shall comply with the City's established standards for content, format, and existing contracts.

4. Sponsorship.

a) The City has entered into that certain sponsorship agreement by and between with Blue Cross Blue Shield of Illinois and the City (the "Sponsorship Agreement"). The terms of the Sponsorship Agreement shall apply to the Evanston System and the Evanston Bicycle Stations. Evanston acknowledges and accepts that the City is entitled to 100% of the revenue generated by the Sponsorship Agreement in connection with the Evanston System and Evanston Bicycle Stations.

b) The City contemplates entering into additional sponsorship agreements for additional station elements including, but not limited to, cellular service and payment system sponsorships (the "Additional Sponsorship Agreements"). If agreed upon by the sponsor, the terms of the Additional Sponsorship Agreements shall apply to the Evanston System and the Evanston Bicycle Stations. Evanston acknowledges and accepts that Evanston will be entitled to a percentage of the sponsorship revenue less any commissions based on the number of stations in the Evanston System in proportion to stations in the Entire System. Evanston also acknowledges that it shall only receive revenue if the sponsor(s) agree to extend the sponsorship to the Evanston System.

Notwithstanding the foregoing, Evanston may enter into sponsorship agreements in connection with individual Evanston Bicycle Stations, with the consent of the City, which consent shall not be unreasonably withheld.

ARTICLE FOUR: TERM

The Term of the Intergovernmental Agreement shall commence on the date hereof and shall expire upon the termination of the Bicycle Sharing Agreement according to its terms. Notwithstanding the foregoing, the City may terminate this Intergovernmental Agreement in its entirety, or any portion of it, at any time by a notice in writing from the City to Evanston for the following reasons:

1. The City or the Bicycle Sharing Provider terminates the Bicycle Sharing Agreement.

2. Evanston or the Bicycle Sharing Provider terminates the Evanston Bicycle Sharing Agreement.

3. The City terminates the System, the Entire System, or the Evanston System. If the City decides to terminate the Evanston System, it may offer to purchase the Evanston Bicycle Stations.

The City will give notice to Evanston in accordance with the provisions of Article Seven. The effective date of termination will be the date the notice is received by Evanston or the date stated in the notice, whichever is later.

ARTICLE FIVE: INDEMNITY

1. Evanston 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 Evanston's failure to comply with any of the terms, covenants and conditions contained within this Intergovernmental Agreement.

2. The City agrees to indemnify, defend and hold Evanston 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 Evanston arising from or in connection with the City's failure to comply with any of the terms, covenants and conditions contained within this Intergovernmental Agreement.

The indemnities contained herein shall survive the expiration of this Intergovernmental Agreement.

ARTICLE SIX: CONSENT

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

ARTICLE SEVEN: NOTICE

Notice to Evanston shall be addressed to:

City of Evanston
Community Development Department 100 Ridge
Avenue Evanston, Illinois 602011 Attention: Mark
Muenzer, Director Phone: (847)448-8032

with a copy to:

City of Evanston Law
Department 2100 Ridge Avenue
Attention: W. Grant Farrar, Corporation Counsel Phone: (847)866
-2937

Notice to the City shall be addressed to:

City of Chicago Department of Transportation
30 North LaSalle, Suite 500 Chicago, Illinois
60602 Attention: Divvy Bike Program

with a copy to

8

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 addresses set forth above, by any of the following means: (a) personal service; (b) overnight courier; (c) registered or certified mail, return receipt requested.

powered by Legistar™

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 subjection (c) shall be deemed received two (2) days following deposit in the mail.

ARTICLE EIGHT: ASSIGNMENT; BINDING EFFECT

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

This Intergovernmental Agreement shall inure to the benefit of and shall be binding upon the City, Evanston and their respective successors and permitted assigns. This Intergovernmental Agreement is intended to be and is for the sole and exclusive benefit of the parties hereto and such successors and permitted assigns (and, to the extent applicable, the Bicycle Sharing Provider).

ARTICLE NINE: MODIFICATION

This Intergovernmental 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 Intergovernmental Agreement.

ARTICLE ELEVEN: GOVERNING LAW AND SEVERABILITY

This Intergovernmental Agreement shall be governed by the laws of the State of Illinois. If any provision of this Intergovernmental 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 Intergovernmental Agreement shall not affect the remaining portions of this Intergovernmental Agreement or any part hereof.

ARTICLE TWELVE: COUNTERPARTS

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

9

ARTICLE THIRTEEN: ENTIRE AGREEMENT

This Intergovernmental Agreement constitutes the entire agreement between the parties and shall supersede any and all prior agreements regarding the subject matter hereof.

ARTICLE FOURTEEN: AUTHORITY

Execution of this Intergovernmental Agreement by the City is authorized by an ordinance passed by the City Council of the City on . Execution of this Intergovernmental Agreement by Evanston is authorized by a resolution approved by the City Council of Evanston on , 201_. The parties represent and warrant to each other that they have the authority to enter into this Intergovernmental Agreement and perform their obligations hereunder.

ARTICLE FIFTEEN: HEADINGS

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

ARTICLE SIXTEEN: DISCLAIMER OF RELATIONSHIP

The Bicycle Sharing Provider shall be deemed a third party beneficiary of Article Two hereof; otherwise, nothing contained in this Intergovernmental Agreement, nor any act of the City or Evanston 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 Evanston.

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 or agent of the City or Evanston shall be individually or personally liable in connection with this Intergovernmental Agreement.

ARTICLE NINETEEN: REPRESENTATIVES

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

For the Evanston: City of Evanston
Community Development Department 100 Ridge
Avenue Evanston, Illinois 602011 Attention: Katherine
Knapp Phone: (847)448-8032

For the City: City of Chicago
Department of Transportation

10

30 North LaSalle Chicago, Illinois
60602 Attention: Sean Wiedel Phone:
(312) 744-8182

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 fax number of the representative for such party for the purpose hereof.

ARTICLE TWENTY: INSPECTION AND RECORDS

Evanston shall provide the City with reasonable access to its books and records relating to the Evanston System as shall be required by the City and necessary to reflect and disclose fully the amount and disposition of the revenues related to the memberships, merchandise, advertising, and sponsorship described in Article Three. Any duly authorized representative of the City shall, at all reasonable times, have access to all portions of the Evanston Property where the Evanston Project is located. The rights of access and inspection

provided in this paragraph shall continue for five years from the later of the expiration or the termination of this intergovernmental Agreement.

The 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 Intergovernmental Agreement to be executed and delivered as of the date first above written.

CITY OF CHICAGO, ILLINOIS

By:
Name: Rebekah Scheinfeld Commissioner
Department of Transportation

CITY OF EVANSTON, ILLINOIS

By:
Name: Wally Bobkiewicz Title: City Manager

EXHIBIT B

Oak Park Intergovernmental Agreement

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL MAYOR

January 13, 2016

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

Ladies and Gentlemen:

At the request of the Commissioner of Transportation, I transmit herewith an ordinance authorizing the execution of a intergovernmental agreement with Evanston and Oak Park regarding the Divvy Program.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

CHICAGO, February 10, 2016

To the President and Members of the City Council:

Your Committee on the Budget and Government Operations, having had under consideration an Ordinance authorizing the execution of intergovernmental agreements between the City of Chicago and the City of Evanston and the Village of Oak Park necessary for interoperable bike sharing systems; and having had the

powered by Legistar™

same under advisement, begs leave to report and recommend that Your Honorable Body pass the Ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Parrie M. Austin Chairman

powered by Legistar™