



Office of the City Clerk

City Hall
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Room 107
Chicago, IL 60602
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Legislation Text

File #: SO2016-668, Version: 1

SUBSTITUTE ORDINANCE

WHEREAS, pursuant to Section 6(a) of Article VII of the Constitution of the State of Illinois, the City of Chicago, Illinois (the "City") is a municipality and a home rule unit of local government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "State"); and

WHEREAS, pursuant to the Constitution and laws of the State, and particularly Section 6 of Article VII of the Constitution of the State, the City is authorized to aid in providing an adequate supply of residential housing for low- and moderate-income persons and families within the City; and

WHEREAS, pursuant to an ordinance adopted by the City Council (the "City Council") of the City on April 11, 2007 and published at pages 101806 through 102157 in the Journal of Proceedings for such date (the "Journal of Proceedings"), the City previously issued revenue bonds to provide an adequate supply of residential housing for low- and moderate-income persons and families within the City (the "Single Family Mortgage Revenue Bond Program"); and

WHEREAS, the City has now determined that it is necessary, desirable and in the public interest to provide financial and other assistance toward providing an adequate supply of residential housing for low- and moderate-income persons and families within the City (the "Program"); and

WHEREAS, the Program will involve, among other things, the origination and servicing of qualified first mortgage loans that are Federal Housing Administration ("FHA") insured, United States Department of Veterans Affairs ("VA") or United States Department of Agriculture ("USDA") guaranteed, Federal Home Loan Mortgage Corporation ("Freddie Mac") eligible, or Federal National Mortgage Association ("Fannie Mae") eligible for purchase by Freddie Mac (the "Mortgage Loans"), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, pursuant to an ordinance adopted by the City Council on April 24, 2012 and published at pages 23972 through 23988 in the Journal of Proceedings, as amended from time to time, the Chicago Infrastructure Trust ("CIT") was established by the City as a not-for-profit corporation organized under the laws of the State to facilitate, coordinate and implement alternative financing for infrastructure projects on behalf of the City (the "CIT Establishment Ordinance"); and

WHEREAS, CIT has the ability and expertise to facilitate, coordinate and administer certain aspects of the Program on behalf of the City; and

WHEREAS, in order to effect the proposed assistance of CIT in facilitating, coordinating and administering certain aspects of the Program on behalf of the City, it is now desirable to amend the CIT Establishment Ordinance such that the City grants to CIT the power to participate in the Program; and

WHEREAS, in connection with Fannie Mae and Freddie Mac Mortgage Loans, grants may be made by Lenders (as defined hereinafter) on behalf of the City under the Program to Eligible Borrowers (as defined hereinafter) for use in paying a portion of the down payment and/or closing costs of such Mortgage Loans ("Lender Advanced Grants") or alternatively,

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grants may be made by Lenders from other sources for use in paying a portion of the down payment and/or closing costs of Mortgage Loans; and

WHEREAS, in connection with the Program, the City proposes to advance an aggregate amount not to exceed \$1,000,000 as initial seed funding to the CIT to be used to pay costs associated with administering the Program and to provide financial assistance grants to Eligible Borrowers for use in paying a portion of the down payment and/or closing costs in connection with such Mortgage Loans ("CIT Advanced Grants" and together with the Lender Advanced Grants, the "Grants"), which funding shall be returned to the City once the Program is self-sustaining; and

WHEREAS, Grants shall be available to Eligible Borrowers on a first-come, first served basis; and

WHEREAS, the Mortgage Loans under the Program will be either sold to Freddie Mac or pooled by a servicer into fully-modified pass-through mortgage-backed securities ultimately sold into the secondary mortgage market by the servicer, at no risk to the City, and such securities will be guaranteed by the Government National Mortgage Association ("GNMA") or Freddie Mac evidencing the timely payment of monthly principal and interest payments on the Mortgage Loans by GNMA or Freddie Mac; and

WHEREAS, pursuant to the Program, the City has sent, or will from time to time send, invitations to various lending institutions approved by the Department of Housing and Urban Development ("HUD") and by Freddie Mac to originate and/or service such Mortgage Loans (the "Eligible Lenders"), and certain of the Eligible Lenders if they abide by the City's disclosure and other requirements shall be offered the opportunity to participate in the Program (the "Lenders"); and

