

APPROVE ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF CHICAGO RELATING TO CONTINUED PARTICIPATION WITH THE CITY OF CHICAGO IN A 5-YEAR SCHOOL BUILDING ACCESSIBILITY RENOVATION PROGRAM, INCLUDING NEGOTIATING, EXECUTING AND DELIVERING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF CHICAGO

THE CHIEF EXECUTIVE OFFICER REPORT THE FOLLOWING DECISION:

Approve entering into an Intergovernmental Agreement with the City of Chicago in a 5-year School Building Accessibility Renovation Program. A written agreement is currently being negotiated. The authority granted herein shall automatically rescind in the event a written agreement is not executed within 120 days of the date of this Board Report. Information pertinent to this agreement is stated below.

AGENCY: City of Chicago
121 North LaSalle Street
Room 600
Chicago, Illinois 60602
Michael Gaynor
(312) 744-8973

USER: Department of Housing and Economic Development
121 North LaSalle Street
Room 1006
Chicago, Illinois 60602
(312) 742-0629

DESCRIPTION: The Board of Education of the City of Chicago (the "Board") has the responsibility to ensure access to the programs of the Chicago Public Schools within the meaning of the Americans with Disabilities Act (the "ADA") and Section 504 of the Rehabilitation Act of 1974, 29 U.S.C. 794 ("Section 504"), and in accordance with Board Policies 501.1 and 501.3.

Those laws and Board policies require the Board to ensure that all programs, services and activities of the Board are accessible when viewed in their entireties, including requiring the renovation of existing school buildings to be accessible within the meaning of the ADA where necessary.

As part of its responsibilities under the ADA and Section 504, the Board has constructed new accessible buildings, has renovated many of its existing buildings, and will continue to renovate additional existing buildings for improved accessibility.

The Board and the City of Chicago (the "City") are committed to providing access to public schools for students, parents, employees and community members with disabilities.

In 2008, the Board and the City embarked on a joint five-year program to rehabilitate public schools to increase accessibility (the "Program").

For the first year of the Program ("Year One of the Program"), on April 9, 2008, the City Council of the City (the "City Council") approved an Ordinance (the "2008 Ordinance"), a copy of which ordinance is on file with the Secretary of the Board, in which the City Council directed the City to use a portion of tax increment financing monies to fund 15 school rehabilitations.

Also for Year One of the Program, pursuant to the 2008 Ordinance, the City and the Board entered into an Intergovernmental Agreement (the "2009 Intergovernmental Agreement") specifying 27 schools to be rehabilitated for improved accessibility, including the 15 rehabilitation projects specified in the 2008 Ordinance that would receive a specified portion of tax increment financing and 12 schools to be rehabilitated using Board funds.

For the second, third, fourth, and fifth years of the Program ("Years Two Through Five of the Program"), the Board and the City agreed to together dedicate not less than \$25,000,000, each year, subject, on the City's part, to due authorization and the appropriation of funds.

To continue in Years Two through Five of the Program, on April 13, 2011 the City Council approved an Ordinance (the "2011 Ordinance"), April 13, 2011 a copy of which Ordinance is on file with the Secretary of the Board, in which the City Council has determined that it is necessary and in the best interests of the City that the City agree to use a portion of tax increment financing monies to fund 11 school rehabilitations.

To continue in Years Two Through Five of the Program, pursuant to the 2011 Ordinance, approximately 60 schools have been or shall be rehabilitated for improved accessibility, including: the 11 rehabilitation projects specified in the 2011 Ordinance that are the subject of the Intergovernmental Agreement hereto attached (the "2011 Intergovernmental Agreement"), and which will receive a specified portion of tax increment financing; and approximately 49 schools which have been or will be rehabilitated using Board funds.

By the 2011 Ordinance, the City Council has determined that the costs of rehabilitating the schools, as described in the 2011 Intergovernmental Agreement, constitute "capital costs of a taxing district" within the meaning and purposes of the Illinois Tax Increment Allocation Redevelopment Act, as amended (the "Act"), and that such costs are consistent with the City's program for accomplishing the objectives of certain applicable redevelopment plans for certain Redevelopment Project Areas.

The amount of City funds that will be used for rehabilitation of the 11 schools listed in the Ordinance is estimated to be approximately \$17,911,250, and at least one more school rehabilitation project to receive City funds shall be named in a subsequent ordinance and intergovernmental agreement, to fulfill the City's commitment to the Program.

TERM: The term of this agreement shall commence the date the agreement is signed and shall end on the date upon which the applicable Redevelopment Project Area is no longer in effect.

RESPONSIBILITIES OF PARTIES: The City agrees to use a portion of available Increment under 65 ILCS 5/11-74.4-3(q)(7), such ad valorem taxes which pursuant to the Act have been collected and are allocated to pay redevelopment project costs and obligations incurred in the payment thereof ("Increment") in the amount set forth in the applicable portion of Exhibit A hereto (the "City Funds"), not to exceed \$17,911,250 in the aggregate, to pay for or reimburse the Board for the costs of each Project, to the extent that such costs constitute TIF-Funded Improvements (as defined in Article Three, Section 3 of the IGA, pursuant to the terms and conditions hereof; and The Board covenants to the City that it shall complete the Projects; provided, however, the Board shall not be considered in breach of or in default of its obligation to complete the Projects in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the Board which in fact interferes with the ability of the Board to discharge its obligation to complete the Projects. With respect to any such delay the Board shall, upon the occurrence of the event causing such delay, immediately give written notice to the City. The Board may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

The Board will commit a total of \$5,700,000 to several of the projects listed in the ordinance, in addition to the amounts being funded by the City. Such Board funding will be proposed in a separate Board Report. Such funding will be contingent upon Board authorization of an overall 2012 Capital Improvement Program budget and will be deducted from the Board's annual dedicated ADA portion of that 2012 Capital Improvement Program budget.

CONTRIBUTION: See above.

AUTHORIZATION: Authorize the General Counsel to include other relevant terms and conditions in the written agreement. Authorize the President and Secretary to execute the agreement. Authorize the Board President to execute all ancillary documents required to administer or effectuate this agreement.

AFFIRMATIVE ACTION: Exempt

LSC REVIEW: Local School Council approval is not applicable to this report

FINANCIAL: Charge to Department of Housing and Economic Development - \$0 Fiscal Year 2011
Budget Classification: N/A
Source of Funds: N/A

GENERAL CONDITIONS:

Inspector General – Each party to the agreement shall acknowledge that, in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

Conflicts – The agreement shall not be legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3 which restricts the employment of, or the letting of contracts to, former Board member during the one year period following expiration or other termination of their terms of office.

Indebtedness – The Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time, shall be incorporated into and made a part of the agreement.

Ethics – The Board's Ethics Code adopted June 23, 2004 (04-0623-PO4), as amended from time to time, shall be incorporated into and made a part of the agreement.

Contingent Liability – The agreement shall contain the clause that any expenditure beyond the current fiscal year is deemed a contingent liability, subject to appropriation in the subsequent fiscal year budget(s).

Approved for Consideration:



Patricia L. Taylor
Chief Operating Officer

Approved:



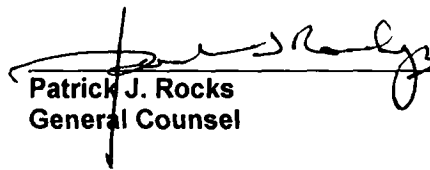
Terry Mazany
Chief Executive Officer

Within Appropriation:



Diana S. Ferguson
Chief Financial Officer

Approved as to legal form:



Patrick J. Rocks
General Counsel