WHEREAS, in connection with the Program:

a) the City shall enter into a Program Administration Agreement with one or more program administrators (collectively, the "Program Administrator") and CIT for the administration of the Program in accordance with the provisions of this Ordinance and FHA, GNMA, Fannie Mae, Freddie Mac, VA, and USDA guidelines, if any and as applicable;

b) the City's Department of Planning and Development ("DPD") shall issue Program Guidelines (the "Program Guidelines") providing for, among other things, (1) the criteria, documentation and procedures for the origination of Mortgage Loans, including, but not limited to, criteria to qualify as an Eligible Borrower and types of eligible properties; (2) the repayment terms and conditions for Mortgage Loans; and (3) and the size, form and repayment terms for Grants, all of which to be administered by or through CIT that are consistent with the provisions of this Ordinance;

c) the City shall enter into a Lender Participation Agreement (the "Lender Participation Agreement") with each Lender providing for the origination and/or servicing of Mortgage Loans and setting forth, among other things, the Mortgage Loan terms, eligibility requirements for lending institutions to qualify as a Lender, Mortgage Loan fee levels, Mortgage Loan delivery instructions and origination periods, all in accordance with the provisions of this Ordinance and FHA, GNMA, Fannie Mae, Freddie Mac, VA, and USDA guidelines, if any and as applicable; and

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(d) CIT is expected to issue, and update from time to time as deemed necessary, a Program Manual (the "Program Manual") setting forth, among other items, the forms, certificates, affidavits and

other documents and procedures related to the Mortgage Loans and Grants, which Program Manual and updates thereto shall be subject to the approval of DPD; and

WHEREAS, pursuant to an ordinance adopted by the City Council on September 24, 2015 and published at pages 4989 through 4994 in the Journal of Proceedings for such date (the "MCC Program Ordinance"), the City established the City of Chicago Single-Family Mortgage Credit Certificate Program, Series 2016, pursuant to which the City is authorized to issue mortgage credit certificates in connection with the acquisition, rehabilitation or improvement of principal residences of qualified borrowers located within the City; and

WHEREAS, pursuant to the MCC Program Ordinance, the City elected not to issue "qualified mortgage bonds" (as defined in Section 143(a) of the Internal Revenue Code) in an aggregate principal amount not to exceed \$75,000,000 (the "Elected Amount"); and

WHEREAS, the City now desires to amend the MCC Program Ordinance in order to increase the Elected Amount to \$80,000,000;

NOW, THEREFORE, Be It Ordained by the City Council of the City of Chicago:

Section 1. Finding. The City Council finds that all of the recitals contained in the preambles to this Ordinance are full, true and correct and does incorporate them into this Ordinance by this reference.

Section 2. The Program. The Program shall be available for low- and moderate-income persons and families in connection with ownership of a single family, owner-occupied, or one-four unit principal residence that is either a detached structure, condominium, town home, or duplex and located entirely within the City. To be an "Eligible Borrower" for the Program, an applicant shall at a minimum (a) have an annualized gross income of not more than (1) 115% of the median family income for the City's metropolitan statistical area ("MSA") as published annually by HUD for an FHA insured, VA or USDA guaranteed Mortgage Loan (or such higher percentage if requested from the City subject to written approval from HUD), or (2) 175% of the median family income for the City's MSA as published annually by HUD for a Fannie Mae or Freddie Mac Mortgage Loan (or such higher percentage if requested from the City subject to written approval from Freddie Mac); (b) have a minimum credit score or equivalent credit history per FHA, VA, USDA, Fannie Mae or Freddie Mac credit and underwriting guidelines as , published from time to time, as applicable; (c) contribute from the Eligible Borrower's own funds, subject to borrower investment minimums established by FHA or Freddie Mac, as applicable, but subject to a Program minimum for FHA and Freddie Mac Mortgage Loans of no less than the lesser of \$1,000 or 1% of the home purchase price; and (d) if applicable, meet the qualifications for "Eligible Persons" set forth in Section 2-45-130 of the Municipal Code of Chicago (the "Municipal Code"). First-time homebuyers shall be required to provide proof of completion of a homebuyer education course provided by a HUD-certified counseling agency that has been previously approved by DPD as a condition of closing a Mortgage Loan. Additional criteria in order to qualify as an Eligible Borrower, if any, shall be set forth in the Program Guidelines.

All Mortgage Loans shall be for a term of thirty (30) years at a fixed rate of interest. Lenders will establish the Mortgage Loan rate of interest and pricing in accordance with the

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Program Lender Agreement; provided however, no Mortgage Loan shall be structured in such a way that an Eligible Borrower is to receive funds in connection with the closing of a Mortgage Loan free and clear of restrictions regarding its use.

Mortgage Loans shall be serviced only by Eligible Lenders who have entered into a Program Lender Agreement with the City and CIT.

Section 3. The Grants. For the purpose of providing funds to accomplish the Program, the City authorizes the advancement to CIT of an aggregate amount not to exceed \$1,000,000 for use in providing CIT Advanced Grants and for costs associated with administering the Program. Each CIT Advanced Grant shall be for an amount not to exceed 7% of the Mortgage Loan amount for the home being financed through the Program. The Chief Financial Officer and the City Comptroller (each an "Authorized Officer") and the Commissioner (the "Commissioner") of DPD are authorized to execute on behalf of the City one or more documents with CIT in connection with advancing the funding for the CIT Advanced Grants.

Each Grant is subject to repayment on a pro rata basis if the property financed by the Mortgage Loan is sold or if the Mortgage Loan is refinanced prior to the end of the retention period as set forth in the Program Guidelines, which period shall be no longer than five (5) years from the Mortgage Loan closing date for CIT Advanced Grants and no longer than ten (10) years from the Mortgage Loan closing date for Lender Advanced Grants (the "Retention Period"). This repayment obligation and the terms thereof shall be evidenced and secured by a subordinate lien on the property being purchased through the Program. At the expiration of the Retention Period, the repayment obligation shall be forgiven in full and the subordinate lien on such property released free and clear. If such property is sold or if the Mortgage Loan is refinanced during the Retention Period, the repayment of the Grant is reduced pro rata for each full month an Eligible Borrower lives at and uses such property in accordance with the terms and conditions of the Grant. DPD may, in its discretion, include in the Program Guidelines criteria for determining hardship for waiver of all or a portion of the repayment obligation. Funds returned pursuant to this Section 3, net of any amounts retained, if any, by a Lender pursuant to the Lender Participation Agreement, shall be sent to CIT.

Section 4. City Program Guidelines. The Commissioner is authorized to issue Program Guidelines on behalf of the City with such policies and procedures and documentation as determined necessary to administer the Program in accordance with the provisions of this Ordinance, including but not limited to those set forth in Section 2 above, in forms substantially similar to the forms issued pursuant to the Single Family Mortgage Revenue Bond Program with such updates and changes to reflect the differences between the Program and the Single Family Mortgage Revenue Bond Program. The Program Guidelines shall be updated from time to time as deemed necessary by the Commissioner to carry out the purposes of this Ordinance.

The Program Guidelines shall be included as an attachment, and be incorporated by reference thereunder, to each Lender Participation Agreement entered into between the City and a Lender.

Section 5. The Lender Participation Agreement. The Authorized Officers and the Mayor are each authorized to execute the Lender Participation Agreement on behalf of the City in substantially the same form as the program lender agreement previously entered into by the City in connection with the Single Family Mortgage Revenue Bond Program, with such changes, updates, additions and omissions to the program lender agreement deemed necessary by the

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Authorized Officer to reflect the differences between the Program and the Single Family Mortgage Revenue Bond Program.

Section 6. Further Authorization. The Mayor, the Chief Financial Officer, the City Comptroller, the City Clerk, the Commissioner and the proper officers, officials, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things, and to execute all such documents and certificates, as may be necessary to carry out and comply with the provisions of this Ordinance, the Program Guidelines, the Program Manual, and the Lender Participation Agreement. DPD is hereby authorized, in the discretion of the Commissioner, to charge a one-time fee per Mortgage Loan originated in connection with the Program which shall be collected under such terms and conditions as determined by the Commissioner and

set forth in each Lender Participation Agreement, and collected in connection with closing of each Mortgage Loan (the "Program Fee"). The Program Fee shall be in an amount as determined by the Commissioner, but, in any event, not to exceed 2.5% per Mortgage Loan, and such Program Fees are hereby appropriated for corporate purposes of the City.

Section 7. Appointment of Program Administrator, and Lenders and Escrow Trustee. Either Authorized Officer is hereby authorized to approve the designation of the Program Administrator through the execution of the Program Administration Agreement and the Lenders through the execution of one or more Lender Participation Agreements, and to designate the bank or trust company to serve as an escrow trustee to administer the CIT Advanced Grants and other Program-generated funds administered by CIT on behalf of the City.

Section 8. Waiver of EDS Requirement. Notwithstanding anything to the contrary contained in the Municipal Code or any other ordinance or mayoral executive order (including, but not limited to Sections 2-45-130, 2-56-090, 2-92-380, 2-92-415, 2-92-585, 2-154-010 and 5-24-020 of the Municipal Code), no borrower or Lender shall be required to provide to the City the document commonly known as the "Economic Disclosure Statement and Affidavit" (the "EDS") in connection with the closing of a Mortgage Loan; however, each Lender shall be required to provide to the City an EDS in connection with executing a Lender Participation Agreement with the City. The City Council hereby finds that the agreements authorized pursuant to this Ordinance are vital to the public health, safety and welfare of the citizens of the City, and that the City cannot obtain comparable benefits from sources other than the parties with whom the City is authorizing to contract with hereby.

Section 9. Amendment of CIT Establishment Ordinance. The Original CIT Ordinance is hereby amended as follows by:

A) adding to the end of the eighth whereas clause the additional purpose " to encourage home ownership in the City;" and

B) adding a new Section 12 to read as follows:

"Section 12. Administration of Home Buyer Assistance Program in the City.

(a) The Trust will, consistent with the purposes and objectives as described in this ordinance and subject to the approval of its Board of Directors, administer a borrower assistance program in order to encourage home ownership within the City (the "Home Buyer Assistance Program").

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(b) In furtherance of the purposes set forth in this Section 12(a), the Trust shall have all power and duties of the City for the facilitation, coordination and administration of the Home Buyer Assistance Program consistent with the ordinance authorizing the Home Buyer Assistance Program and shall, to the extent determined necessary or appropriate by its Board of Directors, enter into agreement(s) with the City and/or the program administrator and other participants of the Home Buyer Assistance Program in furtherance thereof."

Section 10. Amendment of MCC Program Ordinance. The MCC Program

Ordinance is hereby amended by (a) replacing "\$75,000,000" with "\$80,000,000" in Sections

3(c), 3(d) and 6 of the MCC Program Ordinance, and (b) replacing "Seventy Five" with "Eighty"

in Section 3(d) of the MCC Program Ordinance.

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Section 11. Separability. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision of this Ordinance shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions of this Ordinance. No provision, of the Municipal Code, or violation of any provision of the Municipal Code, shall be deemed to impair the validity of this Ordinance or the instruments authorized by this Ordinance, or to make any such instruments voidable at the option of the City; provided, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the Municipal Code.

Section 12. Repealer. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby superseded.

Section 13. Effective Date. Section 10 of this Ordinance shall be deemed to be in full force and effect as of January 10, 2016. The other provisions of this Ordinance shall be in full force and effect upon its adoption and approval.

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OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

February 10, 2016

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

Ladies and Gentlemen:

At the request of the Chief Financial Officer and the Commissioner of Planning and Development, I transmit herewith, together with Aldermen Lopez, O'Shea, Brookins and Burnett, an ordinance establishing a Homebuyer Assistance Program.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

CHICAGO March 16, 2016

To the President and Members of the City Council:

Your Committee on Finance having had under consideration

A communication recommending a substitute ordinance concerning the authority to establish a Home Buyer Assistance Program.

SO2016-668

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

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

Respectfully submitted

Chairman

APPROVED ~ CORPORATION COUNSEL